

CASES-CITED

A.P. State Electricity Board v. CCE, \$Hyderabad 1994 (70) ELT 3	1167
A.P. Steel Re-Rolling Mill Ltd. etc. v. State of \$Kerala and Ors. (2007) 2 SCC 725	830
A.P. Tourism Development Corpn. Ltd. v. \$Pampa Hotels Ltd. 2005 (4) Suppl. SCR 688	
\$relied on.	805
Abati Bezbaruah v. Dy. Director General, \$Geological Survey of India and Anr. \$(2003) 3 SCC 148	576
Abdul Hafeez (Mohd.) v. State of Andhra \$Pradesh, AIR 1983 SC 367	298
Abdul Nazar Madani v. State of T.N. and Anr. \$(2000) 6 SCC 204	852
Abdulwahab Abdulmajid Baloch v. State of \$Gujarat, 2009 (4) SCR 956	298
Achintya Kumar Saha v. M/s Nanee Printers \$& Ors. AIR 2004 SC 1591	

(i)

(ii)

\$relied on.	663
Administrator General of West Bengal v. \$Collector, Varanasi (1988) 2 SCC 150	
\$relied on.	590
Administrator-General of Bengal v. Premlal \$Mullick (1895) ILR 22 Cal 788	1043
Afzal Ullah v. State of Uttar Pradesh \$AIR 1964 SC 264	
\$relied on.	971
Ahmad Ali v. Supdt., Jail Crl. L.J. and B.K. \$Kar v. Hon'ble The Chief Justice and His \$companion Judges of the Orissa High Court, \$AIR 1961 SC 1367	
\$relied on.	604
Ahmed v. State of Gujarat (2000) 7 SCC 477	
\$cited.	261
Ajaib Singh v. Sirhind Coop. Marketing-cum- \$processing Service Society Ltd and Ors. \$(1999) 6 SCC 82	
\$relied on.	625

(iii)		(iv)	
Ali Mustaffa Abdul Rahman Moosa v. State of Kerala 1994 (4) Suppl. SCR 52		\$relied on. 317	315 &
\$cited.	261	Antulay (A.R.) v. R.S. Nayak and Anr. \$(1988) 2 SCC 602	852
All-India Federation of Tax Practitioners v. Union of India (2007) 7 SCC 527		\$relied on	662
\$relied on.	389	Appabhai and Anr. v. State of Gujarat \$AIR 1988 SC 696	
Amravati District Central Cooperative Bank Limited v. United India Fire and General Insurance Company Limited.		\$relied on.	315
\$(2010) 5 SCC 294	140	Arulvelu & Anr. v. State & Anr. \$(2009) 10 SCC 206	910
Anant Mills Co. Ltd. v. State of Gujarat \$AIR 1975 SC 1234		Arun Shanker Shukla v. State of U.P. \$and Ors. AIR 1999 SC 2554	369
\$relied on.	663	Arvind Kumar Mishra v. New India Assurance \$Co.Ltd. - 2010 (11) SCR 857	
Anbazhagan (K.) v. Superintendent of Police \$and Ors. (2004) 3 SCC 767	852	\$relied on	182
Anil Rishi v. Gurbaksh Singh \$(2006) 5 SCC 558		Ashish Batham v. State of Madhya Pradesh \$(2002) 7 SCC 317	
\$relied on.	1144	\$relied on.	912
Annareddy Sambasiva Reddy and Ors. v. State of Andhra Pradesh AIR 2009 SC 2661		Ashraf Ali v. State of Assam (2008) 16 SCC 328 ... 910	
		Assistant Commissioner, Income Tax, Rajkot	

(v)		(vi)	
\$v. Saurashtra Kutch Stock Exchange Limited		Bhag Singh and Ors. v. State of Punjab	
\$(2008) 14 SCC 171		\$(1997) 7 SCC 712	
\$relied on.	628	\$relied on.	316
Associate Banks Officers' Association v. State		Bhag Singh v. Jaskirat Singh & Ors.	
\$Bank of India & Ors. AIR 1998 SC 32		\$(2010) 2 SCC 250	
\$relied on.	435	\$relied on.	663
Bakshi (N.) v. O.K. Ghosh. AIR		Bhag Singh v. State of Punjab	
\$1957 Patna 528		\$(1997) 7 SCC 712	
\$approved.	604	\$relied on.	315
Balakrishna (R.) Pillai v. State of Kerala		Bhagwan Das & Anr. v. State of Rajasthan	
\$(2000) 7 SCC 129	852	\$AIR 1957 SC	
Balakrishnan (N.) v. M. Krishnamurthy		\$relied on.	909
\$1998 (1) Suppl. SCR 403		Bhagwan Sharma (Shri) v. Smt. Bani Ghosh	
\$relied on.	777	\$AIR 1993 SC 398	
Balraje alias Trimbak v. State of Maharashtra		\$relied on.	664
\$(2010) 6 SCC 673		Bhagwan Swarup v. State of Maharashtra	
\$relied on.	315	\$AIR 1965 SC 682	525
Beckodan Abdul Rahiman v. State of Kerala		Bharat Cooperative Bank (Mumbai) Ltd. v.	
\$2002 (3) SCR 53		\$Employees Union (2007) 4 SCC 685	692
\$cited.	261	Bharat Sanchar Nigam Limited v. Union of	

(vii)		(viii)	
\$India (2006) 3 SCC 1		C.I.T., Andhra Pradesh v. M/s. Taj Mahal Hotel,	
\$held inapplicable.	393	\$Secunderabad 1971 (3) SCC 550	
Bharatha Matha & Anr. v. R. Vijaya		\$relied on.	1153
\$Renganathan & Ors. AIR 2010 SC 2685		Cadila Laboratories Pvt. Ltd. v. Commissioner	
\$relied on.	664	\$2003 (152) ELT 262 (SC)	1167
Bhola Bhagat v. State of Bihar		Captain Amarinder Singh v. Parkash Singh	
\$1997 (4) Suppl. SCR 711		\$Badal and Ors. (2009) 6 SCC 260	852
\$relied on.	880	CCE, Baroda v. United Phosphorus Ltd	
Bhoop Ram v. State of U.P. (1989) 3 SCC 1		\$2000 (117) ELT 529	1167
\$relied on.	880	CCE, Pune v. Dai Ichi Karkaria Ltd.	
Bishna alias Bhiswadeb Mahato and Ors. v.		\$1999 (84) ECR 4 (SC)	959
\$State of West Bengal (2005) 12 SCC 657		CCI Chambers Coop. Hsg. Society Ltd. v.	
\$relied on.	319	\$Development Credit Bank Ltd.	
Bonkya alias Bharat Shivaji Mane and Ors.		\$(2003) 7 SCC 233	141
\$v. State of Maharashtra		Central Bureau of Investigation v.	
\$(1995) 6 SCC 447		\$K.M. Sharan 2008 (4) SCC 471	369
\$relied on.	315	Chahat Khan Bahadur Khan and others v.	
Brij Lal v. Prem Chand and Anr.		\$The State of Punjab and others	
\$1989 (2) SCR 612		\$AIR 1966 Punjab 111	
\$relied on.	880	\$approved.	1040

(ix)		(x)	
Chandra (S.C.) & Ors. v. State of Jharkhand		Chimanlal Hargovindas v. Special Land	
\$& Ors. (2007) 8 SCC 279		\$Acquisition Officer, Poon	
\$relied on.	433	\$(1988) 3 SCC 751	
Chandrasekharan (P.) & Ors. v. S. Kanakarajan		\$relied on.	159
\$& Ors. (2007) 5 SCC 669		Cipla Ltd v. CCE, Bangalore 2008	
\$relied on.	663	\$(225) ELT 403	1167
Charan Dass (Dead) by Lrs. v. H.P.		Collector of Central Excise, Jaipur v.	
\$Housing and Urban Development		\$J.K. Synthetics (2000) 10 SCC 393	
\$Authority, 2009 (12) SCALE 293		\$distinguished.	828
\$relied on.	159	Collector of Customs, Calcutta v. Sanjay	
Chenga (C.) Reddy v. State of A.P.		\$Chandiram 1995 (1) Suppl. SCR 19	
\$1996 (3) Suppl. SCR 479		\$cited.	282
\$relied on.	297	Commissioner of Central Excise v. M.P.V.	
Chibber (B.B.) v. Anand Lok Co-operative		\$and Engineering Industries	
\$Group Housing Society Ltd.and Ors.		\$(2003) 5 SCC 333	829
\$90 (2001) DLT 652		Commissioner of Central Excise, Allahabad v.	
\$approved.	625	\$Ginni Filaments Ltd.	
Chief Engineer, Hydel Project & Ors v.		\$(2005) 3 SCC 378	830
\$Ravinder Nath & Ors.		Commissioner of Central Excise, Chandigarh-I	
\$(2008) 2 SCC 350	1066	\$v. Mahaan Dairies (2004) 11 SCC 798	830

Commissioner of Central Excise, Jaipur v. \$Mewar Bartan Nirmal Udyog 2008 (231) \$ELT 27 (SC)	830	Dalip Singh and Ors. v. State of Punjab \$AIR 1953 SC 364 \$relied on.	317
Commissioner of Central Excise, Trichy v. \$Rukmani Pakkwell Traders (2004) 11 \$SCC 801	830	Dalpat Singh and Anr. v. State of Rajasthan \$AIR 1969 SC 17 Davies and Anr. v Powell Duffryn Associated \$Collieries Ltd. (1942) 1 All ER 657	1106
Commissioner of Customs (Imports), Mumbai v. \$Tullow India Operations Ltd. (2005) \$13 SCC 789	830	Daya Singh Lahoria v. Union of India and Ors. \$(2001) 4 SCC 516	13
Commissioner of Customs, Calcutta v. South \$India Television (P) Ltd. 2007 (8) SCR 95 \$relied on.	282	Delhi Administration, v. Sushil Kumar \$1996 (11) SCC 605 Dhaneswar Mahakud and Ors. v. State of \$Orissa (2009) 9 SCC 307	1079
Commissioner of Customs, Mumbai v. \$Bureau Veritas & Ors. 2005 (2) SCR 118 \$relied on.	282	\$relied on. Dinesh Kumar v. State of Rajasthan \$(2008) 8 SCC 270	317
Commissioner of Customs, Mumbai v. J.D. \$Orgochem Limited 2008 (6) SCR 200 \$relied on.	282	\$relied on. Dinesh Kumar v. Yusuf Ali AIR 2010 SC 2679	315
Commissioner of Customs, Mumbai v. J.D. \$Orgochem Ltd. (2008) 16 SCC 576 (xi)	359	\$relied on.	664

(xiii)		(xiv)	
Dingra (S.N.) and Ors. v. Union of India		Ekta Shukla & Ors. v. State of U.P. 2006	
\$and Ors. (2001) 3 SCC 125		\$(1) ESC 531	486
\$distingusihed.	645	Engineering Laghu Udyog Employees' Union v.	
Divisional Manager, LIC India of India v. Smt.		\$Judge, Labour Court and Industrial Tribunal	
\$Uma Devi (1991) CPJ 516	141	\$& Anr. (2003) 12 SCC 1	1144
Divisional Manager, LIC of India v. Shri		Everest Advertising (P) Ltd. v. State, Govt.	
\$Bhavanam Srinivas Reddy, (1991) CPJ 189	141	\$of NCT of Delhi & Ors.	
Dutta Associates Pvt. Ltd. v. Indo Merchantiles		\$(2007) 5 SCC 54	998
\$Pvt. Ltd. (1997) 1 SCC 53	80	Fakeerappa and Anr. v. Karnataka Cement	
Dwarka Prasad Agarwal (Dead) by LRs. and		\$Pipe Factory and Ors.	
\$Anr. v. B.D. Agarwal and Ors.		\$(2004) 2 SCC 473	576
\$(2003) 6 SCC 230		Fernandez (G.J.) v. State of Karnataka	
\$distinguished.	104	\$(1990) 2 SCC 488	
E.P. Royappa v. State of Tamil Nadu & Anr.		\$relied on.	81
\$AIR 1974 SC 555		G.P.Ceramics Pvt. Ltd. v. Commissioner,	
\$relied on.	433	\$Trade Tax, Uttar Pradesh	
Eicher Tractors Ltd., Haryana v. Commissioner		\$(2009) 2 SCC 90	830
\$of Customs, Mumbai 2000 (4) Suppl.		Gambhir v. State of Maharashtra	
\$SCR 597		\$AIR 1982 SC 1157	
\$relied on.	282	\$relied on.	909

(xv)		(xvi)	
Gatti Ravanna, son of Gatti Subanna, Gubbi		\$relied on.	393
\$Taluk, Mysore State v. G.S.Kaggeerappa,		Gopal Zarda Udyog v. Commissioner of	
\$Merchant, Gubbi 1954 AIR	653 458	\$Central Excise (2005) 8 SCC 157	830
& 459		Gopi Nath @ Jhallar v. State of U.P.	
General Assurance Society Ltd. v. Chandumull		\$(2001) 6 SCC 62	
\$Jain and Anr. (1966) 3 SCR 500		\$relied on.	319
\$followed.	140	Gopikant Choudhary v. State of Bihar and Ors.	
General Manager, Kerala State Road Transport		\$(2000) 9 SCC 53	1202
\$Corporation, Trivandrum v Susamma Thomas		Gopinath Ghosh v. State of West Bengal	
\$(Mrs.) and Ors. (1994) 2 SCC 176	576	\$(1984) SCR 803	
Girija Shankar v. State of U.P.		\$relied on.	880
\$(2004) 3 SCC 793		Goyal (R. D.)& Anr. v. Reliance Industries Ltd.	
\$relied on.	319	\$2002 (4) Suppl. SCR 231	
Girish Babu (C.M.) v. CBI, Cochin, High Court		\$relied on.	1153
\$of Kerala 2009 (3) SCC 779	1108	Gujarat Agro Industries Co. Ltd. v. Municipal	
Godfrey Phillips India Ltd. v. State of U.P.		\$Corporation of the City of Ahmedabad	
\$(2005 (2) SCC 515		\$& Ors. (1999) 4 SCC 468	
\$relied on.	389	\$relied on.	663
Goodricke Group Ltd. v. State of West		Gujarat Ambuja Cements Ltd. v. Union of India	
\$Bengal (1995) Suppl 1 SCC 707		\$(2005) 4 SCC 214	

(xvii)		(xviii)
\$relied on.	389	\$R. Officer (2003) 12 SCC 642
Gupta (S.P.) v. Union of India 1982 SCR 365	1123	\$relied on.
Gurdial Singh v. Kartar Singh and Ors.		159
\$1980 CrI. L.J. 955	370	Harbans Kaur and Anr. v. State of Haryana
Gurpreet Singh v. State of Punjab (2005)		318
\$12 SCC 615		Harbans Lal & Ors. v. State of Himachal
\$relied on.	317	\$Pradesh & Ors. (1989) 4 SCC 459
Gurpreet Singh v. Union of India		432
\$(2006) 8 SCC 457		Harbans Lal v. Jagmohan Saran
\$relied on.	724	\$AIR 1986 SC 302
\$held inapplicable.	590	\$relied on.
Hamdard (Wakf) Laboratories v. Dy. Labour		628
\$Commissioner (2007) 5 SCC 281	692	Harcharan v. State of Haryana
Hamlet alias Sasi and Ors. v. State of Kerala		157
\$(2003) 10 SCC 108		\$(1982) 3 SCC 408
\$relied on.	319	\$relied on
Hansraj Gordhandas v. H.H. Dave		880
\$(1996) 2 SCR 253	824	Hari Ram v. State of Rajasthan
Hanumantha (V.) Reddy (Deceased) by		107
\$Lrs. v. Land Acquisition Officer & Mandal		\$(2009) (7) SCR 623
		\$relied on.
		Haryana Financial Corporation v. Jagdamba
		\$Oil Mills (2002) 3 SCC 496

(xix)

Haryana State Electronics Development Corporation Ltd. & Ors. v. Seema Sharma & Ors. (2009) 7 SCC 311	
\$relied on.	664
Hasanali Walimchand (Dead) by Lrs v. State of Maharashtra (1998) 2 SCC 388	
\$relied on.	159
Hattangadi (R. D.) v. Pest Control (India) Ltd. - 1995 (1) SCR 75	
\$relied on.	181
Hero Vinoth (Minor) v. Seshammal	
\$AIR 2006 SC 2234	
\$relied on.	663
Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho (1980) 3 SCC 223	692
Hindustan Lever Limited v. Food Inspector & Anr. (2004) 13 SCC 83	998
Hindustan Zinc Ltd v. CCE, Jaipur	
\$2005 (181) ELT 170	1167

(xx)

His Holiness Kesavananda Bharati	
\$Sripadagalvaru v. State of Kerala and Anr. (1973) 4 SCC 225	508
Indian Drugs & Pharmaceuticals Ltd. & Ors. v. Employees' State Insurance Corporation & Ors. 1996 (8) Suppl. SCR 547	
\$relied on.	1153
Institute of Chartered Accountants of India v. L.K. Ratna and others (1986) 4 SCC 537	
\$relied on.	237
International Tourist Corporation (M/s.) v. State of Haryana AIR 1981 SC 774	
\$relied on.	389
Ishwar Singh v. State of U.P. (1976) 4 SCC 355	
\$distinguished.	912
Jadu Gopal Chakravarty v. Pannalal Bhowmick & Ors. AIR 1978 SC 1329	
\$relied on.	663
Jagdish Singh v. Natthu Singh	

(xxi)

\$AIR 1992 SC 1604	
\$relied on.	664
Jagir Singh v. Ranbir Singh and Anr.	
\$AIR 1979 SC 381	626
Jai Singh v. Shakuntala AIR 2002 SC 1428	
\$relied on.	663
Jarnail Singh v. State of Punjab	
\$(2009) 9 SCC 719	
\$relied on.	315
Jayendra and Anr. v. State of Uttar Pradesh	
\$(1981) 4 SCC 149	
\$relied on.	880
Joseph Fernandez v. State of Goa	
\$2000 (1) SCC 707	
\$disapproved	260
Joshi (B.S.) v. State of Haryana	
\$2003 (2) SCR 1104	1034
K.L. Johar and Co. v. Deputy Commercial	
\$Tax Officer (1965) 2 SCR 112	391
Kallu alias Masih and Ors. v. State of	

(xxii)

\$Madhya Pradesh (2006) 10 SCC 313	
\$relied on.	316
Kamalantha & Ors. v. State of Tamil Nadu	
\$2005 (5) SCC 194	
\$relied on.	909
Kamti Devi (Smt.) v. Poshni Ram	
\$AIR 2001 SC 2226	910
Kanhaiya Lal Agrawal v. Union of India	
\$and Others (2002) 6 SCC 315	
\$relied on.	80 & 81
Kantaben Manibhai Amin v. Special Land	
\$Acquisition Officer, Baroda	
\$(1989) 4 SCC 662	
\$relied on	157
Kanti Lal v. State of Rajasthan	
\$(2009) 12 SCC 498	561
Kanwar Singh v. Union of India	
\$(1998) 8 SCC 136	
\$relied on	157
Kapoor (S.L.) v. Jagmohan & Ors.	

