

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 8390 OF 2011

M/S RETAILERS ASSOCIATION OF INDIA

Appellant (s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for impleadment and with prayer for interim relief)WITH

Civil Appeal NO. 8391-8393 of 2011  
(With prayer for interim relief and office report)

Civil Appeal NO. 8397 of 2011  
(With appln(s) for continuation of interim relief and with prayer for interim relief and office report)

Civil Appeal NO. 8398 of 2011  
(With appln(s) for continuation of interim relief and with prayer for interim relief and office report)

Civil Appeal NO. 8428 of 2011  
(With appln(s) for permission to file addl.documents and with prayer for interim relief and office report)

Date: 14/10/2011 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN  
HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)  
CA 8390/11, Mr. H.N. Salve, Sr. Adv.  
CA 8391-8393/11 Mr. Mukul Rohtagi, Sr. Adv.  
Dr. A.M. Singhvi, Sr. Adv.  
Mr. S. Ganesh, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Rishi Agarwal, Adv.  
Mr. E.C. Agrawala, Adv.  
Ms. Radhika Gautam, Adv.

..2/-

: 2 :

CA 8397/11 & Mr. M.P. Jha, Adv.  
CA 8398/11 Mr. Ameet Naik, Adv.  
Mr. Harshvardhan Jha, Adv.  
Mr. Adarsh Upadhyay, Adv.  
Mr. Gaurav Bhatia, Adv.  
Mr. Ram Ekbal Roy, Adv.  
Mr. Abhishek Chaudhary, Adv.  
Mr. Vatsal Shah, Adv.

CA 8428/11 Ms. Vanita Bhargava, Adv.  
Mr. Ajay Bhargava, Adv.  
Mr. Susmit Pushkar, Adv.  
Mr. Nitin Mishra, Adv.  
Ms. Gauri, Adv.

for M/S. Khaitan & Co., Advs.

For Respondent(s)  
CA 8390/11

Mr. Vivek Tankha, ASG  
Mr. K. Swami, Adv.  
Mr. Manish Pushkarna, Adv.  
Mr. Rishabh Sancheti, Adv.  
Mr. Sumeet Sodhi, Adv.  
Mr. D Kumaran, Adv.  
Mr. Harsh Parashar, Adv.  
Mr. B.K. Prasad, Adv.

Applicant in  
CA 8390/11 & rr.  
23 in CA 8397/11

Mr. Prakash Shah, Adv.  
Mr. Jay Savla, Adv.  
Ms. Meenakshi Ogra, Adv.  
Ms. Renuka Sahu, Adv.  
Mr. Ashwani Kumar, Adv.  
  
Mr. C.A. Sundaram, Sr. Adv.  
Mr. Kavın Gulati, Adv.  
Ms. Ruby Singh Ahuja, Adv.  
Mr. Jatin Mongia, Adv.  
Ms. Lakshmi Ramachandran, Adv.  
for M/s. Karanjawala & Co., Advs.

UPON hearing counsel the Court made the following  
O R D E R

The learned Additional Solicitor General prays

for time to file counter affidavit on behalf of the

respondents. Let the needful be done within four

weeks. Rejoinder affidavit, if necessary, may be filed  
within two weeks thereafter.

Having regard to the issue and revenue involved,  
we expedite the hearing of the appeals.

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C.A. No. 8390/2011 - M/s Retailers Association of India  
vs. Union of India & Ors.

Having heard learned counsel for the parties on  
the question of stay with regard to the arrears of  
service tax due from the members of the appellant  
association prior to 30th September, 2011, we direct as  
follows:

(i) all members of the appellant association,  
namely, Retailers Association of India, who are before  
us, shall deposit with the concerned department 50% of  
the arrears towards the said tax within six months in  
three equated instalments, on or before 1st November,  
2011; 1st January 2012 and 1st March, 2012; (ii) for the  
balance 50% all the members shall furnish a solvent  
surety to the satisfaction of the jurisdictional  
Commissioner; (iii) they shall file individual

affidavits in this Court, within four weeks from today undertaking to pay the balance arrears of service tax, stayed in terms of this order, as may be directed by this Court at the time of final disposal of the appeal and (iv) the successful party in this appeal shall be entitled to interest on the amount stayed by this Court at such rate as may be directed at the time of final disposal of the appeal.

