

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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,
CA 8391-8393/11Mr. 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.

CA 8397/11 &
CA 8398/11

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Mr. M.P. Jha, Adv.
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., Adv.

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. Kavin Gulati, Adv.
Ms. Ruby Singh Ahuja, Adv.
Mr. Jatin Mongia, Adv.
Ms. Lakshmi Ramachandran, Adv.
for M/s. Karanjawala & Co., Adv.

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.

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

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

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, who are before us, shall deposit with the concerned department 50% of the

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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.

[Signature]
19/10/11

[Charanjeet Kaur]
Court Master

[Signature]
19/10

[Signature]
19/10/11

[Kusum Gulati]
Court Master

[Signature]
19/10