(xxiii)

\$AIR 1981 SC 136	
\$relied on.	665
Kapur (R.P.) v. State of Punjab	
\$(1960) 3 SCR 388	369
Kapur Chand Jain v. State of Himanchal Pradesh	
\$(1999) 2 SCC 89	161
Karnail Singh v. State of Haryana	
\$(2009) 11 SCR 470	259
Karnataka Board of Wakf v. Anjuman-E-Ismael Madris-Un-Niswan	
AIR 1999 SC 3067	
\$relied on.	664
Karnataka State Road Transport Corpn. v. Lakshmiddevamma (Smt.) and Anr.	
\$(2001) 5 SCC 433	1144
Kashmir Singh v. Harnam Singh & Anr.	
\$(AIR 2008 SC 1749)	
\$relied on.	663
Kashmira Singh v. State of Madhya Pradesh	
\$(AIR 1952 SC 159)	
\$relied on.	912

(xxiv)

Kasilingam (P.) v. P.S.G. College of Technology	
\$(1995) Supp 2 SCC 348	692
Kasturi & Ors. v. State of Haryana	
\$(2003) 1 SCC 354	160
Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav	
\$(2003) 3 SCC 437	1079
Khambam Raja Reddy and Anr. v. Public Prosecutor, High Court of A.P.	
\$(2006) 11 SCC 239	316
Khem Chand v. Union of India and others	
\$(AIR 1958 SC 300)	238
Khushboo (S.) v. Kanniammal & Anr.	
\$(2010) 5 SCC 600	708
Kondiba Dagadu Kadam v. Savitribai Sopan	
\$(Gujar & Ors. AIR 1999 SC 2213)	
\$relied on.	663
Kraipak (A.K.) v. Union of India	
\$(1969) 2 SCC 262	105
Kranti Associates Pvt. Ltd. & Anr. v. Sh. Masood Ahmed Khan & Others	

(xxv)

\$2010(10) SCR 1070	
\$relied on.	237
Krishnan v. State (2003) 7 SCC 56	316
Krishna Kanwar (Smt) alias Thakuraeen v. \$State of Rajasthan 2004 (1) SCR 1101	261
Krishnan and Anr. v. State of Kerala \$(1996) 10 SCC 508	
\$relied on.	318
Krishnan and Anr. v. State represented by \$Inspector of Police (2003) 7 SCC 56	
\$relied on.	319
Kshetriya Kisan Gramin Bank v. D.B. Sharma \$& Ors. AIR 2001 SC 168	
\$relied on.	433
Kulwant Kaur & Ors. v. Gurdial Singh Mann \$(dead) by LRs. & Ors. AIR 2001 SC 1273	
\$relied on.	664
Kumaon Mandal Vikas Nigam Limited v. Girja \$Shankar Pant & others, (2001) 1 SCC 182	
\$relied on.	237

(xxvi)

Land Acquisition Officer v. Nookala Rajamallu \$(2003) 12 SCC 334	
\$relied on.	159
Laxman v. State of Maharashtra \$(2002) 6 SCC 710	
\$relied on	560
Laxmikant and Ors. v. Satyawan and Ors. \$AIR 1996 SC 2052	
\$relied on	624
Leela Soni & Ors. v. Rajesh Goyal & Ors. \$(2001) 7 SCC 494	
\$relied on.	663
Leo Roy Frey v. Superintendent District Jail, \$Amritsar (1958) SCR 822	525
Machhi Singh and Ors. v. State of Punjab \$AIR 1983 SC 957	
\$relied on.	315
Madamanchi Ramappa & Anr. v. Muthaluru \$Bojjappa AIR 1963 SC 1633	
\$relied on.	663

(xxvii)

Madhu Kishwar & Ors. v. State of Bihar & Ors.

\$(1996) 5 SCC 125

\$relied on. 435

Mahavir Singh v. Khiali Ram & Ors.

\$(2008 (17) SCR 534

\$relied on. 456

Mahindra & Mahindra Ltd. v. Union of India

\$& Anr. AIR 1979 SC 798

\$relied on. 663

Malhu Yadav and Ors. v. State of Bihar

\$(2002) 5 SCC 724

\$relied on. 317

Malkhan Singh and Anr. v. State of Uttar

\$Pradesh AIR 1975 SC 12

\$relied on. 315

Manager, Reserve Bank of India, Bangalore v.

\$S. Mani and Ors. (2005) 5 SCC 100

\$distinguished 1144

Managing Director, ECIL, Hyderabad v.

\$B. Karunakar AIR 1994 SC 1074

(xxviii)

\$relied on.

665

Maneka Sanjay Gandhi and Anr. v. Rani

\$Jethmalani (1979) 4 SCC 167 852

Mani Ram and Ors. v. State of U.P.

\$(1994 Supp (2) SCC 289 316

Manicka Poosali (Deceased by L.Rs.) & Ors.

\$. Anjalai Ammal & Anr. AIR 2005 SC 1777

\$relied on. 663

Manoj Sharma v. State and Others

\$(2008 (14) SCR 539 1034

Mansukhlal Vithaldas Chauhan v. State of

\$Gujarat (1997) 7 SCC 622 1202

Maqbool Hussain v. The State of Bombay

\$(1953) SCR 730 525

Maruti Suzuki Limited v. Commissioner of

\$Central Excise, Delhi-III 2009 (13) SCR 301 1153

Masalti v. State of Uttar Pradesh

\$AIR 1965 SC 202

\$relied on. 316

(xxix)

Maulana Abdul Shakoor v. Rikhab Chand	
\$and Anr 1958 SCR 387	456
Meena (Smt) W/O Balwant Hemke v. State of	
\$Maharashtra (2000) 5 SCC 21	.1107
Mehta (M.C.) v. Kamal Nath and Ors.	
\$AIR 2000 SC 1997	626
Merchant (J.J.) (Dr.) and Ors. v. Shrinath	
\$Chaturvedi (2002) 6 SCC 635;	141
Mewa Ram Kanojia v. All India Institute of	
\$Medical Sciences and Ors.	
\$(1989) 2 SCC 235	
\$relied on.	434
Mohan Singh and Anr. v. State of Punjab	
\$AIR 1963 SC 174	318
Mohar and Anr. v. State of Uttar Pradesh	
\$(2002) 7 SCC 606	
\$relied on.	315
Mohinder Singh Gill v. Chief Election	
\$Commissioner (1978) 1 SCC 405	105

(xxx)

Moideenkutty Haji and others V. Kunhikoya	
\$and others, AIR 1987 Kerala 184	1096
Mukerji (A.N.) (Dr.) v. State,	
\$IR 1969 Allahabad 489	1096
Municipal Corpn. of Delhi v. Ram Kishan	
\$Rohtagi (1983) 1 SCC 1	998
Municipal Corporation of Delhi v. Purshotam	
\$dass Jhunjunwala & Ors. (1983) 1 SCC 9	998
Municipal Corporation, Faridabad v. Siri	
\$Niwas (2004) 8 SCC 195	
\$relied on.	1144
Municipal Council, Sujampur v. Surinder Kumar	
\$(2006) 5 SCC 173	
\$relied on.	628
Muthukumar (L.) v. State of Tamil Nadu	
\$2000 (7) SCC 618	
\$relied on.	486
Namboodripad (N.D.P.) v. Union of India	
\$(2007) 4 SCC 502	692
Nandini Satpathy v. P. L. Dani and Anr.	

(xxxi)		(xxxii)	
\$(1978) 2 SCC 424		\$(2009) 9 SCC 70	140
\$distinguished.	1192	Nikhil Merchant v. Central Bureau of	
Nandlal & Anr. v. State of Haryana		\$Investigation and Another 2008 (12) SCR 236	1034
\$AIR 1980 SC 2097		Nirlon Synthetic Fibres and Chemicals Ltd v.	
\$relied on.	663	\$Collector of C. Excise 1996 (86) ELT 457	1167
Nasiruddin v. State Transport Appellate		Novopan India Ltd., Hyderabad v. Collector of	
\$Tribunal 1976(1) SCR 505		\$Central Excise and Customs, Hyderabad	
\$relied on.	1133	\$(1994) Supp. 3 SCC 606	824 & 829
National Insurance Co. Ltd. v. Boghara		Official Liquidator v. Dayanand and Ors.	
\$Polyfab (P) Ltd. 2008 (13) SCR 638		\$(2008) 10 SCC 1	
\$relied on.	805	\$relied on.	433
New India Assurance Co. Limited v. Charlie		ONGC Ltd. v. Rameshbhai Jivanbhai Patel	
\$and Anr. (2005) 10 SCC 720	576	\$(2008) 14 SCC 745	
New India Assurance Co. Ltd. v. G.N. Sainani		\$relied on.	157
\$(1997) 6 SCC 383	141	ONGC Ltd. v. Sendhabhai Vastram Patel	
New India Assurance Company Limited v.		\$(2005) 6 SCC 454	
\$Hira Lal Ramesh Chand and Ors.		\$relied on	157
\$(2008) 10 SCC 626	141	Oriental Insurance Co. Ltd. v. Sony Cheriyan	
New India Assurance Company Limited v.		\$(1999) 6 SCC 451	140
\$Zuari Industries Limited and Ors.			

(xxxiii)

Panalal Damodar Rathi v. State of Maharashtra	1108
1987 Supp. SCC 266	
Panalal Damodar Rathi v. State of Maharashtra	1107
(1979) 4 SCC 526	
Parashwanath (G.) v. State of Karnataka,	
2010 (10) SCR 377	
relied on.	297
Pawan v. State of Uttaranchal	
2009 (3) SCR 468	880
Philips Medical Systems (Cleveland) Inc. v. Indian MRI Diagnostic and Research Limited & Anr.	
2008 (13) SCR 1140	
relied on.	1153
Pichai alias Pichandi and Ors. v. State of Tamil Nadu	
(2005) 10 SCC 505	
relied on.	319
Poudyal (R. C.) and Ors. v. Union of India and Ors.	
(1994) Supp 1 SCC 324	
followed.	508

(xxxiv)

Prabha Shankar Dubey v. State of M.P.	
2003 (6) Suppl. SCR 444	
disapproved.	260
Prabhu Babaji v. State of Bombay	
AIR 1956 SC 51	
relied on.	319
Prabhulal (M.) v. Assistant Director, Directorate of Revenue Intelligence	
2003 (3) Suppl. SCR 958	
cited.	261
Prasant Glass Works P. Ltd v. Collector of Customs	
1997 (89) E.L.T. A 179	
cited	282
Prasant Glass Works P. Ltd v. Collector of Customs, Calcutta	
1996 (87) E.L.T. 518 (Tri.-Del)	
cited	282
Pratap (S.) Singh v. The State of Punjab	
1964 (4) SCR 733	1043

(xxxv)

Preeti Srivastava (Dr.) & Anr. v. State of M.P. & Ors. 1999 (1) Suppl. SCR 249	489
Prem Ballab & Anr. v. State (Delhi Admn.) (1977) 1 SCC 173	997
Prem Nath Kapur v. National Fertilizers Corporation of India Ltd. (1996) 2 SCC 71	161
R v. Secretary of State for Home Department, ex. p. H (1995) QB 43	103
Radhakrishnan (R.) v. Director General of Police 2008 (1) SCC 660	1079
Raj Kamal (M/s) and Co. v. M/s United Insurance Company, (1992) CPJ 121	141
Raja Narayanlal Bansilal v. Maneck Phiroz Mistry and Anr. AIR 1961 SC 29.	1192
Raja Ram Yadav & Ors. v. State of Bihar 1996 (1) Suppl. SCR 174	
relied on	2
Rajasthan Public Service Commission and Anr. v. Harish Kumar Purohit and Ors. (2003) 5 SCC 480	

(xxxvi)

relied on.	629
Rajasthan Spinning and Weaving Mills Limited, Bhilwara, Rajasthan v. Collector of Central Excise, Jaipur, Rajasthan (1995) 4 SCC 473	829
Ram Narain Singh v. State of Punjab AIR 1975 SC 1727	315
Ram Nath Alias Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors. 252002 (2) SCR 77	
relied on.	777
Ram Phal v. State of Haryana and Ors. (2009) 3 SCC 258	
relied on.	627
Ram Piari v. Land Acquisition Collector, Solan (1996) 8 SCC 338	
relied on	159
Ramanal Bhogilal Shah and Anr. v. D.K. Guha and Ors. (1973) 1 SCC 696	1192

(xxxvii)

Ramaswamy (V.) v. Ramachandran & Anr.

\$(2009) 14 SCC 216

\$relied on. 663

Ramesh Gobindram v. Sugra Humayun

\$Mirza Wakf (2010) 8 SCALE 698

\$distinguished. 1066

Ramji Singh v. State of Bihar

\$(2001) 9 SCC 528

\$relied on. 317

Ramlagan Singh and Ors. v. State of Bihar

\$AIR 1972 SC 2593

\$relied on. 315

Ramlal, Motilal & Chhotelal v. Rewa Colafields

\$Ltd. (1962) 2 SCR 762

\$relied on. 777

Rangachari (N.) v. Bharat Sanchar Nigam Ltd.

\$(2007) 5 SCC 108

\$distinguished. 998

Ranganayakulu (D.) v. Superintending Engineer

\$NSRC CA No. 1087-1088 of 2008

(xxxviii)

\$decide on 07.02.2008 758

Re: Presidential Poll 1975 (1) SCR 504 257

Regional Director, Employees' State

\$Insurance Corporation v. High Land Coffee

\$Works of P.F.X. Saldanha and Sons & Anr.

\$1991 (3) SCR 307

\$relied on. 1153

Rohamare (K.B.) v. Shanker Rao Genuji

\$Kolhe 1975 (2) SCR 753 458

Rohtak Hissar District Electricity Supply Co.

\$Ltd. v. State of Utter Pradesh and Ors.

\$AIR 1966 SC 1471

\$relied on. 971

Romesh Lal Jain v. Naginder Singh Rana

\$& Ors. (2006) 1 SCC 294 1202

S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla

\$& Anr. 2005 (8) SCC 89 998

Saiyad Mohd. Saiyad Umar Saiyad & Ors. v.

\$State of Gujarat 1995 (3) SCR 117

\$cited 261

Sanichar Sahni v. State of Bihar	
\$(2009) 7 SCC 198	
\$relied on.	317
Santosh Hazari v. Purshottam Tiwari (dead)	
\$by Lrs. AIR 2001 SC 965	
\$relied on.	663
Sarabhai M. Chemicals v. Commissioner of	
\$Central Excise, Vadodara	
\$(2005) 2 SCC 168	830
Sarabjit Rick Singh v. Union of India	
\$(2008) 2 SCC 417	
\$relied on.	628
Sardar Jogendra Singh (dead) by LRs. v.	
\$State of Uttar Pradesh (2008) 17 SCC 133	
\$relied on.	157
Sardar Khan v. Syed Najmul Hasan (Seth)	
\$\$& Ors. AIR 2007 SC 1447	1066
Sarjas Rai & Ors. v. Bakshi Inderjeet Singh	
\$(2005) 1 SCC 598	
\$relied on.	663

Sarla Dixit (Smt) and Anr. v. Balwant Yadav		
\$\$and Ors. (1996) 3 SCC 179		576
Sarla Verma (Smt.) and Ors. v. Delhi		
\$\$Transport Corporation and Anr.		
\$(2009) 6 SCC 121		
\$relied on.		576
Satya Narayan Tiwari @ Jolly & Anr. v.		
\$\$State of U.P. [2010] 12 SCR 1137		
\$relied on.		886 &
890		
Savitaben Somabhat Bhatiya v. State of		
\$\$Gujarat and others,		
\$\$AIR 2005 SC 1809		710
SBP & Co. v. Patel Engineering Ltd.		
\$(2005) 8 SCC 618		213
\$relied on		805
Secretary, Department of Home, A.P. v.		
\$\$B. Chinnam Naidu 2005 (2) SCC 746		1079
Shailendra Dania v. S.P. Dubey		
\$(2007) 5 SCC 535		

(xli)		(xlii)	
\$relied on.	645	Shivamurthy Swami Inamdar v.	
Shaji Kuriakose v. Indian Oil Corporation		\$Veerabhadrappa Veerappa	
\$(2001) 7 SCC 650		\$(1971) 3 SCC 870	457 &
\$relied on	157	459	
Shambhu Nath Goyal v. bank of Baroda & Ors		Shivprasad Pipal (S.P.) v. Union of India	
\$(1983) 4 SCC 491	1144	\$& Ors. (1998) 4 SCC 598	
Shankuntal Devi v. Kuntal Kumari & Ors.		\$relied on.	433
\$(1969) 1 SCR 1006		Shyam Kishore & Ors. v. Municipal	
\$relied on.	777	\$Corporation of Delhi & Anr.	
Sharad Birdhichand Sarda v. State of		\$AIR 1992 SC 2279	
\$Maharashtra (1984) 4 SCC 116	910	\$relied on.	663
Shibu Soren v. Dayanand Sahay		Sikka Papers Limited v. National Insurance	
\$2001 (3) SCR 1020	458	\$Company Limited and Ors.	
Shivadevamma (K.S.) v. Assistant		\$(2009) 7 SCC 777	140
\$Commissioner and Land Acquisition Officer		Sital Prasad Saxena v. Union of India	
\$(1996) 2 SCC 62		\$& Ors. 1985 (1) SCR 659	
\$relied on.	159	\$relied on.	777
Shivamurthy Inamdar v. Agadi Sanganna		Solanki Chimanbhai Ukabhai v. State of	
\$Andanappa (1971) 3 SCC 870	456	\$Gujarat AIR 1983 SC 484	316
		Som Lal v. Vijay Laxmi & Ors.	

