

ITEM NO.101

COURT NO.5

SECTION XVI

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. 4184/2009

STATE OF WEST BENGAL & ORS.

Appellant(s)

VERSUS

CALCUTTA CLUB LIMITED

Respondent(s)

(With IA No. 56116/2018 - INTERVENTION APPLICATION and IA No. 56021/2018 - INTERVENTION APPLICATION)

WITH

C.A. No. 7497/2012 (XVII)

SLP(C) No. 26883/2013 (III)

SLP(C) No. 22909/2013 (III)

SLP(C) No. 24977/2013 (III)

C.A. No. 4377-4380/2015 (XVII)

(With IA No.872/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.876/2018-I/A FOR EXEMPTION FROM FILING LEGIBLE COPIES OF DIM ANNEXURES IN CA NO. 4378 OF 2015 and IA No.881/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.882/2018-I/A FOR EXEMPTION FROM FILING LEGIBLE COPIES OF DIM ANNEXURES IN CA NO. 4377 OF 2015 and IA No.2158/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.2159/2018-I/A FOR EXEMPTION FROM FILING LEGIBLE COPIES OF DIM ANNEXURES IN CA NO. 4379/2015)

C.A. No. 5157/2015 (XVII)

(With IA No.3024/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.3025/2018-I/A FOR EXEMPTION FROM FILING LEGIBLE COPIES OF DIM ANNEXURES)

C.A. No. 7030/2015 (III)

C.A. No. 8543/2015 (XVII)

C.A. No. 7259/2015 (IV-A)

C.A. No. 7924/2015 (III)

SLP(C) No. 33249/2015 (III)

Civil Appeal No. 4184/2009 etc.

SLP(C) No. 151/2016 (III)

SLP(C) No. 2491/2016 (III)

SLP(C) No. 2494/2016 (III)

SLP(C) No. 2490/2016 (III)

SLP(C) No. 4158/2016 (III)

SLP(C) No. 4156/2016 (III)

SLP(C) No. 4157/2016 (III)

(With IA No. 1/2016 - CONDONATION OF DELAY IN FILING)

C.A. No. 5946/2016 (III)

C.A. No. 5949/2016 (III)

C.A. No. 6593/2016 (III)

C.A. No. 7366-7367/2016 (III)

C.A. No. 626/2017 (XVII)

SLP(C) No. 33377/2016 (III)

C.A. No. 3584/2017 (XVII)

C.A. No. 5087/2017 (XII)

C.A. No. 3819-3821/2017 (IV-A)

W.P.(C) No. 321/2017 (X)

(With IA No. 2/2017 - EX-PARTE STAY)

C.A. No. 10674/2017 (XVII)

C.A. No. 11224/2017 (XVII)

C.A. No. 18292-18294/2017 (III)

C.A. No. 72-73/2018 (XVII)

C.A. No. 104/2019 (XVII)

(With IA No.180587/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.180583/2018-STAY APPLICATION and IA No.180581/2018-CONDONATION OF DELAY IN FILING APPEAL)

Diary No(s). 5100/2019 (XVII)

(FOR ADMISSION and IA No.34214/2019-STAY APPLICATION and IA

Civil Appeal No. 4184/2009 etc.

No.34213/2019-CONDONATION OF DELAY IN FILING APPEAL)

C.A. No. 5338/2019 (XVII)

(With IA No. 85466/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 85465/2019 - STAY APPLICATION)

C.A. No. 5215-5217/2019 (XVII)

(With IA No. 83209/2019 - STAY APPLICATION)

Diary No(s). 20271/2019 (XVII)

(FOR ADMISSION and IA No.92713/2019-STAY APPLICATION and IA No.92712/2019-CONDONATION OF DELAY IN FILING APPEAL)

Date : 25-09-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s)

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Ms. Sunita Rani Singh, Adv.
Mr. Sharath Nambiar, Adv.
Ms. Pooja Sharma, Adv.
Mr. B. Krishna Prasad, AOR

For Respondent(s)

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Mr. Rana Mukherjee, Sr. Adv.
Mr. Partha Sil, AOR
Mr. Ruchir Mishra, Adv.

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Mr. Tavish B. Prasad, Adv.

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Ms. Surekha Raman, Adv.
Ms. Viddusshi, Adv.
Mr. Akhil Abraham Roy, Adv.
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Mr. Karan Sachdev, Adv.
Ms. Apeksha Mehta, Adv.
Ms. Ishita Mathur, Adv.
Ms. Monica Kasturi, Adv.
Mr. M. P. Devanath, AOR

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Ms. Radha Rangaswamy, AOR
Mr. Prateek Chadha, Adv.

Mr. J. K. Mittal, Adv.
Ms. Vandana Mittal, Adv.
Mr. Praveen Swarup, Adv.

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

In Civil Appeal No. 4184/2009, in continuation, heard Mr. Jaideep Gupta, learned senior counsel appearing for the respondent and Mr. Rakesh Dwivedi, learned senior counsel for the appellants, in rejoinder.

In service tax matters, heard Mr. Dhruv Agarwal, learned senior counsel for the appellant and Mr. Arvind P.

Datar, learned senior counsel for the respondent.

Mr. S. K. Bagaria, learned senior counsel for the respondent, was in the midst of his arguments when the Court rose for the day.

For further arguments, list the matters tomorrow, 26.09.2019, as part-heard.

I.A. Nos. 56116/2018 and I.A. No. 56021/2018

By an order dated 20.03.2018 in a batch of matters, lead case being Civil Appeal Nos. 5195-5201/2012, a Division Bench of this Court stated:

"We are informed that one of the facets of the issue which is involved in these cases has been referred to the three Judges' Bench and the reference Order is reported as '*State of West Bengal & Ors. v. Calcutta Club Ltd*' [2017 (5) SCC 356] (Civil Appeal No. 4184 of 2009). Since the outcome of that case would have direct bearing on these cases as well, it would be appropriate to await the decision in the aforesaid matter. These matters shall, accordingly, be listed after the decision in the said case."

In the course of the submissions made, it has been pointed out to us by Shri Pretesh Kapur, learned senior counsel, that none of the facets of the issue involved before us, in any manner, pertain to whether or not a fourth factor is deducible from "*Bangalore Club v. CIT & Anr.* [350

ITR 509]. We are of the view that since the Doctrine of Mutuality and facets concerning such Doctrine are not directly before us, but only the three questions referred to by the reference Order reported in '*State of West Bengal & Ors. v. Calcutta Club Ltd.*' [2017 (5) SCC 356] are before us, the aforesaid matters (Civil Appeal Nos. 5195-5201/2012 etc.) can be heard on their own merits and need not await the judgment in the present case.

The interlocutory applications stand disposed of.

(NIDHI AHUJA)
COURT MASTER (SH)

(RENU DIWAN)
ASSISTANT REGISTRAR