It is clarified that this interim order shall apply only in the case of those members of the association who were petitioners before the High Court in the writ petition giving rise to this appeal and who shall file the requisite affidavits within the aforesaid period of four weeks from today. We further direct that any default in deposit of any one of the instalments by the dates fixed above, would result in

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vacation of this stay order and it will be open to the department to recover the balance amount in accordance with law.

I.A. No. 3 for impleadment

Learned counsel for the applicant seeks leave to withdraw the application stating that the applicant would file a substantive petition. Accordingly, the application is dismissed as not pressed.

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C.A. Nos.8391-8393/2011 -  
Shoppers Stop Ltd. Etc. Etc. vs. Union of India & Ors  
Etc. Etc.

Being a member of the appellant-association in C.A. No. 8390/2011, no separate orders are called for in this appeal.

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C.A. No. 8397/2011 - M/s Metro Shoes Ltd. & Anr. vs. Union of India & Ors.  
C.A. No. 8398/2011 - M/s Major Brands (India) Pvt. Ltd. Vs. Union of India & Ors.  
C.A. No. 8428/2011 - Cinemax India ltd. Vs. Union of India & Ors.

Having heard learned counsel for the parties on the question of stay with regard to the arrears of service tax due from the appellants prior to 30th

September, 2011, we direct as follows:

(i) all the appellants in each of the appeals, who are before us, shall deposit with the concerned

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department 50% of the arrears towards the said tax within six months in three equated instalments, on or before 1st November, 2011; 1st January 2012 and 1st March, 2012; (ii) for the balance 50% each of the appellant in these appeals shall furnish a solvent surety to the satisfaction of the jurisdictional Commissioner; (iii) they shall file affidavits in this Court, within four weeks from today undertaking to pay the balance arrears of service tax, stayed in terms of this order, as may be directed by this Court at the time of final disposal of the appeals and (iv) the successful party in these appeals shall be entitled to interest on the amount stayed by this Court at such rate as may be directed at the time of final disposal of the appeals.

It is clarified that this interim order shall apply only in the case of the appellants who shall file the requisite affidavits within the aforesaid period of four weeks from today. We further direct that any default in deposit of any one of the instalments by the dates fixed above, would result in vacation of this stay order and it will be open to the department to recover the balance amount in accordance with law.

[ Charanjeet Kaur ]  
Court Master

[ Kusum Gulati ]  
Court Master

ITEM NO. 58

COURT NO.4

SECTION III

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).27636/2011

(From the judgement and order dated 23/09/2011 in WP No.3398/2010 of The HIGH COURT OF DELHI AT N. DELHI)

HOME SOLUTIONS RETAILS (INDIA ) LTD.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 14/10/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN  
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. H.N. Salve, Sr. Adv.

Mr. Mukul Rohtagi, Sr. Adv.  
Dr. A.M. Singhvi, Sr. Adv.  
Mr. S. Ganesh, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Rishi Agarwal, Adv.  
Mr. E.C. Agrawala, Adv.  
Ms. Radhika Gautam, Adv.  
For Respondent(s) Mr. Vivek Tankha, ASG  
Mr. K. Swami, Adv.  
Mr. Manish Pushkarna, Adv.  
Mr. Rishabh Sancheti, Adv.  
Mr. Sumeet Sodhi, Adv.  
Mr. D Kumaran, Adv.  
Mr. Harsh Parashar, Adv.  
Mr. B.K. Prasad, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal will be heard on the SLP Paper

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Book. Additional documents, if any, may be filed  
by the parties.

Issue notice on prayer for interim relief  
returnable within two weeks.

Dasti service, in addition, is permitted.

Permission is granted to the appellant to  
place on record the details of the arrears towards  
the service tax upto 30th September, 2011, within  
two weeks.

In the meantime, no coercive steps shall be  
taken against the appellant for recovery of arrears  
of service tax due on or before 30th September,  
2011. We clarify that there is no stay of  
imposition of service tax under sub-clause (zzzz)  
of clause (105) of Section 65 read with Section 66  
of the Finance Act, 1994 (as amended), insofar as  
the future liability towards service tax with

effect from 1st October, 2011 is concerned.

[ Charanjeet Kaur ]  
Court Master

[ Kusum Gulati ]  
Court Master