(xliii)		(xliv)	
\$2008 (5) SCR 49	456	\$distinguiashed	645
Special Tehsildar, Land Acquisition Kerala v. \$K.V. Ayisumma 1996 (3) Suppl. SCR 848		State of Andhra Pradesh v. I. Devendra Reddy	
\$relied on.	777	\$1999 (9) SCC 571	755
State (NCT of Delhi) v. Ahmed Jaan		State of Andhra Pradesh v. Obulu	
\$2008 (12) SCR 28		\$Reddy 2001 (10) SCC 30	
\$relied on.	777	\$relied on	755
State Bank of India v. Ramdas		\$distinguished	757
\$2003 (12) SCC 474	757	State of Andhra Pradesh v. Thakkidiram	
State Inspector of Police, Vishakhapatnam v. \$Surya Sankaram Karri (2006) 7 SCC 172		\$Reddy and Ors. (1998) 6 SCC 554	
\$distinguished.	104	\$relied on.	317
State of A.P. and Ors. v. Lavu Narendranath		State of Bihar v. Rani Sonabati Kumari	
\$& ors. etc. (1971) 3 SCR 699	489	\$AIR 1954 Patna 513	
State of A.P. v. V. Sarma Rao and Ors.		\$approved	604
\$(2007) 2 SCC 159		State of Bombay v. Kathi Kalu Oghad	
\$relied on.	359	\$AIR 1961 SC 1808	1192
State of Andhra Pradesh v. Dr. N.		State of Haryana & Anr. v. Tilak Raj & Ors.	
\$Ramachandra Rao and Ors.		\$AIR 2003 SC 2658	
\$(1990) 3 SCC 590		\$relied on.	432
		State of Haryana and Ors. v. Bhajan Lal	
		\$and Ors. 1992 Suppl. 1 SCC 335	369

(xlv)

State of Haryana v. Bhagirath and Ors.	
\$(1999) 5 SCC 96	315
State of Haryana v. Chanda Mani & Ors.	
\$1996 (1) SCR 1060	
\$relied on.	777
State of Haryana v. Dinesh Kumar	
\$2008 (3) SCC 222	1079
State of Haryana v. Jasmer Singh & Ors.	
\$AIR 1997 SC 1788	
\$relied on.	432
State of Haryana v. Samtel India Ltd.	
\$2008 (15) VST 176 (SC)	830
State of Himachal Pradesh v. Sada Ram	
\$and Anr. (2009) 4 SCC 422	
\$relied on.	627
State of Jharkhand and Others v.	
\$Tata Cummins Ltd. and Anr.	
\$(2006) 4 SCC 57	830
State of Karnataka v. M. Devendrappa	
\$and Anr. (2002) 3 SCC 89	369

(xlvi)

State of Kerala v. B. Renjith Kumar & Ors.	
\$(2008) 12 SCC 219	
\$relied on.	433
State of M.P. v. Chintaman Sadashiva	
\$Vaishampayan AIR 1961 SC 1623	
\$distinguished.	104
State of Madhya Pradesh & Ors. v. Ramesh	
\$Chandra Bajpai (2009) 13 SCC 635	
\$relied on.	433
State of Maharashtra v. Dnyaneshwar Laxman	
\$Rao wankhede (2009) 15 SCC 200	1108
State of Maharashtra v. Vishnu Ramachandra	
\$1961 Cri L. J 450	
\$relied on.	970
State of Nagalland v. Lipk Ao & Ors.	
\$2005 (3) SCR 108	
\$relied on.	777
State of Orissa and Ors. v. Harinarayan	
\$Jaiswal and Ors. AIR 1972 SC 1816	624

(xlvii)

State of Orissa and Ors. v. Tata Sponge Iron Ltd. (2007) 8 SCC 189	830
State of Orissa v. Dhaniram Luhar AIR 2004 SC 1794	
relied on.	627
State of Punjab and Anr. v. Mohammed Iqbal Bhatti JT 2009 (13) SC 180	1202
State of Punjab v. Balbir Singh 1994 (2) SCR 208	
cited.	261
State of Punjab v. Baldev Singh 1999 (3) SCR 977	
explained and relied on.	258
State of Punjab v. Kasturi Lal and Ors. 2004 CrI.L.J. 3866	369
State of Rajasthan v. Hat Singh and Ors. (2003) 2 SCC 152	525
State of Rajasthan v. Ram Chandra 2005 (3) SCR 496	
cited.	261

(xlviii)

State of Rajasthan v. Sohan Lal and Ors. (2004) 5 SCC 573	
relied on.	627
State of T.N. & Anr. v. S.V. Bratheep (Minor) & Ors. 2004 (2) SCR 1218	489
State of Tripura v. Tripura Bar Association and Ors. (1998) 5 SCC 637	629
State of U.P. & Ors. v. J.P. Chaurasia & Ors. AIR 1989 SC 19	
relied on.	435
State of U.P. and Ors. v. Vijay Bahadur Singh Ors. AIR 1982 SC 1234	
relied on	624
State of U.P. v. Dinesh (2009) 11 SCC 566	316
State of U.P. v. Hari Chand (2009) 13 SCC 542	316
State of U.P. v. Om Prakash Gupta AIR 1970 SC 679	
relied on.	665
State of U.P. v. Ram Sukhi Devi, 2004 (5) Suppl. SCR 74	

(xlix)		(l)	
\$relied on.	1133	\$relied on.	433
State of Uttaranchal and Anr. v. Sunil Kumar		Subramonia (C. K.) Iyer v. T. Kunhikuttan	
\$Singh Negi AIR 2008 SC 2026		\$Nair 1970 (2) SCR 688	
\$relied on	627	\$relied on.	181
State of West Bengal & Anr. v. West Bengal		Sugani (Mst.) v. Rameshwar Das & Anr.	
\$Minimum Wages Inspectors Association		\$AIR 2006 SC 2172	
\$& Ors. (2010) 5 SCC 225		\$relied on.	663
\$relied on.	433	Suman Sood @ Kamaljeet Kaur v. State of	
Steel Authority of India Ltd. v. Sales Tax		\$Rajasthan (2007) 5 SCC 634	
\$Officer, Rourkela I Circle and Ors.		\$relied on.	13
\$(2008) 9 SCC 407		Sunder v. Union of India (2001) 7 SCC 211	
\$relied on.	627	\$relied on.	161 &
Sub-Committee of Judicial Accountability v.		724	
\$Union of India and Ors. (1992) 4 SCC 97		\$held inapplicable	590
\$relied on	629	Supreme Court Advocates-on-Record	
Subhash Sharma v. Union of India		\$Association v. Union of India 1993 (2)	
\$1990 (2) Suppl. SCR 433	1123	\$Suppl. SCR 659	1123
Sub-Inspector Rooplal & Anr. v. Lt. Governor		Suresh (N.) Nathan v. Union of India	
\$through Chief Secretary, Delhi & Ors.		\$(1992) Supp. (1) SCC 584	645
\$(2000) 1 SCC 644		Suresh Chandra Bahri v. State of Bihar	

(li)		(lii)	
\$1995 Supp (1) SCC 80	910	Talwara Cooperative Credit and Service	
Suresh v. State of U. P. 1981 (3) SCR 259		\$Society Limited v. Sushil Kumar	
\$relied on	2	\$(2008) 9 SCC 486	
Surinder Pal Jain v. Delhi Administration		\$distinguished.	1144
\$1993 CrI.L.J. 1871	299	Tarseem Kumar v. Delhi Administration	
T. Dhakeswari Cotton Mills Ltd. v.		\$1994 (2) Suppl. SCR 740	299
\$Commissioner of Income Tax West		Tata Cellular v. Union of India,	
\$Bengal (1955) 1 SCR 941		\$(1994) 6 SCC 651	
\$relied on.	103	\$relied on.	81
T.N. Kalayana Mandapam Association v.		Tata Iron & Steel Co. Ltd. v. State of	
\$Union of India (2004) 5 SCC 632		\$Jharkhand and Ors. (2005) 4 SCC 272	824 &
\$relied on.	389	830	
T.N. Kalyana Mandapam Assn. v. Union of India		Thaman Kumar v. State of Union Territory	
\$& Ors. 2004 (1) Suppl. SCR 169		\$of Chandigarh (2003) 6 SCC 380	315
\$relied on.	1153	The Chairman, Board of Mining Examination	
T.N. State Transport Corpn. Ltd. v. Collector		\$and Chief Inspector of Mines & Anr. v.	
\$of Central Excise, Madurai		\$Ramjee AIR 1977 SC 965	
\$2004 (166) ELT 433 (SC)		\$relied on.	665
\$relied on.	1 1 6 7 ,	The Commissioner of Central Excise, New	
1168		\$Delhi v. Hari Chand Shri Gopal etc.	

(liii)		(liv)	
\$(2005) 8 SCC 164	829	The State of Madras v. Gannon Dunkerley	
The General Manager, Oil & Natural		\$& Co., (Madras) Ltd. (1959) SCR 379	
\$Gas Corporation Ltd. v. Rameshbhai Jivanbhai		\$relied on.	391
\$Patel and Anr. MANU/SC/7896/2008	590	The State of Maharashtra & Anr. v.	
The Second Gift Tax Officer, Mangalore v.		\$Chandrakant Anant Kulkarni & Ors.	
\$D.H. Hazareth AIR 1970 SC 999		\$AIR 1981 SC 1990	
\$relied on.	389	\$relied on.	433
The Secretary and Curator, Victoria Memorial		The State of West Bengal v. The	
\$Hall v. Howrah Ganatantrik Nagrik Samity		\$Administrator; Howrah Municipality & Ors.	
\$and Ors. AIR 2010 SC 1285		\$1972 (2) SCR 874	
\$relied on.	627	\$relied on.	777
The South Gujarat Roofing Tiles Manufacturers		The Workmen of M/s Firestone Tyre and Rubber	
\$Association & Anr. v. The State of Gujarat		\$Co. of India (Pvt.) Ltd. v. The Management	
\$& Anr. 1977 (1) SCR 878		\$and Ors. (1973) 1 SCC 813	1144
\$relied on.	1153	Thermax Private Ltd. v. Collector of Customs	
The State of Bombay & Ors. v. The Hospital		\$(Bombay) New Custom House	
\$Mazdoor Sabha & Ors. 1960 SCR 866		\$(1992) 4 SCC 440	
\$relied on.	1153	\$distinguished	828
The State of Bombay v. S.L. Apte		Tribhovandas Purshottamdas Thakkar v. Ratilal	
\$(1961) 3 SCR 107	525	\$Motilal Patel and Ors. AIR 1968 SC 372	629

(iv)

Tribhuvandas Bhimji Zaveri and Anr. v. Collector of Central Excise (1997) 11 SCC 276 distinguished.	104
Trilochan Mishra etc. v. State of Orissa and Ors. AIR 1971 SC 733	624
Trimukh Maroti Kirkan v. State of Maharashtra 2006 (10) SCC 681	907
U.P. Awas Evam Vikas Parishad v. Gyan Devi (1995) 2 SCC 326 distinguished.	692
U.P. Junior Doctors Action Committee v. Dr. B. Sheetal Nandwani, AIR 1992 SC 671 relied on.	1133
U.P. Junior Doctors' Action Committee v. Dr. B. Sheetal Nandwani & Ors. AIR 1991 SC 909 relied on.	665
U.P. State Road Transport Corporation and Ors. v. Trilok Chandra and Ors. (1996) 4 SCC 362	576

(vi)

U.P. State Sugar Corporation Ltd. & Anr. v. Sant Raj Singh & Ors. AIR 2006 SC 2296 relied on.	433
U.P.S.R.T.C. v. Jagdish Prasad Gupta AIR 2009 SC 2328 relied on.	627
Ujagar Prints (II) (M/s) v. Union of India (1989) 3 SCC 488 relied on.	389
Umrao (S.) Singh v. Darbara Singh & Ors. 1969 (1) SCR 421 relied on.	458
Union of India & Anr. v. Mahajabeen Akhtar AIR 2008 SC 435 relied on.	433
Union of India & Anr. v. P.K. Roy AIR 1968 SC 850 relied on.	433
Union of India & Anr. v. Tulsiram Patel AIR 1985 SC 1416	

(lvii)		(lviii)	
\$relied on	665	\$Walaiti Ram AIR 1971 SC 2295	
Union of India & Ors. v. Dineshan K.K.		\$relied on	624
\$AIR 2008 SC 1026		Union of India and Ors. v. Vipinchandra	
\$relied on.	433	\$Hiralal Shah (1996) 6 SCC 721 .	360
Union of India & Ors. v. Hiranmoy Sen & Ors.		Union of India v. Bipad Bhanjan Gayen	
\$(2008) 1 SCC 630		\$2008 (11) SCC 314	1079
\$relied on.	433	Union of India v. Delhi Cloth & General	
Union of India & Ors. v. N.Y. Apte & Ors.		\$Mills Co. Ltd. 1997 (92) ELT 315 (SC)	1167
\$(1998) 6 SCC 741		Union of India v. Delhi Cloth and General	
\$relied on.	433	\$Mills Co. Ltd (1997) 5 SCC 767	1167
Union of India & Ors. v. S.L. Dutta & Anr.		Union of India v. Ranu Bhandari	
\$(1991) 1 SCC 505		\$(2008) 17 SCC 348	
\$relied on.	433	\$distinguished.	104
Union of India and Anr. v. Deoki Nandan		Union of India v. Satrohan 2008 (10) SCR 888	
\$Aggarwal AIR 1992 SC 96		\$cited.	261
\$relied on.	625	United Bank of India v. Tamil Nadu Banks	
Union of India and Anr. v. Hemraj Singh		\$Deposit Collectors Union & Anr	
\$Chauhan and Ors. (2010) 4 SCC 290		\$(2007) 12 SCC 585	1144
\$relied on.	359	United India Insurance Co. Ltd. v. Great	
Union of India and Ors. v. M/s. Bhimsen		\$Eastern Shipping Co. Ltd. (2007) 7 SCC 101	141

(lix)		(lx)	
United India Insurance Co. Ltd. v. Harchand		\$AIR 1988 SC 2010	
\$Rai Chandan Lal (2004) 8 SCC 644		\$relied on	663
\$relied on.	140	Vijayadevi Navalkishore Bhartia and Anr. v.	
Uttar Pradesh State Electricity Board & Anr. v.		\$Land Acquisition Officer and Anr.	
\$Aziz Ahmad (2009) 2 SCC 606		\$(2003) 5 SCC 83	
\$relied on.	433	\$relied on.	624
Varsha Plastics Private Limited & Anr. v.		Viji and Anr. v. State of Karnataka	
\$Union of India & Ors. 2009 (1) SCR 896		\$(2008) 15 SCC 786	
\$cited	282	\$relied on.	316
Venkataraman (S.A.) v. The Union of India		Vikram Cement v. Commissioner of Central	
\$& Anr. (1954) SCR 1150	525	\$Excise, Indore 2006 (1) SCR 465	1153
Venkateswarulu (T.) v. Executive Officer,		Vikram Greentech India Limited and Anr.	
\$Tirumala Tirupathi Devasthanams & Ors.		\$v. New India Assurance Company Limited	
\$(2009) 1 SCC 546		\$(2009) 5 SCC 599	140
\$relied on.	433	Vimala (K) v. Veeraswamy (K)	
Vice Chancellor, Lalit Narain Mithila University		\$(1991) 2 SCC 375	710
\$v. Dayanand Jha AIR 1986 SC 1200		Virendra Singh v. State of Madhya Pradesh,	
\$relied on.	433	\$JT 2010 (8) SC 319	
Vijay Prakash D. Mehta & Jawahar D. Mehta		\$relied on.	319
\$v. Collector of Customs (Preventive), Bombay		Vishakhapatnam Urban Development Authority	

(Ixi)		(Ixi)		(Ixi)	
\$v. V. Narayana Raju 1999 (9) SCC 572;	755	\$relied on.			182
Vishnu and Ors. v. State of Rajasthan		Zahira Habibulla H. Sheikh v. State of Gujarat			
\$(2009) 10 SCC 477		\$and Ors. (2004) 4 SCC 158			852
\$relied on.	315	Zoroastrian Coop. Housing Society Ltd. v.			
Vishnu Dev Sharma v. State of Uttar Pradesh		\$District Registrar, Coop. Societies (Urban),			
\$and Ors. (2008) 3 SCC 172		\$(2005) 5 SCC 632			
\$relied on.	627	\$relied on			973
Viswa and Co. v. The State of Gujarat					
\$(1966) 17 S.T.C. 581	359				
Viswanathan (G.) v. Hon'ble Speaker Tamil					
\$Nadu Legislative Assembly, Madras & Anr.					
\$(1996) 2 SCC 353	793				
W.B. State Electricity Board v. Patel					
\$Engineering Co. Ltd. and Others					
\$(2001) 2 SCC 451	80				
Willie (William) Slaney v. State of Madhya					
\$Pradesh AIR 1956 SC 116					
\$followed.	317				
Yadava Kumar v. D.M., National Insurance					
\$Co. Ltd. - 2010 (10) SCR 746					

(lxiii)

(lxiv)

(lxxiii)

(lxxiv)

(lxxvii)

(lxxviii)

(lxxix)

(lxxx)

(lxxxi)

(lxxxii)

(lxxxiii)

(lxxxiv)

(lxxxv)

(lxxxvi)

(ii)

(i)

(iii)

(iv)

(v)

(vi)

CONTENTS

ACE Auto Comp. Ltd. (M/s.); Commissioner Central Excise, Delhi v.	1101
Additional Chief Secretary & Ors.; Shamshunnisa & Etc. v.	1062
Anjani Molu Dessai v. State of Goa & Anr.	997
Anne Sai Bapuji; Atluri Brahmanandam (d) through Lrs. v.	339
Anupama Tandon (Dr.) and Anr.; Ashish Ranjan (Dr.) v.	961
Appropriate Authority, Income Tax Department; Govind Impex (P) Ltd. and Ors. (M/s.) v.	523
Ashish Ranjan (Dr.) v. Dr. Anupama Tandon and Anr.	961
Ashok (T. G.) Kumar v. Govindammal and Anr.	560
Ashok Kumar & Anr ; Moti Ram (D) Thr. Lrs. & Anr. v.	809
Assistant Commissioner of Commercial Taxes and Ors.; Bhai Jaspal Singh and Anr. v.	41
Atluri Brahmanandam (d) through Lrs. v. Anne Sai Bapuji	339
Bahadur Singh; Central Bureau of Narcotics v.	788

(xiv)

Bajaj Auto Ltd., Waluj, Aurangabad, Thr its Vice President (Materials) and Ors. (M/s.); Commissioner of Central Excise, Aurangabad v.	184
Balaraman (K.) v. Chairman, Railway Board and Ors.	1043
Bhagwan Budha Prathmik Technical Training College Nirmali v. The State of Bihar and Ors.	763
Bhai Jaspal Singh and Anr. v. Assistant Commissioner of Commercial Taxes and Ors.	41
Bhim @ Uttam Ghosh v. State of West Bengal	175
C. C. E. C. & St., Vishakhapatnam v. Jocil Ltd.	1048
Central Bureau of Investigation v. Kishore Singh & Ors.	95
Central Bureau of Narcotics v. Bahadur Singh	788
Chairman, Railway Board and Ors.; Balaraman (K.) v.	1043
Commissioner Central Excise, Delhi v. M/s. ACE Auto Comp. Ltd.	1101
Commissioner of Central Excise, Aurangabad v. M/s. Bajaj Auto Ltd., Waluj, Aurangabad, Thr its Vice President (Materials) and Ors.	184
Commissioner of Customs, Mumbai; Xerox India Ltd. (M/s.) v.	199
Commissioner of Income Tax, Chennai v. Tulsyan NEC Ltd.	1114

(xiii)

(xv)

Commissioner of Income Tax, Delhi; Vijay Kumar Talwar v. 499	
Commissioner, Central Excise, Chandigarh v. M/s. Kwaliti Ice Cream Co.	409
Commissioner, Central Excise, Meerut v. M/s. Monsanto Manufacture Pvt. Ltd.	403
Commnr. of Central Excise, Chandigarh v. M/s. Pepsi Food Ltd.	836
Commr. of Customs & Central Ex., Ahmedabad; Parle Bisleri Pvt. Ltd. v.	851
Datta v. State of Maharashtra	921
Durairaj (A.) (D) By Lrs.; Union of India v.	981
Election Commission of India v. Telangana Rastra Samithi & Anr.	468
Election Commission of India v. Telangana Rastra Samithi & Anr.	496
Gadda Balaiah & Ors.; Surender & Ors. v.	803
Gopal Swaroop v. Krishna Murari Mangal & Ors. ...	211
Gorakhnath Sitaram Kamble & Ors.; State of Maharashtra & Anr. v.	752
Govind Impex (P) Ltd. and Ors. (M/s.) v. Appropriate Authority, Income Tax Department	523

(xvi)

Govind Singh v. Harchand Kaur	348
Govindammal and Anr.; .Ashok (T. G.) Kumar v.	560
Harchand Kaur; Govind Singh v.	348
Hari Singh and Anr. v. State of Uttar Pradesh	1079
Het Lal & Ors.; Saroj & Ors. v.	513
In re: Mehar Singh Saini, Chairman, HPSC and Ors.	647
Indian Oil Corpn. Ltd. (M/s.) & Anr.; Shalimar Gas & Ors. (M/ s.) v..	244
Infosys Technologies Ltd. v. Jupiter Infosys Ltd. and Anr.	312
Iridium India Telecom Ltd. v. Motorola Incorporated & Ors.	591
Irtiza Hussain and Ors.; Nirmjal Jeet Singh Hoon v.	109
Jasvir Singh & Ors.; State of U.P. & Ors. v.	945
Jocil Ltd.; C. C. E. C. & St., Vishakhapatnam v.	1048
John (T.S.) & Ors.; Joseph M. Puthussery v.	427
Joseph M. Puthussery v. T.S. John & Ors.	427
Josny Varghese & Ors.; Smitha Johny v.	68
Jupiter Infosys Ltd. and Anr.; Infosys Technologies Ltd. v.	312

(xvii)

Kishore Singh & Ors.; Central Bureau of Investigation v.	95
Kootha Perumal v. State Tr. Inspector of Police, Vigilance & Anti Corruption	864
Krishna Murari Mangal & Ors; Gopal Swaroop v. ...	211
Kwality Ice Cream Co. (M/s.); Commissioner, Central Excise, Chandigarh v.	409
Malayalam Plantations Ltd. v. State of Kerala and Anr.	162
Man Singh (D) By Lrs. v. Ram Kala (D) By LRs. & Ors.	577
Manoharan (V.) & Ors.; Sudakar (M.) v.	1009
Mewar Polytex Ltd. v. Union of India and Ors.	812
Mohammed (A. S.) Rafi v. State of Tamil Nadu Rep. by Home Dept. and Ors.	792
Monsanto Manufacture Pvt. Ltd. (M/s.); Commissioner, Central Excise, Meerut v.	403
Moti Ram (D) Thr. Lrs. & Anr. v. Ashok Kumar & Anr.	809
Motorola Incorporated & Ors.; Iridium India Telecom Ltd. v.	591
Mumbai Port Trust and Anr.; Transport & Dock Workers Union and Ors. v.	873
Muni Ram & Ors.; State of U. P. v.	120

(xviii)

Nandyala Venkataramana v. State of Andhra Pradesh	643
Naseem Ahmad & Ors. v. State of U.P. & Anr.	822
National Inst. Edu. Planning & Admn. & Ors.; Yogeshwar Prasad & Ors. v..	22
Nava Bharat Ferro Alloys Ltd. (M/s.) v. Transmission Corporation of A.P. Ltd. and Anr.	900
Nirmjal Jeet Singh Hoon v. Irtiza Hussain and Ors.	109
Parle Bisleri Pvt. Ltd. v. Commr. of Customs & Central Ex., Ahmedabad	851
Pepsi Food Ltd. (M/s.); Commnr. of Central Excise, Chandigarh v.	836
Prem Singh & Ors.; Raj Kishore (D) By Lrs. v.	1019
President, ADV. Assn. Chennai & Ors.; Sudha v. ..	289
Raj Kishore (D) By Lrs. v. Prem Singh & Ors.	1019
Ram Kala (D) By LRs. & Ors.; Man Singh (D) By Lrs. v.	577
Rameshbhai Mohanbhai Koli & Ors. v. State of Gujarat	1
Ranjit Singh and Ors. v. State of Madhya Pradesh	133
Sandip Ray; Shibani Basu v.	932
Sanjay Kumar Jain v. State of Delhi	1135

(xix)

Saroj & Ors. v. Het Lal & Ors.	513
Saud (Mohd.) & Anr. v. Dr.(Maj.) Shaikh Mahfooz & Ors.	84
Shaikh Mahfooz (Dr.) (Maj.) & Ors; Saud (Mohd.) & Anr. v.	84
Shalimar Gas & Ors. (M/s.) v. M/s. Indian Oil Corpn. Ltd. & Anr.	244
Shamshunnisa & Etc. v. Additional Chief Secretary & Ors.	1062
Shibani Basu v. Sandip Ray	932
Smitha Johny v. Josny Varghese & Ors.	68
Sohan Babu (M.) & Anr.; State of A. P. v.	1038
State of A. P. v. M. Sohan Babu & Anr.	1038
State of Andhra Pradesh v. Thummala Anjaneyulu	925
State of Andhra Pradesh; Nandyala Venkataramana v.	643
State of Delhi; Sanjay Kumar Jain v.	1135
State of Goa & Anr.; Anjani Molu Dessai v..	997
State of Gujarat; Rameshbhai Mohanbhai Koli & Ors. v.	1
State of Haryana & Anr.; Subhash Chand v.	1087
State of Haryana; Subhash v.	1067

(xx)

State of Karnataka and Ors.; Sujatha (R. S.) v.	227
State of Kerala and Anr.; Malayalam Plantations Ltd. v.	162
State of Madhya Pradesh; Ranjit Singh and Ors. v.	133
State of Maharashtra & Anr. v. Gorakhnath Sitaram Kamble & Ors.	752
State of Maharashtra; Datta v.	921
State of Rajasthan & Ors.; Suraj Bhan Meena & Anr. v..	532
State of Tamil Nadu Rep. by Home Dept. and Ors.; Mohammed (A. S.) Rafi v.	792
State of U. P. v. Muni Ram & Ors.	120
State of U.P. & Anr; Naseem Ahmad & Ors. v.....	822
State of U.P. & Ors. v. Jasvir Singh & Ors.	945
State of Uttar Pradesh; Hari Singh and Anr. v.	1079
State of West Bengal; Bhim @ Uttam Ghosh v.	175
State Tr. Inspector of Police, Vigilance & Anti Corruption; Kootha Perumal v.	864
Subhash Chand v. State of Haryana & Anr.	1087
Subhash v. State of Haryana	1067
Sudakar (M.) v. V. Manoharan & Ors.	1009

(xxi)

Sudha v. President, ADV. Assn. Chennai & Ors. ...	289
Sujatha (R. S.) v. State of Karnataka and Ors.	227
Suraj Bhan Meena & Anr. v. State of Rajasthan & Ors.	532
Surender & Ors. v. Gadda Balaiah & Ors.	803
Telangana Rastra Samithi & Anr.; Election Commission of India v.	468
Telangana Rastra Samithi & Anr.; Election Commission of India v.	496
The Institute of Chartered Accountants of India v. Vimal Kumar Surana and Anr.	248
The State of Bihar and Ors.; Bhagwan Budha Prathmik Technical Training College Nirmali v.	763
Thummala Anjaneyulu; State of Andhra Pradesh v.	925
Transmission Corporation of A.P. Ltd. and Anr.; Nava Bharat Ferro Alloys Ltd. (M/s.) v..	900
Transport & Dock Workers Union and Ors. v. Mumbai Port Trust and Anr.	873
Tulsyan NEC Ltd.; Commissioner of Income Tax, Chennai v.	1114
Union of India and Ors.; Mewar Polytex Ltd. v..	812
Union of India v. A. Durairaj (D) By Lrs.	981

(xxii)

Vijay Kumar Talwar v. Commissioner of Income Tax, Delhi	499
Vimal Kumar Surana and Anr.; The Institute of Chartered Accountants of India v..	248
Xerox India Ltd. (M/s.) v. Commissioner of Customs, Mumbai	199
Yogeshwar Prasad & Ors. v. National Inst. Edu. Planning & Admn. & Ors.	22

5

(xxiii)

A. P. Steel Re-Rolling Mills Ltd. v. State of Kerala, (2007) 2
SCC 725; 47

Abdul Aziz v. State of W.B. & Anr. (1995) 6 SCC 45; relied
on 110

Abdul Hussain Mir v. Shamsul Huda and Anr 1975 (3) SCR
106 relied on 433

Adoni Ginning Factory v. Secy. A.P. Electricity Board (1979)
4 SCC 560 905

Agarwal (V. K.) v. Vasantraj B. Bhatia (1988) 3 SCC 467
253

Agha Hyder Hussain & Anr. v. Omar Khayyam Wineries (Pvt.)
Ltd. & Anr. AIR 1977 Mad 166 316

Ajay Singh v. State of Maharashtra 2007 (12) SCC 341
1137

Ajit Singh Januja & Ors. v. State of Punjab & Ors. 1996 (3)
SCR 125 relied on 534

Ajit Singh-II & Ors. v. State of Punjab & Ors. 1999 (2) suppl.
SCR 521 relied on 534

Akhtar & Ors. v. State of Uttaranchal (2009) 13 SCC 722;
relied on 139

Akram Ansari (Mohd.) v. Chief Election Officer & Ors. (2008)
2 SCC 95; relied on 110

All India State Bank Officers' Federation & Ors. v. Union of
India & Ors. (1997) 9 SCC 151; relied on 111

(xxiv)

Ameerunnissa Begum v. Mahaboob Begum AIR 1953 SC
91; relied on 877

Anand Nishikawa Co. Ltd. v. Commissioner of Central Excise,
Meerut (2005) 7 SCC 749; relied on 186

Ananga Uday Singh Deo v. Ranga Nath Mishra & Ors. 2002(1) SCC 499 354

Anil Kak v. Kumari Sharada Raje and Ors. 2008 (7) SCC 695; relied on 215

Anil Vasudev Salgaonkar v. Naresh Kushali Shigaonkar 2009 (9) SCC 310 354

Animireddy Venkata Ramana & Ors. v. Public Prosecutor, High Court of Andhra Pradesh (2008) 5 SCC 368; relied on 135

Anna Reddy Sambasiva Reddy & Ors. v. State of Andhra Pradesh AIR 2009 SC 2661; relied on 138

Anter Singh v. State of Rajasthan (2004) 10 SCC 657 relied on. 7

Appovier Alias Seetaramier v. Rama Subba Aiyan and Ors. (1866) 11 MIA 75 579

Ardeshir H. Mama v. Flora Sassoon AIR 1928 PC 208; relied on 1025

Arjun Mahto v. State of Bihar (2008) 15 SCC 604; relied on 139

Asha Devi (Smt.) v. Dukhi Sao and Anr. 1974 (2) SCC 492; relied on 213

Ashok Kumar v. State of Rajasthan (1991) 1 SCC 166 1138

Aslam (Mohd.) v. State of Maharashtra (2001) 9 SCC 362; relied on. 7

Association CSI Cinod Secretariat, Madras 1992 (3) SCC 1 905

Asstt. Commr. v. Velliappa Textiles Ltd. (2003) 11 SCC 405 596

Athar Hussain v. Syed Siraj Ahmed & Anr. (2010) 2 SCC 654; relied on 965

Azhar Hussain v. Rajiv Gandhi 1986 (Supp) SCC 315 354

Babulal Amthalal Mehta v. Collector of Customs AIR 1957 SC 877; relied on 877

Balaka Singh v. State of Punjab AIR 1975 SC 1962; relied on 136

Baliah (T. S.) v. T.S. Rangarchari (1969) 3 SCR 65 253

Baliram Waman Hiray v. Justice B. Lentin and Ors. (1988) 4 SCC 419 474

Balraje @ Trimbak v. State of Maharashtra (2010) 6 SCC 673; relied on 136 and 139

Balu Sonba Shinde v. State of Maharashtra (2002) 7 SCC 543; relied on. 4

Banavalikar (J. N.) (Dr.) v. Municipal Corporation of Delhi & Anr. AIR 1996 SC 326; relied on 111

(xxvii)

Basu (D. K.) v. State of West Bengal 1997 (1) SCC 416;
relied on 99

Bhagwan Kaur W/o Bachan Singh v. Kartar Kaur W/o Bachan
Singh & Ors. 1994 (5) SCC 135; relied on 214

Bhagwan Singh v. The State of Haryana AIR 1976 SC 202;
relied on. 4 ...

Binay Kumar Singh v. State of Bihar AIR 1997 SC 322; relied
on 137

Birat Chandra Dagra v. Taurian Exim Pvt. Ltd. & Anr. 2006(11)
OLR 344 87

Bismillah Begum (Smt) (D) by Lrs. v. Rahmtullah Khan (D) by
Lrs. (1998) 2 SCC 226; relied on 1024

Bola (S. S.) & Ors. v. B.D. Saldana & Ors. (1997) 8 SCC
522; Cited 535

Budhu Mal v. Mahabir Prasad & Ors. AIR 1998 SC 1772;
relied on 110

Calcutta Chromotype Ltd. v. Collector of Central Excise,
Calcutta 1998 (99) ELT 202 (SC) 413

Caltex (India) Ltd. v. Bhagwan Devi Marodia AIR 1969 SC
405 relied on 1024

CCE v. Xerographic Ltd. (2006) 9 SCC 556 relied on 412

Central Bank of India v. State of Kerala and Ors. (2009) 4
SCC 94 474

(xxviii)

Chajoo Ram v. Radhey Shyam & Anr. AIR 1971 SC 1367;
relied on 230

Chandra Shashi v. Anil Kumar Verma (1995) 1 SCC 421
230

Chandra Shekhar Bind & Ors. v. State of Bihar (2001) 8
SCC 690; relied on 137

Chandrakala Menon v. Vipin Menon (1993) 2 SCC 6; relied
on 965

Chandrakanta Goyal v. Sohan Singh Jodh Singh Kohli 1995
(6) Suppl. SCR 522 relied on 437

Chandrakumar (L.) v. Union of India & Ors. (1997) 3 SCC
261 316

Chandrapal Singh & Ors. v. Maharaj Singh & Anr. AIR 1982
SC 1238; relied on 230

Chenga (C.) Reddy and Ors. v. State of Andhra Pradesh
(1996) 10 SCC 193 1137

Chinnasamy (M.) v K. C. Palanisamy (2004) 6 SCC 341
359

Chunchun Jha v. Ebadat Ali AIR 1954 SC 345; relied on
1024

Collector of Central Excise, Hyderabad v. Chemphar Drugs
and Liniments, Hyderabad (1989) 2 SCC 127; relied on
186

Commissioner of Central Excise, Belgaum v. Akay Cosmetics

(xxix)

(P) Ltd. (2005) 3 SCC 764; relied on 838
Commissioner of Central Excise, Calcutta v. Emkay Investments (P) Ltd. & Anr. (2005) 1 SCC 526 1103
Commissioner of Central Excise, Chandigarh–I v. Mahaan Dairies (2004) 11 SCC 798 1103
Commissioner of Central Excise, Chandigarh–II v. Bhalla Enterprises (2005) 8 SCC 308; relied on 1102
Commissioner of Central Excise, Jamshedpur v. SupereX Industries, Bihar (2005) 4 SCC 207 1103
Commissioner of Central Excise, Nagpur v. Ballarpur Industries Ltd. (2007) 8 SCC 89 1103
Commissioner of Central Excise, New Delhi v. Modi Alkalies and Chemicals Ltd. and Ors. 2004 (171) E.L.T. 155 (S.C.) 854
Commissioner of Central Excise, Raipur v. Hira Cement. (2006) 2 SCC 439; relied on 1102
Commissioner of Central Excise, Trichy v. Grasim Industries Ltd. (2005) 4 SCC 194 1102
Commissioner of Customs (Preventive) v. Vijay Dasharath Patel (2007) 4 SCC 118; relied on 501
Commissioner of Customs, Mumbai v. Toyo Engineering India Ltd. (2006) 7 SCC 592 1103

(xxx)

Commissioner of Income Tax v. P. Mohanakala (2007) 6 SCC 21; relied on 502
Commissioner of Income Tax, Lucknow v. Uttar Pradesh Cooperative Federation Ltd, AIR 1989 SC 91545
Commissioner of Trade Tax, U. P. and Anr. v. Kajaria Ceramics Ltd. (2005) 11 SCC 149 1103
Consumer Education and Research Society v. Union of India and Ors. (2009) 9 SCC 648 474
Cosmic Dye Chemical v. Collector of Central Excise, Bombay (1995) 6 SCC 117; relied on 186
Daulat Ram Chauhan v. Anand Sharma 1984 (2) SCC 64 352
Davis v. Thomas (1830) 39 ER 195 1025
Delhi Development Authority v. Skipper Construction Company (P) Ltd. & Anr. AIR 1996 SC 2005; relied on 965
Dhanalakshmi v. R.Prasanna Kumar 1990 (Supp) SCC 686 596
Dhanwanti Joshi v. Madhav Unde (1998) 1 SCC 112; relied on 966
Dhulabai etc. v. State of M.P. AIR 1969 SC 78; relied on 110
Dinesh Kumar v. State of Rajasthan (2008) 8 SCC 270; relied

	(xxxi)
on	139
Directorate of Enforcement v. Deepak Mahajan & Anr. (1994) 3 SCC 440; relied on	87
Divine Retreat Centre v. State of Kerala (2008) 3 SCC 542 597	
Divisional Manager, Aravali Golf Club v. Chander Hass (2008) 1 SCC 683	880
Dunlop India Ltd. & Madras Rubber Factory Ltd. v. Union of India (UOI) and Ors. (1976) 2 SCC 241; relied on . 1051	
Eagle Potteries Private Ltd. (M/s.) v. M/s. Eagle Flask Industries Pvt. Ltd. AIR 1993 Bombay 185	316
Election Commission of India v. Telangana Rastra Samithi and Anr. Judgment dated 3.10.2010; Clarified	497
Elizabeth Dinshaw v. Arvand M. Dinshaw AIR 1987 SC 3; relied on	965
Emperor v. Kushal Pal Singh AIR 1931 Allahabad 443254	
Executive Engineer, Bhadrak (R & B) Division, Orissa and Ors. v. Rangadhar Mallik (1993) Suppl.1 SCC 763; relied on	753
Flash Laboratories Ltd. v. Collector of Central Excise, New Delhi 2003 (2) SCC 86	412
G. P. Ceramics Pvt. Ltd. v. Commissioner, Trade Tax, U.P.	

	(xxxii)
(2009) 2 SCC 90.	47
Gagan Kanojia and Anr. v. State of Punjab (2006) 13 SCC 516; relied on.	4
Gajanan Krishnaji Bapat v. Dattaji Raghobaji Meghe 1995 (5) SCC 360	352
Gandla Pannala Bhulaxmi v. Managing Director, APSRTC & Anr. AIR 2003 AP 458; approved	87
Ganesh v. State of Karnataka (2008) 17 SCC 152; relied on 136	
Gangadhara (Y. N.) Setty & Ors. v. Jaya Prakash Reddy, MD, Karnataka Cooperative Milk Products Federation (2007) 14 SCC 434; relied on	965
Garikapati Veeraya v. N. Subbiah Choudhry & Ors. AIR 1957 SC 540; relied on	87
Gaurav Nagpal v. Sumedha Nagpal AIR 209 SC 557; relied on	965
Gauri Shankar Prasad and Ors. v. Brahma Nand Singh (2008) 8 SCC 287; relied on	1024
General Manager, Southern Railway v. Rangachari (1962) 2 SCR 586; Cited	535
Gentela Vijayavardhan Rao & Anr. v. State of Andhra Pradesh AIR 1996 SC 2791; relied on	137
Gimik Piotr V. State of Tamil Nadu and Ors. 2009 (15) SCR 889 relied on	1062
Gopi Chand v. Delhi Administration AIR 1959 SC 609; relied	

(xxxiii)

on	877
Government of A. P. and Anr. v. M. Hayagreev Sarma (1990) 2 SCC 682; relied on	753
Government of Andhra Pradesh and Ors. v. N. Subbarayudu and Ors. 2008(14) SCC 702	881
Government of Andhra Pradesh v. P. Laxmi Devi (2008) 4 SCC 720	880
Govt. of Andhra Pradesh v. Thummala Krishna Rao & Anr. AIR 1982 SC 1081; relied on	110
Gujarat Electricity Board & Anr. v. Atmaram Sugomal Postani AIR 1989 SC 1433; relied on	231
Gurdev Kaur and Ors. v. Kaki and Ors. 2007 (1) SCC 546; relied on	214
Gurnam Kaur v. Bakshish Singh & Ors. AIR 1981 SC 631; relied on	135
Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum and Ors. (1978) 3 SCC 383	579
Harcharan (S.) Singh v. S. Sajjan Singh 1985 (1) SCC 370 352	
Hardesh Ores (P) Ltd. v. Hede and Company (2007) 5 SCC 614	525
Hardev Singh v. Gurmail Singh (2007) 2 SCC 404; relied on	

(xxxiv)

562	
Hardie Trading Ltd. & Anr. v. Addisons Paint & Chemicals Ltd. (2003) 11 SCC 92; relied on	314
Harihar Banerji v. Ramshashi Roy, AIR 1918 PC 102; relied on	231
Hero Vinoth (Minor) v. Seshammal (2006) 5 SCC 545; relied on	501
Hindustan Ferodo Ltd. v. Collector of Central Excise, Bombay 1997 (89) ELT 16	1051
Hindustan Lever Ltd. v. Ashok Vishnu Kate & Ors. (1995) 6 JT 625 relied on	87
Ichhu Devi Choraria (Smt.) v. Union of India & Ors. 1981 (1) SCR 640 relied on	1062
Inder Mohan Goswami and Anr. v. State of Uttaranchal and Ors. (2007) 12 SCC 1	597
Inderpreet Singh Kahlon v. State of Punjab 2006 (1) Suppl. SCR 772	662
Indian Oil Corporation v. NEPC India Ltd. and Ors. (2006) 6 SCC 736	597
Indira Nehru Gandhi v. Shri Raj Narain and Anr. 1975 Suppl. SCC 1	474
Indra Sawhney & Ors. v. Union of India & Ors. 1992 (2) Suppl. SCR 454	535

(xxxv)

Iqbal Singh Marwah v. Meenakshi Marwah (2005) 4 SCC 370 254

Jagdev Singh Sidhanti v. Pratap Singh Daulta (1964) 6 SCR 750; Followed 430

Jagdish Lal v. State of Haryana 1997 (6) SCC 538; Stood over ruled 535

Jagjit Singh (Dr.) v. Giani Kartar Singh and Ors AIR 1966 SC 773; relied on 432 and 439

Jai Prakash Khadria v. Shyam Sunder Agarwalla & Anr. AIR 2000 SC 2172; relied on 966

Jai Shankar Prasad v. State of Bihar 1993 (2) SCR 517 662

Jakki @ Selvaraj & Anr. v. State represented by the IP, Coimbatore (2007) 9 SCC 589; relied on 136

Jamiruddin Ansari v. CBI (2009) 6 SCC 316; Distinguished 253

Janata Dal v. H.S. Chowdhary (1992) 4 SCC 305 . 597

Janki Narayan Bhoir v. Narayan Namdeo Kadam 2003 (2) SCC 91; relied on 214

Jaswant Singh v. State of Punjab 1958 SCR 762 . 865

Jatinder Singh & Anr. v. Mehar Singh & Ors. AIR 2009 SC 354; relied on 164

(xxxvi)

Javali (M. V.) v. Mahajan Borewell & Co. (1997) 8 SCC 72 597

Jayaram Mudaliar v. Ayyaswami AIR 1973 SC 569; relied on 562

Jayaseelan v. State of Tamil Nadu (2009) 12 SCC 275; relied on 136

Jeewan Kumar Raut v. CBI (2009) 7 SCC 526; Distinguished 253

Jitendra Kumar v. State of Haryana (2008) 2 SCC 161667

Jocil Ltd. & Ors (M/s.) v. The Commissioner of Central Excise & Customs, Visakhapatnam 2008 (225) ELT 540 (Tri-540) 1051

Jyoti Basu v. Debi Ghosal and Ors. (1982) 1 SCC 691 474

Kabushiki Kaisha Toshiba v. Tosiba Appliances Company & Ors. (2008) 10 SCC 766 316

Kalpanath Rai v. State (1997) 8 SCC 732 596

Kalyani (D) By LRs. v. Narayanan and Ors. 1980 (Supp) SCC 298 579

Kamaksha Rai & Ors. v. State of Uttar Pradesh (1999) 8 SCC 701; relied on 137

Kamal Kumar Dutta & Ors. v. Ruby General Hospital & Ors. 2006 (7) SCC 613; relied on 87

(xxxvii)

Kamala Devi v. Khushal Kanwar & Anr. AIR 2007 SC 663;
relied on 87

Kamleshkumar Iswardas Patel v. Union of India & Ors. 1995
(3) SCR 279 relied on 1062

Kanoria Chemicals and Industries Ltd. and Ors. v. U.P. State
Electricity Board and Ors. (1997) 5 SCC 772 905

Kanwar Lal v. Amar Nath Chawla and Ors. (1975) 3 SCC
646 474

Kapur (R. P.) v. S. Partap Singh Kairon [(1961) 63 Punj LR
780 659

Kapur Chand Jain v. B. S. Grewal and Ors. (1965) 2 SCR 36
1090

Kerala State Electricity Board v. MRF Limited (1996) 1 SCC
597 905

Kesava Pillai Sreedharan Pillai v. State of Kerala & Ors. AIR
2004 Ker 111 – approved 87

Keshavanand Bharti v. State of Kerala AIR 1973 SC 1461
881

Khosla (A. K.) v. T.S. Venkatesan 1992 CrI. L.J. 1448 597

Khujji @ Surendra Tiwari v. State of Madhya Pradesh AIR
1991 SC 1853; relied on 4

Kirender Sarkar & Ors. v. State of Assam (2009) 12 SCC
342; relied on 135

Kohinoor Elastics (P) Ltd. v. Commissioner of Central Excise,

(xxxviii)

Indore (2005) 7 SCC 528; relied on 1102

Kona Prabhakara Rao v. M. Seshagiri Rao 1982 (1) SCC
442 355

Krishan & Ors. v. State of Haryana (2006) 12 SCC 459;
relied on 138

Krishan Kumar v. State of Rajasthan and Ors. (1991) 4 SCC
258 474

Kulwinder Singh v. State of Punjab (2007) 10 SCC 455; relied
on 136

Kurukshetra University v. State of Haryana (1977) 4 SCC
451 597

Kwality Ice Cream Co. v. CCE, Chandigarh Judgment dated
November 26, 2010 passed by Supreme Court relied on
404

Lalji Haridas v. State of Maharashtra AIR 1964 SC 1154
474

Laxmi Raj Shetty and Anr v. State of Tamil Nadu 1988 (3)
SCR 706 relied on 434

Laxminarayan v. Shivilal Gujar & Ors. AIR 2003 MP 49
approved 87

Loknath Pradhan v. Birendra Kumar Sahu AIR 1974 SC 505
474

M X Software Services Ltd. v. Commissioner of Customs,
Mumbai 2001 (131) ELT 422 (Tri-Del) 200

Madan Lal v. Mst. Gopi & Anr. (1980) 4 SCC 255; relied on 501

Madhavrao Jiwajirao Scindia and Ors v. Sambhajirao Chandrojirao Angre and Ors (1988) 1 SCC 692.... 597

Mahadeorao Sukaji Shivankar v. Ramaratan Bapu and Ors. 2004 (7) SCC 181 354

Maharashtra v. Ramdas Shrinivas Nayak & Anr. AIR 1982 SC 1249; relied on 110

Mani @ Udattu Man & Ors. v. State represented by Inspector of Police (2009) 12 SCC 288; relied on 136

Manohar and Ors. v. Financial Commissioner, Haryana and Ors. 2000 (2) PLJ 460 1090

Manzurul Haq & Anr. v. Hakim Mohsin Ali AIR 1970 All 604 (F.B.); relied on 110

Maqbool Hussain v. The State of Bombay (1953) 4 SCR 730 253

Maqsoodan & Ors. v. State of U.P. AIR 1983 SC 126; relied on 137

Masalti v. State of Uttar Pradesh AIR 1965 SC 202; Followed 137

Mausami Moitra Ganguli v. Jayant Ganguli AIR 2008 SC 2262; relied on 966

Mehbub Samsuddin Malek and Ors. v. State of Gujarat (1996) 10 SCC 480 5

relied on 6

Metroark Ltd. v. Commissioner of Central Excise, Calcutta (2004) 12 SCC 505; relied on 501

Mishra (I. K.) v. Union of India & Ors. (1997) 6 SCC 228; relied on 111

Misra (L.P.) (Dr.) v. State of U.P. AIR 1998 SC 3337; relied on 231

Modan Singh v. State of Rajasthan (1978) 4 SCC 435; relied on. 7

Mohammad Idris & Anr. v. Rustam Jehangir Bapuji & Ors. AIR 1984 SC 1826; relied on 965

Mohan Rawale v. Damodar Tatyaba @ Dadasaheb 1994 (2) SCC 392 355

Mohan Rawale v. Damodar Tatyaba @ Dadasaheb, 1994 (2) SCC 393 354

Moidutty (R. P.) v. P.T. Kunju Mohammad & Anr. 2000 (1) SCC 481 relied on 351

Molai and Anr. v. State of M.P. (1999) 9 SCC 581;. relied on. 6

Muniappan (C.) and Ors. v. State of Tamil Nadu JT 2010 (9) SC 95 relied on. 4

Municipal Corporation of Delhi v. Ram Kishan Rohtagi (1983) 1 SCC 1 596

(xli)

Muthu Naicker & Ors. v. State of Tamil Nadu AIR 1978 SC 1647; relied on 137

Muthukumar (L.) and Anr v. State of Tamil Nadu and Ors 2000 (7) SCC 618; relied on 769

Nagaraj (M.) & Ors. v. Union of India & Ors. 2006 (7) Suppl. SCR 336 Followed 534

Nagawwa (Smt.) v. Veeranna (1976) 3 SCC 736 ..596

Nageshwaramma (N. M.) v. State of Andhra Pradesh 1986 Supl. SCC 166 769

Nara Hanumantha Rao v. Nara Hanumayya and Anr. 1964 Andhra Weekly Reporter 156 341

Narasimhulu (T.) & Ors. v. State of A.P. & Ors. (2010) 5 SCALE 730; Cited 535

Narendra Gopal Vidyarthi v. Rajat Vidyarthi (2009) 3 SCC 287; relied on 501

Narotanmal Chouraria v. M. R. Murli 2004 (1) Suppl. SCR 266 659

Nathu Singh Yadav v. State of Madhya Pradesh (2002) 10 SCC 366; relied on 136

National Thermal Power Corpn. Ltd. v. Union of India 192 ITR 187; Approved 1120

Nestle's Products (India) Ltd. v. P. Thankaraja & Anr. AIR 1978 Mad 336 316

(xlii)

Nihal Singh v. Rao Birendra Singh & Anr. 1970 (3) SCC 239 352

Nil Ratan Kundu & Anr. v. Abhijit Kundu (2008) 9 SCC 413; relied on 965

Nirlex Spares (P) Ltd. v. Commissioner of Central Excise (2008) 2 SCC 628 1103

Novopan India Ltd., Hyderabad v. Collector of Central Excise and Customs, Hyderabad, 1994 Supp (3) SCC 606; 47

Ojha (M. N.) and Ors v. Alok Kumar Srivastav and Anr (2009) 9 SCC 682 597

Om Prabha Jain v. Charan Das 1975 (4) SCC 849 352

Ombalika Das v. Hulisa Shaw (2002) 4 SCC 539 .878

Panicker (V. N. N.) v. Narayan Patil & Anr. 2006(2) OLR 349 87

Pappu Sweets and Biscuits and Anr. v. Commissioner of Trade Tax, U. P. (1998) 7 SCC 228 1103

Parshwanath (G.) v. State of Karnataka (2010) 8 SCC 593 1137

Pioneer Rubber Plantation, Nilambur, Kerala State v. State of Kerala & Anr (1992) 4 SCC 175 165

Podda Narayana v. State of Andhra Pradesh AIR 1975 SC 1252; relied on 135

Pratap Singh v. State of Jharkhand & Anr. (2005) 3 SCC

(xliii)

551; relied on	177
Pratibha Processors and Ors. v. Union of India and Ors. AIR 1997 SC 138 – relied on	49
Prem Singh & Ors. v. State of Haryana (2009) 14 SCC 494; relied on	136
Prithi Chand v. State of Himachal Pradesh 1989 (1) SCR 123 relied on	921
Pritish v. State of Maharashtra & Ors. AIR 2002 SC 236; relied on	230
Provash Chandra Dalui and Anr v. Biswanath Banerjee and Anr (1989) Suppl. (1) SCC 487	525
Quamarul Islam v. S.K. Kanta 1994 Supp (3) SCC 5	352
Quamarul Islam v. S.K. Kanta 1994 (1) SCR 210 relied on	434
Rabindra Kumar Dey v. State of Orissa AIR 1977 SC 170; relied on.	4
Radha Mohan Singh @ Lal Saheb and Ors. v. State of U.P. AIR 2006 SC 951; relied on.	4
Raghavamma (A.) and Anr. v. A. Chenchamma and Anr. AIR 1964 SC 136	579
Raj Kanta (Mrs.) v. The Financial Commissioner, Punjab and Ors. (1980) 3 SCC 589	1090

(xliv)

Raj Kapoor and Ors v. State (1980) 1 SCC 43	597
Raj Rani (Smt.) v. Chief Settlement Commissioner, Delhi and Ors. (1984) 3 SCC 619	579
Rajesh Gulati V. Govt. of NCT of Delhi & Anr. 2002 (7) SCC 129; relied on	1062
Ram Chandra Pandey v. Maheshwari Singh & Ors. AIR 1962 All 480; relied on	110
Ram Kumar Kashyap v. Union of India [2009] 12 SCR 601relied on	655
Ram Prasad etc. v. D. K. Vijay & Ors. 1999 (2) Suppl. SCR 576 relied on	534
Ram Sharan Yadav v. Thakur Muneshwar Nath Singh, 1984 (4) SCC	354
Ram Sukh v. Dinesh Aggarwal 2009 (10) SCC 541, 548 354	
Ramakant Mayekar v Celine D’Silva (1996) 1 SCC 399 359	
Rameshwar Lal v. Municipal Council, Tonk & Ors. (1996) 6 SCC 100; relied on	965
Ramprasad v. State of Maharashtra AIR 1999 SC 1969; relied on	137
Rattan Singh v. State of H.P. AIR 1997 SC 768; relied on	135

(xlv)

Ravinder Singh Gorkhi v. State of U.P. (2006) 5 SCC 584; relied on 177

Re: Dr. Ram Ashray Yadav, Chairman Bihar PSC 2000 (2) SCR 688 662

relied on 657

Re: Smt. Sayalee Sanjeev Joshi 2007 (7) SCR 116 655

relied on 655

Reference 1 of 1983 (1990) 4 SCC 262 657

Reference No.1 of 2003 660

Reference No.1 of 2003 (2009) 1 SCC 344 659

Reference under Article 317(1) of the Constitution of India [1983] 3 SCR 639 655

relied on 655

Regu Mahesh v. Rajendra Pratap Bhanj Dev AIR 2004 SC 42 354

Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. and Ors. (1987) 1 SCC 424 ... 473

Rosy Jacob v. Jacob A. Chakramakkal AIR 1973 SC 2090; relied on 966

Rotash v. State of Rajasthan (2006) 12 SCC 64; relied on 135

(xlvi)

Royal Baking Powder Company (The) v. Wright, Crossley, and Co. (1898) 15 RPC 677 314

Rur Singh (D) Through LRs. and Ors. v. Bachan Kaur 2009 (11) SCC 1; relied on 214

Sahdeo alias Sahdeo Singh v. State of Uttar Pradesh & Ors. (2010) 3 SCC 705; relied on 231

Sahib Ram v. State of Haryana and Ors. (1995) Suppl.1 SC 18; relied on 24

Salem Advocate Bar Association, Tamil Nadu v. Union of India AIR 2003 SC 189 87

Sanjeevayya (D.) v. Election Tribunal Andhra Pradesh and Ors. AIR 1967 SC 1211; relied on 472

Santosh Hazari v. Purushottam Tiwari (2001) 3 SCC 179; relied on 501

Sarvesh Naraian Shukla v. Daroga Singh and Ors. AIR 2008 SC 320; relied on. 4

Sarwan Singh v. State of Punjab AIR 2002 SC 3652; relied on 138

Secretary and Commissioner, Home Department and Ors. v. R.Kirubakaran (1994) Suppl.(1) SCC 155; relied on 753

Seth Chand (since dead) now by L.Rs. v. Smt. Kamla Kunwar and Ors. 1976 (4) SCC 554; relied on 214

Shanmugam Pillai v. Annalakshmi Ammal AIR 1950 FC 38 1025

Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4

(xlvii)

SCC 116; relied on	6
Sharama (B. K.) & Anr. v. State of Rajasthan & Ors. WLC (Raj) 1998 (2) 583; relied on	534
Shilpa Aggarwal v. Aviral Mittal & Anr. (2010) 1 SCC 591; relied on	965
Shimla Development Authority & Ors. v. Santosh Sharma (Smt.) & Anr. (1997) 2 SCC 637; relied on	231
Shree Chamundi Mopeds Ltd. v. Church of South India Trust Association CSI Cinod Secretariat, Madras 1992 (3) SCC 1 905	
Shyam Babu Verma and Ors. v. Union of India and Ors. (1994) 2 SCC 521; relied on	24
Shyam Gopal Bindal and Ors v. Land Acquisition Officer and Anr (2010) 2 SCC 316	164
Simrathmull (K.) v. Nanjalingiah Gowder AIR 1963 SC 1182; relied on	1022
Singla (O. P.) and Anr. v. Union of India and Ors. (1984) 4 SCC 450	474
Sir Chunilal v. Mehta & Sons, Ltd. v. Century Spinning and Manufacturing Co. Ltd. AIR 1962 SC 1314 relied on	501
Sone Lal v. State of U.P. AIR 1978 SC 1142; relied on	135
Sri Rai M. Vijayalakshmanna Rao Bahadur, Ranee of Vuyyur v. The Collector of Madras, 1969 (1) MLJ 45; 998	

(xlviii)

Sri Thomas Mates Gudinhjo v. Election Commission of India, New Delhi and Ors. AIR 2002 Karnataka 232 473	
St. John's Teachers Training Institute (For Women), Madurai and Ors v. State of Tamil Nadu and Ors 1993 (3) SCC 595 769	
Standard Chartered Bank v. Directorate of Enforcement (2005) 4 SCC 405	597
State of Bihar & Anr. v. P.P. Sharma, I.A.S. & Anr. AIR 1991 SC 1260; relied on	111
State of Bihar and Ors. v. Pandey Jagdishwar Prasad (2009) SCC 117 relied on	24
State of Bihar v. Murad Ali Khan (1988) 4 SCC 655 253	
State of Bombay v. Balsara AIR 1951 SC 318; relied on 877	
State of Bombay v. S. L. Apte (1961) 3 SCR 107 253	
State of Gujarat v. Turabali Gulamhussain Hirani - 2007 (10) SCR 531 relied on	950
State of Haryana and Ors v. Krishna Rice Mills (1981) 4 SCC 148; Distinguished	1011
State of Haryana v. Bhajan Lal (1992) Supp. (1) SCC 335 596	
State of Karnataka v. Mangalore University Non Teaching Employees Association (2002) 3 SCC 302 878	

(xlix)

State of Kerala and Anr v. Pullengode Rubber Produce Co. Ltd. (1999) 6 SCC 92 164

State of Kerala v. M. M. Mathew and Anr. (1978) 4 SCC 65; relied on 7

State of M. P. and Anr etc. etc. v. Ram Raghubir Prasad Agarwal and Ors 1979 (3) SCR 41 relied on 438

State of Maharastra v. Vikas Sahebrao Roundale 1992 (4) SCC 435 769

State of Orissa v. Debendra Nath Padhi (2005) 1 SCC 568 597

State of Punjab (The) v. Iqbal Singh and Ors. (1991) 3 SCC 1 1138

State of Punjab v. Hans Raj (1994) 5 SCC 734 998

State of Punjab v. Ram Singh Ex-Constable 1992 (3) SCR 634 659

State of Rajasthan v. Harphool Singh (D) Thr. Lrs. (2000) 5 SCC 652; relied on 110

State of Rajasthan v. Hat Singh (2003) 2 SCC 152 253

State of Rajasthan v. Teja Ram and Ors. (1999) 3 SCC 507 relied on 6

State of Tamil Nadu v. Ramalinga Samigal Madam AIR 1986 SC 794; relied on 110

(l)

State of Tamil Nadu v. T. V.Venugopalan (1994) 6 SCC 302; relied on 753

State of U. P. v. Krishna Gopal and Anr. (1988) 4 SCC 302; relied on 7

State of U. P. v. Ramesh Prasad Misra and Anr. AIR 1996 SC 2766; relied on. 4

State of U. P. and Ors v. Lalji Tandon (D) through Lrs. (2004) 1 SCC 1 525

State of U. P. v. Jagdeo & Ors. (2003) 1 SCC 456; relied on 138

State of U. P. v. Kishan Chand & Ors. (2004) 7 SCC 629; relied on 138

State of U. P. v. Veer Singh & Ors. AIR 2004 SC 4614; relied on 137

State of Uttar Pradesh and Ors. v. Gulaichi (Smt.) (2003) 6 SCC 483; relied on 753

State of Uttaranchal and Ors. v. Pitamber Dutt Semwal (2005) 11 SCC 477; relied on 753

Subbu Singh v. State (2009) 6 SCC 462; 4

Sub-Committee on Judicial Accountability v. Union of India 1991 (2) Suppl. SCR 1 = (1991) 4 SCC 699; relied on 660

Subhash Desai v. Sharad J. Rao AIR 1994 SC 2277 359

Sudhakar (T.) Prasad v. Govt. of A.P. & Ors. (2001) 1 SCC

(li)

516 230
Sultana Begum v. Prem Chand Jain (1997) 1 SCC 373
474
Sumati Dayal v. Commissioner of Income Tax, Bangalore
1995 Supp (2) SCC 453; relied on 502
Sunil Kumar & Ors. v. State of M.P. AIR 1997 SC 940; relied
on 137
Sunil Kumar Parimal and Anr v. State of Bihar and Ors 2007
(10) SCC 150 767
Sunil Kumar Sambhudayal Gupta (Dr.) & Ors. v. State of
Maharashtra JT 2010 (12) SC 287; relied on 231
Supreme Court Advocate-on-Record Association v. Union of
India 1993 (2) Suppl. SCR 659 = (1993) 4 SCC 441; relied
on 655
Supreme Washers Pvt. Ltd. v. Commissioner of Central
Excise, Pune (2003) 1 SCC 142; Distinguished412
Surinder Singh v. Hardial Singh 1985 (1) SCC 91 352
Syad Akbar v. State of Karnataka AIR 1979 SC 1848; relied
on. 4
Tata Iron and Steel Co. Ltd. v. State of Jharkhand, (2005) 4
SCC 272; 47
Three Cheers Entertainment Pvt. Ltd. v. C.E.S.C. Ltd. AIR
2009 SC 735; relied on 231

(lii)

Transmission Corporation of A. P. Ltd. & Ors. v. P. Surya
Bhagavan AIR 2003 SC 2182; relied on 110
Trisuns Chemical Industry v. Rajesh Agarwal (1999) 8 SCC
686 597
U. P. Madhyamik Shiksha Parishad and Ors. v. Raj Kumar
Agnihotri (2005) 11 SCC 465; relied on 753
Ugar Ahir & Ors. v. State of Bihar AIR 1965 SC 277; relied
on 136
Ujagar Prints etc. etc. v. Union of India and Ors. AIR 1989
SC 972 838
Ujagar Singh v. Mst. Jeo AIR 1959 SC 1041 relied on 341
Union of India and Ors. v. Bombay Tyre International Limited
and Ors. (1984) 1 SCC 467 838
Union of India v. ATIC Industries Ltd. 1984 (3) SCR 930;
relied on 412
Union of India v. Bombay Tyre International Ltd. 1983 ELT
1896 SC; relied on 412
Union of India v. J. Ahmed 1979 (3) SCR 504659
Union of India v. M. K. Sarkar 2009 (16) SCR 249 relied on
984
Union of India v. Playworld Electronics Pvt. Ltd. 1989 (41)
ELT 368 SC; relied on 412

(liii)

Union of India v. Rajasthan Spinning & Weaving Mills 2009
(238) E.L.T. 3 (S.C.) 839

Union of India v. Virpal Singh Chauhan & Ors. 1995 (4) Suppl.
SCR 158 relied on 534

Union of India v. Harnam Singh (1993) 2 SCC 162; relied on
753

Varun Choudhary v. State of Rajasthan JT 2010 (11) SC 419
1137

Venkata (D.) Reddy v. R. Sultan and Ors 1976 (3)
SCR 445 relied on 435

Venkatachala (H.) Iyengar v. B.N. Thimmajamma AIR 1959
SC 443; relied on 216

Venkatamuni (B.) v. C. J. Ayodhya Ram Singh and Ors. (2006)
13 SCC 449 relied on 213

Venkataramana Devaru (Shri) v. State of Mysore AIR 1958
SC 255 473

Vikram Vir Vohra v. Shalini Bhalla (2010) 4 SCC 409; relied
on 966

West Bengal Electricity Regulatory Commission v. CESC Ltd.
(2002) 8 SCC 715; relied on 501

Workmen of American Express International Banking
Corporation v. Management of American Express International
Banking Corporation (1985) 4 SCC 71, relied on.. 87

Xerox Modicorp Ltd. v. Commissioner of Customs, Chennai
2001 (127) ELT 285 (Tri-Del) 200

(liv)

Yumnam Ongbi Tampha Ibema Devi v. Yumnam Joykumar
Singh and Ors. 2009 (4) SCC 780; relied on 214

Zakir Hussain Primary Education v. State of Bihar 2010(12)
SCC 517 Distinguished 769

18

2010-VOLUME-14(ADDL.)

ADMINISTRATION OF JUSTICE:

Settlement of disputes – Courts insisting on presence of senior

(iv)

officers of Government to appear in person and directing to settle the matter outside the Court – Practice disapproved – Guidelines laid down – Constitution of India, 1950.

State of U. P. v. Jasvir Singh & Ors. 945

ADMINISTRATIVE LAW:

(1) Administrative order – Power to withdraw – Held: Power to issue an order includes power to withdraw the same for valid reasons – If an administrative order is based under an erroneous assumption of one's own power and if it goes to the root of the matter, the authority concerned can certainly review it for valid reasons, and if that is done, the withdrawal cannot be called to be a mala fide one – In the instant case, the earlier order granting recognition to the appellant-institution was outside the powers of the State Government, therefore, the Government was quite right in rescinding the same by a subsequent order – National Council for Teacher Education Act, 1993 – Education/Educational institutions.

(Also see under: National Council for Teacher Education Act, 1993)

Bhagwan Budha Prathmik Technical Training College Nirmali v. The State of Bihar and Ors. 763

(2) Bias.

(See under: Constitution of India, 1950) 945

(lvi)

(3) Judicial Review.

(See under: Service Law) 873

(4) Principles of natural justice.

(See under: Contempt of Courts Act, 1971) 227

(5) Public functionaries – Chairman/Members of a Public Service Commission – Accepting of application after the last date – Manipulation in the date of its receipt – Selection of the candidate on the basis of bogus certificate – Held: Public Service Commissions are expected to adopt a fair and judicious process of selection to ensure that deserving and meritorious candidates are inducted in State services – In the instant case, the process adopted by the Commission, its Chairman and Members was not in consonance with the known canons of administrative jurisprudence – The conduct of Chairman and Members not only shows omissions and commissions on their part, but administrative lapses as well – Constitution of India, 1950 – Article 317(1).

(Also see under: Constitution of India, 1950)

In re: Mehar Singh Saini, Chairman, HPSC and Ors. 647

ADMINISTRATIVE TRIBUNALS ACT, 1985:

(lvii)

s.21.

(See under: Constitution of India, 1950) 981

ADVOCATES:

(1) (See under: Bar Associations as also under Societies)
289

(2) Professional ethics.

(See under: Constitution of India, 1950) 792

ALTERNATIVE DISPUTE REDRESSAL:

Mediation – Landlord-tenant matter pending before Supreme Court, referred to Mediator – Mediation remained unsuccessful – Report by mediator – Held: Unlike the proceedings in court, mediation proceedings are totally confidential proceedings – If the mediation succeeds, then the mediator should send the agreement signed by both the parties to the court without mentioning what transpired during the mediation proceedings – Otherwise, the mediator should send his report only stating that the 'Mediation has been unsuccessful', and nothing else – Code of Civil Procedure, 1908 – s.89 (2).

Moti Ram (D) Thr. Lrs. & Anr. v. Ashok Kumar & Anr. 809

(lviii)

APPEAL:

(1) Appeal before Supreme Court – Concurrent findings of fact by three courts below that the partition suit was not collusive – Interference with – Held: Not called for – Constitution of India, 1950 – Article 136.

(Also see under: Transfer of Property Act, 1882)

T. G. Ashok Kumar v. Govindammal and Anr. 560

(2) Letters Patent appeal – Power of Letters Patent Bench hearing a second appeal to interfere with the order passed by Single Judge – Held: Letters Patent Bench will be slow in interfering with the concurrent finding of fact recorded by trial court and Single Judge of the High Court in the first appeal – However, it may interfere where the finding is demonstrably erroneous, irrational or perverse.

(Also see under: Succession Act, 1925)

Gopal Swaroop v. Krishna Murari Mangal & Ors. ...211

(3) Right of appeal – Held: An appeal is a creature of statute and not an inherent right – This right of appeal can be taken away or curtailed by a subsequent enactment.

(Also see under: Code of Civil Procedure, 1908)

Mohd. Saud & Anr. v. Dr.(Maj.) Shaikh Mahfooz & Ors 84

(lix)

(4) Substantial question of law.

(See under: Income Tax Act, 1961) 499

BAR ASSOCIATIONS:

(1) (i) Bar Association – Membership – Renewal – Right to vote and right to contest election – Madras High Court Advocates' Association – Bye-laws – Prescribing minimum years of practice and entry fee etc. – Held: Minimum years of practice to be entitled to vote and to contest election of the Association, the provisions prescribing entry fee, yearly subscription, payment for revival of membership and deposits for contesting elections cannot be regarded as illegal or arbitrary.

(ii) Bar Association – Election – Held: Legal profession is a solemn and serious occupation – A lawyer has to conduct himself as a model for others both in his professional life and his private /public life as also while exercising vote in an election of office bearers of the Association – Advocates – Professional ethics.

(Also see under: Constitution of India, 1950 and Societies)

Sudha v. President, ADV. Assn. Chennai & Ors. ... 289

(lx)

(2) (See under: Constitution of India, 1950) 792

BAR COUNCIL OF INDIA RULES, 1975:

Part VI, Chapter II.

(See under: Constitution of India, 1950) 792

BENGAL (FINANCE) SALES TAX ACT, 1941:

s.10A.

(See under: West Bengal Sales Tax Act, 1994 as also under West Bengal Sales Tax Act, 1954) 41

BENGAL SALES TAX RULES, 1941:

r.3(116).

(See under: West Bengal Sales Tax Act, 1954 as also under West Bengal Sales Tax Act, 1994) 41

CATTLE TRESPASS ACT, 1871:

s.24.

(See under: Penal Code, 1860) 120

(Ixi)

CENTRAL EXCISE ACT, 1944:

(1) (i) ss. 4(1)(a)(iii) and 11AC – Valuation of excisable goods for purposes of charging excise duty – Determination of sale price – Assessee selling its goods to a company, 'related person' – Assessee claiming exclusion of freight charges arising between the factory of assessee to depot of related person as sale occurred at its factory gate – Held: Provision of s. 4(1)(iii)(a) (as it was prior to 2000) is applicable and not s. 4(2) – Normal price of sale would be deemed to be the one at which the goods are ordinarily sold by 'related person' to whole-sellers – Place of removal for such goods should be depot of the related person from where the goods are sold to whole-sellers – There was no finding of fraud or mis-statement against assessee in the show cause notice – Thus, imposition of penalty, equal to the amount of duty in the order-in-original, not permissible.

(ii) s. 11AC – Imposition of penalty under – Necessary ingredient – Held: In order to attract the penal provision u/s. 11 AC, criminal intent or 'mens rea' is a necessary constituent – However, when factually no fraud or suppression or mis-statement is alleged by the revenue against assessee in the show cause notice, imposition of penalty is wholly impermissible.

Commnr. of Central Excise, Chandigarh v. M/s. Pepsi Food Ltd. 836

(2) s.11A – Manufacturer-assessee entering into sourcing

(Ixii)

agreement with a company – Assessee declaring the price of manufactured product on the basis of the agreement – Duty paid on the declared price – Revenue alleging suppression of material facts against the assessee and demanding additional duty with penalty and interest – Held: The assessee had not suppressed material facts as the source agreement was within the knowledge of the Revenue – Assessee had not received any direct and indirect consideration over and above as was agreed under the agreement– The show-cause notice was also time-barred – Central Excise Rules, 1944 – r.9(A) – Limitation.

Commissioner, Central Excise, Meerut v. M/s. Monsanto Manufacture Pvt. Ltd. 403

(3) s.11A, proviso – Recovery of duty short paid – Invocation of the proviso – Held: Proviso to s.11A can be invoked when there is a conscious act of either fraud, collusion, willful mis-statement, suppression of fact, or contravention of the provisions of the Act or any of the rules made thereunder on the part of the assessee, with the intent to evade payment of duty – Since the proviso extends the period of limitation from six months to five years, it needs to be construed strictly – The initial burden is on the Revenue to prove that the situation visualized by the proviso exists – But the burden shifts on the assessee once the Revenue is able to produce material to show that the appellant is guilty of any of those situations visualized in the section – In the instant case, the Tribunal held that the proviso was attracted since the two assessees were situated under the jurisdiction of the same division of the Revenue and, therefore, Revenue was aware of the

(lxiii)

transactions – Tribunal erred in holding so, since this ground is not envisaged under the proviso to s.11A(1) – The other issues are all disputed facts which are required to be re-examined by the Tribunal, since under the statute it is the final fact finding authority – Matter remitted to Tribunal for reconsideration – Interpretation of statutes – Strict construction – Evidence – Burden to prove suppression of facts.

The Commissioner of Central Excise, Aurangabad v. M/s. Bajaj Auto Ltd., Waluj, Aurangabad, through its Vice President (Materials) and Ors. 184

(4) Excise duty – Appellant, a holding company of PEL, manufacturing flavours, assigned code name by PEL – Appellant selling flavours to PEL company, PIL company and franchise bottlers – PEL using product sold by appellant – PEL also manufacturing flavours as appellant – SSI Exemption under Notification No. 1/93 CE dated 28.02.93 – Claim of by appellant – Held: Appellant not entitled to the benefit of the Notification for the products with code names which belonged to PEL since appellant was not the owner of the brand names – As regards clubbing of valuation of production/clearance of the companies, three companies were intertwined in their operation and management – Purported fragmentation of manufacturing process was to avail SSI exemption – Notification No. 1/93 CE dated 28.02.1993.

Parle Bisleri Pvt. Ltd. v. Commr. of Customs & Central Ex., Ahmedabad 851

(5) Excise duty – Small scale industrial unit (SSI) exemption – Assessee using brand name of another person on its goods

(lxiv)

and supplying the goods to the said company – Benefit of SSI Notification No. 1/93 CE dated 28.02.1993 and 16/97 CE dated 01.04.1997 – Entitlement to – Held: Assessee not entitled to the benefit of the exemption – By using the said brand name, assessee intended to indicate a connection between the goods manufactured by it and other company as also the quality of their product as that of a product of the other company – Notification No. 1/93 – CE dated 28.02.1993 and Notification No. 16/97- CE dated 01.04.1997.

Commissioner Central Excise, Delhi v. M/s. ACE Auto Comp. Ltd. 1101

CENTRAL EXCISE RULES, 1944:

(1) r.57A – Modvat credit on inputs – Advance Licencing Scheme – Declaration made by assessee on AR-4 Form that it was not availing the benefit of Modvat credit on inputs – Assessee, however, used indigenous inputs in the manufacture of export consignment and availed Modvat credit on the same – Export of finished goods under the Advance Licencing Scheme without payment of duty – Reversal of credit and imposition of penalty by Revenue – Held: Correct – Entitlement to Modvat credit did not arise since no excise duty was incident upon the finished goods – Declarations under AR4 entitled the assessee to import inputs on payment of the countervailing duty, which subsequently was permitted to be drawn back – The assessee not only availed of Modvat credit on the indigenous input, but also drew back countervailing duty paid on imported inputs that were mere stock replenishments – This amounted to a double benefit – Unjust enrichment.

Mewar Polytex Ltd. v. Union of India and Ors. 812

(2) r.9(A).

(See under: Central Excise Act, 1944) 403

CENTRAL EXCISE TARIFF ACT, 1985:

s. 4(4)(c) – Valuation of excisable goods – Manufacturer-assessee entering into sourcing agreement with a company for marketing its product – Revenue holding the manufacturer-company and distributor-company as related persons and demanding duty on the basis of the price at which distributor-company selling the product – Held: The Manufacturer/ assessee-company and the distributor-company were not ‘related persons’ – Transaction between them was on principal to principal basis – The assessable value cannot be computed on the basis of the price at which the distributor-company sold the product.

Commissioner, Central Excise, Chandigarh v. M/s. Kwality Ice Cream Co. 409

CHARTERED ACCOUNTANTS ACT, 1949:

(i) ss. 2(d), 24, 24A, 25, 26 and 28 – Person qualifying the exam of Chartered Accountant but not a member of the Institute of Chartered Accountants of India – Person impersonating as Chartered Accountant, preparing audit reports and forged seals – Criminal complaint before police alleging commission of offences punishable u/ss. 419, 420,

468 and 473 – Prosecution under the provisions of Penal Code r/w ss. 24 and 26 of the Act – Trial court and High Court holding that even though prima facie case made out against the accused u/s.24, 24-A and 26, cognizance could not have been taken on the basis of the complaint because no complaint was filed u/s. 28; and that he could not be prosecuted under the Penal Code – Held: If the particular act of a member or a non-member or a company results in contravention of the provisions contained in s. 24 or sub-section (1) of ss.24-A, 25 or 26 of the Act and such act also amounts to an offence of criminal misconduct under IPC, then a complaint can be filed by or under the order of the Council u/s. 28, which may result in punishment prescribed u/s. 24 or sub-section (2) of ss. 24A, 25 or 26 – Such member or non-member or company can also be prosecuted for any identified offence under IPC – There is no bar against prosecution of such person if he is charged with the allegations constituting offences under Penal Code or under other laws – Matter remitted to trial court to consider whether allegations contained in the complaint constitute any offence under Penal Code – In the absence of a complaint u/s. 28, no charges could be framed against the non-member for the alleged contravention of ss. 24, 24A or 26 – Penal Code, 1860 – ss. 419, 420, 468 and 473.

(ii) ss. 24A(2), 26 and 25(2) – Expression ‘without prejudice to any other proceedings which may be taken against him’ in ss. 24A(2), 26 and s. 25(2) – Meaning of.

(Also see under: Criminal Law)

The Institute of Chartered Accountants of India v. Vimal Kumar Surana and Anr. 248

(lxvii)

CHILD AND FAMILY WELFARE:

(i) Compromise order as regards the custody of the child – Violation of – Respondent-mother agreed to visitation by applicant-father and his parents to see the child – Contempt petition by applicant against respondents that the terms and conditions of the compromise order as regards the visitation rights were not complied with – Held: The respondents deliberately and willingly violated the terms of the compromise order – They are guilty of committing the contempt of court – However, imposing any punishment on the respondents would not serve any purpose, nor would it serve in a better way to the welfare of the child – The issue raised being a pure question of fact requires examination by an appropriate forum taking into consideration all the factual and legal aspects – Liberty given to the applicant to approach the appropriate court/forum for seeking custody of the child or any other appropriate relief in this regard – Contempt of Court – Undertaking – Judgment/order – Compromise order.

(ii) Custody of child – Paramount consideration – Welfare of the child – Held: The provisions of the special statutes which govern the rights of the parents or guardians may be taken into consideration, however, there is nothing which can stand in the way of the court to exercise its *parens patriae* jurisdiction in such cases – Statutory provisions dealing with the custody of the child under any personal law cannot and must not supersede the paramount consideration as to what is conducive to the welfare of the minor – Mutual settlement reached between the parties cannot come in the way of well established principles in respect of the custody of the child –

(lxviii)

Jurisdiction – *Parens patriae* jurisdiction.

(iii) Custody of child – Doctrine of *res judicata* – Held: If welfare of the child is not taken care of by the custodial parent, subsequent application by non-custodial parent for custody of a minor cannot be thrown out at the threshold as not maintainable – Doctrine of *res-judicata* is not applicable in matters of child custody being a recurring cause – Doctrine of *res-judicata*.

(Also see under: Constitution of India, 1950 and Contempt of Courts Act, 1971)

Dr. Ashish Ranjan v. Dr. Anupama Tandon and Anr. 961

CIRCULARS / GOVERNMENT ORDERS / NOTIFICATIONS:

(1) Government of Rajasthan Notifications dated 28.12.2002 and 25.04.2008.

(See under: Service Law) 532

(2) Notification No. 1/93 – CE dated 28.02.1993 and Notification No. 16/97- CE dated 01.04.1997.

(See under: Central Excise Act, 1944) 1101

(lxix)

(3) Notification No. 1/93 CE dated 28.02.1993.

(See under: Central Excise Act, 1944) 851

CODE OF CIVIL PROCEDURE, 1908:

(1) s.89(2).

(See under: Alternative Disputes Redressal) 809

(2) s.100-A – Amendment of, in 2002 – Effect – Interim order passed by Additional District Judge in a civil suit – First appeal against the interim order before Single Judge of the High Court – LPA against judgment of Single Judge – Maintainability of – Held: After the amendment of s.100-A in 2002, no litigant can have a substantive right for a further appeal against the judgment or order of the Single Judge of the High Court passed in an appeal – Only an LPA filed prior to coming into force of the amendment would be maintainable – In the instant case, the LPA having been filed after 2002 was not maintainable – In any event, an appeal is a continuation of the original proceedings – Since the original order of the Additional District Judge was an interlocutory order, therefore, the judgment of the Single Judge was also interlocutory – Supreme Court does not ordinarily interfere under Article 136 of the Constitution with interlocutory orders – Interpretation of Statutes – Purposive construction – Constitution of India, 1950 – Article 136.

Mohd. Saud & Anr. v. Dr.(Maj.) Shaikh Mahfooz & Ors 84

(lxx)

(3) O.41, r.27 – Production of additional evidence in appellate court – Held: It is incumbent on the part of the appellate court to consider the relevance of the additional documents/ evidence with regard to the issues involved – Situations in which additional evidence can be adduced – Discussed – Additional evidence cannot, however, be adduced to fill in the lacunae or to patch up the weak points in the case.

(Also see under: Practice and Procedure)

Malayalam Plantations Ltd. v. State of Kerala and Anr. 162

CODE OF CRIMINAL PROCEDURE, 1973:

(1) s.394.

(See under: Penal Code, 1860) 1079

(2) s.57.

(See under: Penal Code, 1860) 95

(3) s.161.

(See under: Evidence Act, 1872 as also under Penal Code, 1860) 133

(lxxiii)

(lxxiv)

(lxxix)

(lxxx)

(lxxxi)

(lxxxii)

(lxxxiii)

(lxxxiv)

(lxxxv)

(lxxxvi)

1209

1210

SUBJECT-INDEX

ACCOUNTING STANDARDS:

AS-19.

(See under: Finance Act, 1994) 381

ADMINISTRATION OF CRIMINAL JUSTICE:

(1) Framing of charges – Directions given to all trial courts in the country, ordinarily, to add s. 302 IPC to the charge of s. 304-B IPC so that death sentences can be imposed in such heinous and barbaric crimes against women – Penal Code, 1860 – ss. 304-B and 302 IPC – Sentence/sentencing.

(Also see under: Penal Code, 1860)

Rajbir @ Raju and Anr. v. State of Haryana 886

(2) Notice to accused-petitioner for enhancement of sentence.

(See under: Penal Code, 1860) 890

(3) Principle of greater caution on court, while dealing with criminal cases.

(Also see under: Penal Code, 1860 and Code of Criminal Procedure, 1973)

Santosh Kumar Singh v. State Thr. CBI 901

ADMINISTRATION OF JUSTICE:

(1) Abuse of process of court – SLP against eviction of tenant dismissed by Supreme Court – Tenant filing an undertaking to vacate the premises – Thereafter tenant filing the interlocutory application for a direction that he need not vacate

the premises till the disposal of the review petition, or in the alternative for stay of dispossession – Held: The application is a sheer abuse of the process of court – The tenant be evicted from the premises forthwith by using police force, ignoring the stay of eviction granted by the High Court – Rent Control and Eviction.

(Also see under: Judicial Discipline)

D. M. Belgamvala v. Tamilnadu Real Estates (P) Ltd. 1072

(2) Order of Supreme Court [2010] 13 (Addl.) SCR 1131 – Application for expunging certain observations therefrom – Held: It is not correct to say that sweeping observations have been made against the High Court – It has been specifically mentioned in the order that there are complaints against “certain Judges”, not all Judges – It is clarified that there are many upright Judges in the High Court.

Raja Khan v. U.P. Sunni Central Waqf Board & Anr. 1212

(3) (See under: Central Excise Rules, 1944) 957

(4) (See under: Constitution of India, 1950) 1131

(5) (See under: Precedent) 621

ADMINISTRATIVE LAW:

(1) (i) Bias – Quasi judicial authority – Show cause notice – Quality complaint filed before the Development Authority alleging export of poor quality sea food by exporter – Issue of show cause notice and thereafter cancellation of registration certificate by authority in exercise of his statutory

power under r.43 – Held: A quasi judicial authority must act fairly and with an open mind while initiating show cause proceedings – If at the stage of show cause notice, the authority completely makes up his mind and reaches a definite conclusion about the alleged guilt of the noticee, the entire proceedings initiated by show cause notice get vitiated by unfairness and bias and the subsequent proceedings are rendered idle formality – Bias of the authority which was latent in show cause notice was apparent in the order of cancellation of registration certificate – The order canceling the registration certificate was non-speaking and was virtually no order in the eyes of law – Show cause notice as also the order of cancellation of the registration certificate quashed – Marine Products Export Development Authority Rules, 1972 – r.43, 44 – Principle of natural justice.

(ii) Quasi judicial authority – Order of – Requirement of reasons – Held: Reasons are indispensable component of a decision making process – A non-speaking order is virtually no order in the eyes of law – A quasi-judicial authority must record reasons in support of its conclusions – Absence of reasons in the original order cannot be compensated by disclosure of reasons in the appellate order.

ORYX Fisheries Private Limited v. Union of India and Others 234

(2) Judicial Review – Review of the order regarding sanction for prosecution of public servant.

(See under: Prevention of Corruption Act, 1988) 1200

(3) (i) Natural justice.
(See under: Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000) 99

(ii) Principle of natural justice.
(See under: Natural Justice) 658
and 1037

(iii) (See under: Judgments/Orders) 621

ANDHRA PRADESH MEDICAL AND HEALTH SERVICES RULES, 1982:
(See under: Service Law) 643

APPEAL:

(1) Appeal against acquittal – Acquittal by trial court – Scope of interference by appellate court – Discussed – Penal Code, 1860 – ss. 376 and 302.

Santosh Kumar Singh v. State Thr. CBI 901

(2) Appeal before Supreme Court – Concurrent findings of fact – Scope of interference – Held: Supreme Court should be slow in interfering with the concurrent findings of fact unless it is shown that the said findings were perverse or patently illegal.

(Also see under: Central Excise Act, 1944)

M/s. Nicholas Piramal India Ltd. v. Commr. of Central Excise, Mumbai 1165

(3) Appeal before Supreme Court – Concurrent findings of facts by lower courts – Scope of appreciation of evidence – Held: Supreme Court does not go into the evidence where the courts below have recorded concurrent findings of fact –

However, where the appreciation of evidence by the courts below is totally perverse and faulty, and unconscionable findings have been arrived at, Supreme Court can certainly appreciate the evidence on record – Evidence – Constitution of India, 1950 – Article 136.

Saygo Bai v. Chueeru Bajrangi 1020

(4) (See under: Code of Civil Procedure, 1908) 658

ARBITRATION ACT, 1940:

ss. 8, 30 and 33 – Application u/s. 8 for appointment of arbitrator by bidder company – Appointment of arbitrator by Sub-ordinate Judge – Order attaining finality – Award by arbitrator filed before Sub-ordinate Judge – Application u/ss. 30 and 33 by State for setting aside the award – Award made rule of the court – High Court setting aside the appointment of arbitrator holding that dispute was to be resolved by the competent civil court – Held: Not justified – State did not challenge the order of appointment of arbitrator, which attained finality – It participated in the arbitration proceedings without protest – State estopped from subsequently contending that there was no arbitration agreement and the remedy was only by way of suit – Also, it cannot be challenged belatedly – Order passed by High Court set aside and that of trial court restored – Matter remanded to High Court to consider order rejecting the application u/ss. 30 and 33 – GOM No. 430 dated 24.10.1983 – Estoppel – Delay – Res judicata – Rule of finality.

J. Kodanda Rami Reddy v. State of A.P. & Ors. 753

ARBITRATION AND CONCILIATION ACT, 1996:

(1) (i) ss.7(4)(a), (b), 7(5) – Arbitration agreement – Parties to – Appellant was not a party to the tripartite agreements containing arbitration clause executed between lender, borrower and guarantor – Prior to loan agreements, a letter given by appellant to the lender indicating his willingness to stand guarantee for loan – Arbitration award directing appellant also, to repay the loan amount and interest thereon – Held: If there is a dispute between a party to an arbitration agreement, with other parties to the arbitration agreement as also non-parties to the arbitration agreement, reference to arbitration or appointment of arbitrator can be only with respect to the parties to the arbitration agreement and not the non-parties – As there was no arbitration agreement between the lender and the appellant as defined u/ss.7(4)(a) or (b) or 7(5), the claim against appellant could not be referred to arbitration nor could any award be made against him – Awards against appellant set aside u/s.34(2)(a)(ii).

(ii) s.7(4)(c) – When can an exchange of statements of claims and defence be construed as an ‘arbitration agreement’ – Meaning of words ‘existence’ of the agreement is alleged by one party and not denied by the other party – Application by lender company u/s.11 referring to the loan agreement containing the arbitration clause, which was executed by borrower and guarantor in favour of lender – The said application not referring to the existence of any arbitration agreement between lender and appellant – Held: In such a case, the question of the appellant accepting such arbitration agreement

by 'non-denial' would not arise.

S. N. Prasad v. Monnet Finance Ltd. and Ors. 207

(2) ss.11 (9), (5) and 16 – Appointment of arbitrator – Issue as regards existence of arbitration agreement in the contract between the parties – Held: Once existence of arbitration agreement itself is questioned, the same will have to be decided by the Chief Justice or his designate, as the case may be – The power available to arbitral tribunal u/s 16 does not imply that the issue can be or ought to be left to be determined by it, even if in the application u/s 11, there is a dispute between the parties as regards existence of arbitration agreement between them – In the instant case, there is a written contract document between the parties containing an arbitration clause – Accordingly, arbitrator appointed – Contract Act, 1872.

(Also see under: Contract Act, 1872)

Alva Aluminium Ltd. Bangkok v. Gabriel India Limited 803

ARMED FORCES:

Pension – Claimed by a widow of Army Major – Court noticing wide-spread discontent among the serving and former members of armed forces and their widows and family members regarding their service conditions, pension etc. and lack of proper attention by bureaucrats to their grievances – Court appointed Armed Forces Grievances Redressal Commission – Directions about Headquarters and set-up offices of the Commission, sitting of the Commission etc given – It is made clear that the Commission would be

different from the Armed Forces Tribunal, in as much as the Commission would be a recommendatory body and not an adjudicatory body – Claim of the petitioner shall stand referred to the Commission for its consideration expeditiously – Commissions and Inquiries – Setting up of Armed Forces Grievances Redressal Commission – Service Law – Pension – Judicial notice.

Pushpa Vanti v. Union of India & Ors. 784

ARMS ACT, 1959:

ss. 3, 7(a), 25(1A), 25(1AA) 26, 29 and 35.
(See under: Extradition Act, 1962) 8

ARMY ACT, 1950:

(See under: Penal Code, 1860) 203

BANKS/BANKING:

(See under: Finance Act, 1994) 381

BOMBAY COOPERATIVE SOCIETIES ACT, 1925:

(See under: Bye-Laws of Ishwar Nagar Cooperative House Building Society, 1962) 966

BYE-LAWS OF ISHWAR NAGAR COOPERATIVE HOUSE BUILDING SOCIETY, 1962:

(i) Bye-law 8(vii) – Acquisition of separate accommodation – Disqualification of member – Held: Bye-laws of the society regulate the management of the society and govern the relationship between society and members inter se – If they are consistent with the Act and Rules, the members are bound by them – Delhi Co-operative Societies Act, 1972 – Delhi Cooperative Societies Rules, 1973 – r.25 – Bombay

Cooperative Societies Act, 1925.

(ii) Bye-law No. 5(i)(e) – Expression “eligible to be a member” – Interpretation of – Held: The verb “be” has two meanings, namely, to exist, and to become – Constitution of India, 1950 – Article 102(1).

Ishwar Nagar Co-op.House Building Society v. Parma Nand Sharma and Ors. 966

CANTONMENTS:

(See under: Government Grants) 1176

CENTRAL CIVIL SERVICES (TEMPORARY SERVICE) RULES, 1965:

r. 5(1).
(See under: Service Law) 1076

CENTRAL EXCISE ACT, 1944:

(1) (i) s.2(f) – Intermediate goods – Captive consumption of – Levy of excise duty – Held: Intermediate goods captively consumed are liable to levy of excise duty if they satisfy the test of both manufacture and marketability – Crude vitamin A emerged in the manufacture of Vitamin A and used in the manufacture of animal feed supplements was marketable – Duty leviable on the product.

(ii) s.2(f) – Marketability – Short shelf life cannot be equated with no shelf-life and would not mean that the product is not marketable.

(iii) s.11A – Demand of excise duty – Limitation – Suppression of facts – Intermediate goods emerging in the manufacture of final product – Use of intermediate product in manufacture of

another product without payment of duty – Non-disclosure of this fact to the revenue – Held: Extended period of limitation is invocable for demanding excise duty – Appeal.

M/s. Nicholas Piramal India Ltd. v. Commr. of Central Excise, Mumbai 1165

(2) ss.11A and 11C.

(See under: Central Excise Rules, 1944) 957

(3) Excise duty – On certain category of kerosene products – Subjected to concessional rate by Notification Nos. 5/98-CE and 5/99-CE – Kerosene product cleared by assessee to industrial consumers – Entitlement of the assessee to the benefit of concessional rate of duty – Held: In view of the object of the Notifications, the benefit of concessional rate of duty is available only on the kerosene cleared by the assessee to Public Distribution System and not to industrial consumers – Central Excise Tariff Act, 1985 – Chapter sub-heading 2710.90 – Notification No. 5/98-CE dated 2.6.1998 – Notification No. 5/99-CE dated 28.2.1999.

M/s. Indian Oil Corporation Ltd. v. Commnr. of Central Excise, Vadodara 358

CENTRAL EXCISE RULES, 1944:

(1) rr.9(2) and 209A – Show cause notice issued to assessee on the allegation that inputs used in manufacture of assessee’s final product were under-valued which led to evasion of duty – Held: Though the appellant did not produce any material/data as to the actual expenses incurred, but after the appeals were heard and reserved for judgment by the Appellate Tribunal it did produce a price

valuation certificate issued by its Chartered Accountant – Technicalities should not defeat rendering of complete justice to a litigant – Matter remanded to Appellate Tribunal to verify and consider whether the said certificate which had been placed on record by the appellant, would assist it in support of its defence – Evidence – Central Excise Act, 1944 – ss. 11A and 11C – Administration of justice – Practice and Procedure.

Aurangabad Electricals (P) Ltd. v. The Commissioner of Central Excise and Customs, Aurangabad

957

(2) (i) Chapter X – rr. 192 and 174 – Assessee captively consuming specified intermediate goods (Kimam) for manufacture of final products (chewing tobacco) – Exemption from excise duty on specified intermediate goods (Kimam) as per Notification No. 121/94-CE dated 11.8.1994 – Claimed on the ground of ‘intended use’ and ‘substantial compliance’ of the procedure set out in Chapter X on basis of the records at the recipient end – Held: At the supplier end, no registration u/r. 174 obtained nor records kept – Failure on the part of applicants, at the recipient end, to give various declarations in the statutory forms so as to claim exemption – Non-compliance of conditions enumerated under various rules in Chapter X and non-furnishing of various statutory forms prescribed under Chapter X – Thus, plea of ‘intended use’ and ‘substantial compliance’ not established – Order passed by the tribunal set aside – Central Excise Tariff Act, 1985 – Notification No. 121/94-CE dated 11.8.1994 –

Doctrine of ‘substantial compliance’ and ‘intended use’.

(ii) Chapter X – Manufacture and clandestine removal of pump parts and gun metal casting – Exemption from payment of excise duty and penalty as per Notification No. 3/2001-CE and 6/2001-CE – Grant of, by tribunal even though procedure set out in Chapter X not followed – Held: Tribunal completely overlooked the object and purpose of the procedure laid down in Chapter X – Goods manufactured at the supplier’s end were excisable goods and if a party wanted remission of duty, he was to follow certain pre-requisites – Object was to see that the goods should not be diverted or utilized for some other purpose, in the guise of the exemption Notification – Plea of “substantial compliance” and “intended use” rejected – Order passed by the tribunal set aside – Notification No. 3/2001-CE and 6/2001-CE – Doctrine of ‘substantial compliance’ and ‘intended use’.

(iii) Chapter X – Assessee manufacturing and clearing Printed Circuit Board – Exemption from payment of excise duty as per Notification No. 48/94-CE dated 1.3.1994 – Claim of – Held: Not permissible – Assessee did not follow the procedure set out in Chapter X – It failed to fulfill the mandatory requirements for claiming exemption from duty – Order passed by the Tribunal upheld – Central Excise Tariff Act, 1985 – Notification No. 48/94-CE dated 1.3.1994.

Commissioner of Central Excise, New Delhi v. M/s Hari Chand Shri Gopal & Ors.

	1237	
CENTRAL EXCISE TARIFF ACT, 1985:		
(1) (See under: Central Excise Act, 1944)		358
(2) (See under: Central Excise Rules, 1944)		820
CENTRAL RESERVE POLICE FORCE RULES, 1955: r.14(b). (See under: Service Law)		1076
CENVAT CREDIT RULES, 2002: r.2(g) – “Inputs” – Eligibility of for credit under the Rules – Held: Having regard to the language of Rule 2(g) and the analysis of the decisions of the Supreme Court, it appears that by employing the phrase “and includes”, legislature did not intend to impart a restricted meaning to the definition of “inputs” and, therefore, the interpretation of the said term in <i>Maruti Suzuki Limited</i> may require reconsideration by a larger bench – Matter referred to larger bench – Interpretation of Statutes – Legal fiction. <i>Ramala Sahkari Chini Mills Ltd., U.P. v. Commissioner, Central Excise, Meerut-I</i>		1152
CIRCULARS/GOVERNMENT ORDERS/ NOTIFICATIONS:		
(1) Circular No. 11 dated 05.05.1993. (See under: Export –Import)		1187
(2) (i) Circular F. No. B.11/1/2001-TRU dated 9.7.2001. (ii) Notification No. 4/2006-Service Tax dated 1.3.2006.		

	1238	
(See under: Constitution of India, 1950)		381
(3) GOM No. 430 dated 24.10.1983. (See under: Arbitration Act, 1940)		753
(4) Government of Uttar Pradesh Order dated 11.7.2007. (See under: National Council for Teacher Education , Act,1992)		483
(5) Notification No. 5/98-CE dated 2.6.1998 – Notification No. 5/99-CE dated 28.2.1999. (See under: Central Excise Act, 1944)		358
(6) Notification No.114 dated 2.1.1998 issued by RBI. (See under: Finance Act, 1994 (As Amended))		381
(7) (i) Notification No. 121/94-CE dated 11.8.1994. (ii) Notification No. 3/2001-CE. (iii) Notification No. 6/2001-CE.		
(iv) Notification No. 48/94-CE dated 1.3.1994. (See under: Central Excise Rules, 1944)		820
(8) Notification No. GSR-822 (E) dated 13.12.2002 issued by Government of India. (See under: Extradition Act, 1962)		8
(9) State Election Commissioner, Punjab, Circular SEC-2008/4365 dated 30.04.2008. (See under: Election Laws)		455

CODE OF CIVIL PROCEDURE, 1908:

(1) ss.100 and 103 – Second appeal – Exercise of powers under ss.100 and 103 – Conditions precedent – Held: A second appeal cannot be decided merely on equitable grounds – The existence of a substantial question of law is a condition precedent for entertaining the second appeal and, in its absence, the judgment cannot be maintained – However, there is no prohibition on entertaining a second appeal even on a question of fact provided the court is satisfied that the findings of fact recorded by the courts below stood vitiated by non-consideration of relevant evidence or by showing an erroneous approach to the matter i.e. that the findings of fact are found to be perverse – The issue of perversity itself is a substantial question of law.

(Also see under: Electricity/Electric supply)

Municipal Committee, Hoshiarpur v. Punjab State Electricity Board and Ors. 658

(2) (See under: Wakf Act, 1995) 1063

CODE OF CRIMINAL PROCEDURE, 1973:

(1) s.125 – Maintenance – Claim of – Woman seeking maintenance from appellant claiming to be his legally wedded wife – Appellant refuting the status of claimant as wife and claiming himself to be legally wedded to another woman-‘L’ – Courts below without issuing notice to ‘L’, granting maintenance to claimant holding that appellant was legally wedded to her and not to ‘L’ – Held: Courts below erred in holding that appellant was not married to ‘L’, without even issuing notice to ‘L’ – No finding that claimant and appellant had lived

together for a reasonably long period of time in a relationship in the nature of marriage, which is essential to decide the case – Matter remitted to family court to decide it afresh – Protection of Women from Domestic Violence Act, 2005 – Interpretation of Statutes.

(Also see under: Protection of Women from Domestic Violence Act, 2005)

D. Velusamy v. D. Patchaiammal 706

(2) s.125 – Maintenance to wife – Order of High Court awarding maintenance of Rs. 4,000/- per month – Challenged by the husband contending that by a State amendment in State of Madhya Pradesh to s.125, the maximum amount as maintenance is Rs. 3000/- Held: Respondent granted time to challenge constitutional validity of the State amendment – States of Maharashtra, Tripura and West Bengal are stated to have, by State laws, fixed a maximum limit of Rs. 1500/- as maintenance u/s.125 – In *prima facie* opinion of the Court, such laws are unconstitutional being violative of Articles 14 and 21 of the Constitution – Notice to issue to the State Governments concerned as also to the Central Government – Order subsequently modified as reported in [2010] 13 (Addl.) SCR 897 Constitution of India, 1950 – Articles 14 and 21.

Manoj Yadav v. Pushpa @ Kiran Yadav 894

(3) s.125 – Maintenance to wife – Order of Court dated 22.11.2010 reported in [2010] 13 (Addl.) SCR 894 modified – The Court is of the *prima facie* view that in view of the 2001 Amendment to the Code by Parliament, maximum maintenance

prescribed by the State Legislatures concerned is no longer valid as per Article 254(1) of the Constitution, apart from being unconstitutional as being violative of Articles 14 and 21 of the Constitution – Notice to issue to the States concerned – Constitution of India, 1950 – Articles 14, 21 and 254(1).

Manoj Yadav v. Pushpa @ Kiran Yadav 897

(4) s. 125(3), second proviso; Explanation – Maintenance – Claim by abandoned wife – Held: In the wake of the admitted second marriage of the husband, wife would be entitled to claim maintenance and her earlier refusal to join the company of the husband would be of no consequence – On facts, maintenance @ Rs.1,500/- per month would be proper – Maintenance to be paid from the date of the application – Evidence – Maintenance – Appeal.

Saygo Bai v. Chueeru Bajrangi 1020

(5) ss. 215, 216, 218, 221 and 464.

(See under: Criminal Trial) 311

(6) s. 300.

(See under: Penal Code, 1860 as also under Constitution of India, 1950) 522

(7) s.313 – Object of – Held: While recording statement u/s.313, all incriminating material circumstances must be put to the accused, however, if any material circumstance is left out that would not ipso-facto result in the exclusion of that evidence from consideration unless it could further be shown by the accused that miscarriage

of justice or prejudice to him was caused – In the instant case, the question whether the helmet was used as weapon of offence, was not specifically put to the accused but no prejudice was caused to him on that score as the death was caused not by the use of the helmet but by strangulation – Penal Code, 1860 – ss. 376, 302.

(Also see under: Penal Code, 1860 and Evidence)

Santosh Kumar Singh v. State Thr. CBI 901

(8) s.320 – Compounding of offences – Prayer for permitting compounding of offences punishable u/ss.420 and 120-B IPC – Held: Offence punishable u/s. 420 is compoundable with permission of court, but offence punishable u/s 120-B is a separate offence and since it is non-compoundable, Court cannot permit it to be compounded – Court cannot amend the statutes and it must maintain judicial restraint in this regard – It is the Legislature alone which can amend s.320 – The decisions of the Court in the cases of *B. S. Joshi, Nikhil Mechant and Manoj Sharma* require reconsideration by a larger Bench – The matter referred to larger Bench.

Gian Singh v. State of Punjab & Anr. 1034

(9) ss. 345 and 346.

(See under: Foreign Exchange Management Act, 1999) 99

(10) (i) s. 406(2) – Power of Supreme Court to transfer cases and appeals – Criminal complaint – Allegation of fraudulent withdrawal by court staff of huge sum of money from GPF of class IV

employees of court – CBI seeking transfer of trial from Ghaziabad court to some other court of competent jurisdiction, preferably Delhi – Maintainability of – Held: On issuance of notification by State Government u/s.6 of DSPE Act, CBI assumes role of an investigating agency and also of prosecuting agency in the particular case and, thus, it is entitled to move an application u/s. 406(2) – However, apprehension entertained by CBI that the trial of the case at Ghaziabad may not be fair and may result in miscarriage of justice is misplaced – Apprehension of bias could not be based on a bald allegation that trial judge and some of the accused named had been close associates and some of the witnesses are judicial officers – Application dismissed – Penal Code, 1860 – ss. 409, 420, 467, 468, 471, 477A and 120-B – Prevention of Corruption Act, 1988 – ss. 8,9,13(2) r/w s. 13 (1) (d) and 14 – Delhi Special Police Establishment Act, 1946 – s. 6 – Scam – Ghaziabad Provident Fund Scam – Transfer Petition – Judiciary.

(ii) s. 406(2) – Power of Supreme Court to transfer criminal trial – Exercise of – Factors to be kept in mind – Discussed.

Nahar Singh Yadav & Anr. v. Union of India & Ors.

851

(11) s. 482 – Complaint under provisions of IPC and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act – Initially, Magistrate did not find prima facie case against the accused – Later, on the case being remanded by the revisional court, the Magistrate examined the

witness afresh and held that prima facie case was made out against the accused – Order upheld by revisional court – Petition for quashing the proceedings, dismissed by High Court – Held: The High Court rightly did not quash the proceedings – On facts, prima facie case was made out against the accused – The mistake, by the Magistrate in examining afresh the witnesses already examined, would not vitiate the proceedings – Penal Code, 1860 – ss. 341, 323, 506 and 384 – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 – ss. 3(1) and 2(vii).

Subrata Das v. State of Jharkhand & Anr. 368

(12) s.482 – Quashing of proceedings – Allegation of food adulteration – Report of Public analyst that ‘sweetened carbonated water’ contained pesticide residue Carbofuran, to the extent of 0.001mg per litre and, therefore, was adulterated – Criminal proceedings against the company and its Directors – Petition for quashing the proceedings, dismissed by High Court – Held: The amount of insecticide residue found by the Public Analyst was within the tolerance limit – Proceedings quashed – Prevention of Food Adulteration Rules, 1955 – r.65; Part XIV; Item 23 in Table appended to Part XIV – Prevention of Food Adulteration Act, 1954 – ss.2(ia)(h), 2(m).

Pepsico India Holdings Pvt. Ltd. v. Food Inspector and Anr. 993

(13) (See under: Criminal Trial) 8

(14) (See under: Penal Code, 1860) 1217

COMMISSIONS AND INQUIRIES:

Setting up of Armed Forces Grievances
Redressal Commission.

(See under: Armed Forces) 784

COMPENSATION:

(1) (See under: Land Acquisition Act, 1894) 154
and 586

(2) (See under: Motor Vehicles Act, 1988) 179
and 574

CONSTITUTION (FORTY-SIXTH AMENDMENT) ACT,
1982:

(See under: Finance Act, 1994) 381

CONSTITUTION OF INDIA, 1950:

(1) Articles 14 and 16 r/w Article 21-A – Right to
education – Held: State is bound to create
necessary infrastructure and effective machinery,
which includes appropriate and adequate training
to teachers from a duly recognized institute, for
implementation of the right – National Counsel for
Teacher Education Act, 1993.

(Also see under: National Council for Teacher
Education, Act, 1992)

*State of U. P. & Ors. v. Bhupendra Nath
Tripathi & Ors.* 483

(2) Articles 14 and 21.

(See under: Code of Criminal Procedure,
1973) 894

(3) Article 14, 21 and 254(1).

(See under: Code of Criminal Procedure,
1973) 897

(4) Article 20(2) – Protection against a second
trial and conviction for the same offence under
Article 20(2) – When applicable – Explained –
Rule of double jeopardy – General Clauses Act,
1897 – Code of Criminal Procedure, 1973 – s.
300.

(Also see under: Penal Code, 1860)

Monica Bedi v. State of A.P. 522

(5) Article 20(3) – Protection under – Witness in
police case – Accused in complaint case in
relation to same incident – Protection under Article
20(3) sought – Held: Protection under Article 20(3)
does not extend to all kinds of evidence but only
to self-incriminating statements relating to charges
brought against accused – Merely because the
witness figures as accused in the complaint case,
a blanket protection cannot be granted.

*Balasaheb @ Ramesh Laxman Deshmukh v.
State of Maharashtra & Anr.* 1190

(6) (i) Article 39(d) – Equal pay for equal work –
Burden of establishing right and parity in
employment – Held: Is only on the person claiming
such right – The equality claim can be invoked in
the matter of pay scales only when there is
wholesome/wholesale identity between holders of
two posts – The court must consider the factors
like the source and mode of recruitment/
appointment, the qualifications, the nature of work,
responsibilities, reliability, experience,
confidentiality, functional need etc. – Service law
– Doctrine of 'equal pay for equal work'.

(ii) Article 14, 39(d) – Parity in pay scales –

Held: It is a settled legal proposition that it is not always impermissible to provide two different pay-scales in the same cadre on the basis of selection based on merit with due regard to experience and seniority – Non-uniformities would not in all events violate Article 14 – Granting parity in pay scales depends upon the comparative evaluation of job and equation of posts – In view of that, parity of pay can be claimed by invoking the provisions of Articles 14 and 39(d) by establishing that the eligibility, mode of selection/recruitment, nature and quality of work and duties and effort, reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical.

Steel Authority of India Ltd. and Ors. v. Dibyendu Bhattacharya 429

(7) Article 102(1).
(See under: Words and Phrases and Bye-Laws of Ishwar Nagar Cooperative House Building Society, 1962) 966

(8) Article 136.
(See under: Penal Code, 1860) 134

(9) Article 136 – Appeal – Scope of.
(See under: Appeal as also under Code of Criminal Procedure, 1973) 1020

(10) Articles 136 and 142.
(See under: Motor Vehicles Act, 1988) 179

(11) Article 141.
(See under: Precedent) 99

(12) Article 226.
(See under: Wakf Act, 1995) 1063

(13) Article 226 – Public Interest Litigation – Filed on the basis of news items published in News Papers – Alleging grave irregularities in Public Works Department (Roads and Bridges) – On the basis of Report of the Finance Department also, alleging misappropriation of public exchequer by certain officials of the Department – Prayer for direction for investigation into the case by CBI or CVC – High Court dismissing the petition – Held: Judgment of the High Court does not call for interference – The inspection team, on direction of the High Court did not find any misappropriation of funds – No breach of Sikkim Financial Rules found – Sikkim Financial Rules, 1979 – Sikkim Public Works Code, 2009.

All Sikkim Youth Association & Another v. H.R. Subba & Ors 345

(14) Article 226 – Writ of Certiorari – Scope of – Held: Writ of *certiorari* under Article 226 can be issued only when there is failure of justice and there is error apparent on the face of the record or there is error in jurisdiction or authority or there is breach of principle of natural justice – While issuing such writ, order under challenge not to undergo scrutiny of as an appellate court.
(Also see under: Delhi Co-operative Societies Rules, 1973)

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

(15) Article 226 – Writ petition involving landed

property – Territorial jurisdiction of Benches of the High Court – Writ petition filed in Allahabad Bench of High Court for allotment on lease of the land situate in the district falling within the jurisdiction of the Lucknow Bench of the High Court – Entertained and in an application for interim relief, final relief claimed in the writ petition granted by the Single Judge – Division Bench of the High Court setting aside the orders of the Single Judge – Held: The writ petition could not have been validly filed or entertained in the Allahabad Bench – Besides, by the ex-pare orders, the writ petition has been practically allowed – Division Bench has rightly set aside the interim orders of the Single Judge – A lot of complaints are coming against certain Judges of the High Court – Chief Justice of the High Court requested to do the needful – Suit – Territorial jurisdiction – Interim orders – Relief – Administration of Justice.

Raja Khan v. U.P. Sunni Central Waqf Board & Anr.

.... 1131

(16) (i) Article 248; Seventh Schedule, List I, Entry 97, List II Entry 54 – State Legislature – Competence of, to levy tax on “financial leasing services” under Entry 54, List II – Held: State Legislature have competence to levy sales tax on sales provided that the necessary concomitants of a sale are present in the transaction and the sale is distinctly discernible in the transaction – This would not, however, allow the State to trench upon the Union List and tax services by including the cost of such service in the value of the goods – The value of taxable service u/s. 67 of the Finance Act, 1994 (as amended) is income

by way of interest/finance charges (measure of tax) which is not determinative of the character of the levy – Thus, while State Legislature is competent to impose tax on “sale” by legislation relatable to Entry 54 of List II of Seventh Schedule but, tax on the aspect of the “services”, vendor not being relatable to any entry in the State List, would be within the legislative competence of the Parliament under Article 248 read with Entry 97 of List I of Seventh Schedule – Circular F.No. B.11/1/2001-TRU dated 9.7.2001 – Notification No. 4/2006-Service Tax dated 1.3.2006 – Finance Act, 1994 – Finance Act, 2001 – Interpretation of Constitution.

(ii) Article 246(1) – Scope of – Held: It confers exclusive power firstly, to make laws in respect of matters specified in Entries 1 to 96 in List I and, secondly, it confers the residuary power of making laws by Entry 97, which provides “any other matter not enumerated in List II and List III including any tax not mentioned in either of those lists” – The word “other” means “any subject of legislation other than the subject mentioned in Entries 1-96”.

(iii) Article 366(29A) – Object of – Held: Is to tax the composite price so that the full value of the hire-purchase price is taxed.

(iv) Seventh Schedule, List II Entry 54 – Service tax – Held: Is not a tax on material or sale – It is different and distinct from tax on sale of goods under Entry 54 List II – Finance Act, 2001 – Finance Act, 1994 – Sale of Goods Act, 1930 – Service tax.

(Also see under: Finance Act, 1994)

Association of Leasing and Financial Service tax Companies v. Union of India and Ors 381

(17) Articles 327 and 329A.

(See under: Jammu and Kashmir Representation of the People Act) 506

(18) Article 366 (29A).

(See under: Finance Act, 1994) 381

(19) Tenth Schedule – Paragraph 2(1) (a) – Explanation (a) – Disqualification on ground of defection – Members of Parliament – Expelled from the party which set them up in election – Issues as regards status of such expelled members, applicability of the provisions of the Tenth Schedule to such members, view taken in *G. Vishwanathan's* case in this regard and allied issues – Held: Require re-consideration by a larger bench – Matter, accordingly, referred to larger bench.

Amar Singh v. Union of India 792

CONSTITUTION OF JAMMU AND KASHMIR, 1957: ss. 47(3) and 142.

(See under: Jammu and Kashmir Representation of the People Act, 1957) 506

CONTEMPT OF COURT:

Contempt of order of Supreme Court – SLP against eviction on the ground of reconstruction of old premises dismissed by Supreme Court – Tenant furnishing an undertaking to vacate the

premises – Thereafter, Commissioner of Municipal Corporation revoking the permission to demolish the premises – Held: The Commissioner has passed the collusive and contemptuous order merely to get over the order of Supreme Court – Contempt of court notice to issue to the Commissioner of Municipal Corporation as well as to the tenant trying to set at naught the order of the Supreme Court – Rent Control and Eviction.

D.M. Belgamvala v. Tamilnadu Real Estates (P) Ltd. 1072

CONTEMPT OF COURTS ACT, 1971:

s.2(b) – Civil contempt – Alleged disobedience of Court order – Held: Alleged contemnor did not commit any misconduct or even unintentional disobedience of the interim order of stay – Contempt of a civil nature can be held to have been made out only if there has been a willful disobedience of the order – If an order is capable of more than one interpretation giving rise to a variety of consequences, non-compliance of the same cannot be held to be willful disobedience to constitute a case of contempt.

Dinesh Kumar Gupta v. United India Insurance Co. Ltd. and Ors. 599

CONTRACT:

(1) Government Contract – Turnkey project – Tenders – Offer of discount on the quoted price and non-mentioning of excise duty amount in the bid – Held: Were not in breach of the essential terms of the tender documents, therefore, it was for the employer to evaluate the valid offers of the two bidders on their merits – On the basis of

recommendations of Tender Committee, the Accepting Authority found the offer of successful bidder to be better than the offer of the other and also that tax and duties including excise duty had no adverse financial implications on the employer and, accordingly, accepted the same – By reversing this decision of the Accepting Authority, the Division Bench of the High Court acted as an appellate court and exceeded its power of judicial review in a matter relating to award of contract – Judicial Review.

M/s. Indian Railways Catering & Tourism Corporation Limited and Anr. v.

M/s. Doshion Veolia Water Solutions (P) Limited and Ors. 76

(2) (See under: Insurance) 138

(3) Violation of conditions of electric supply.
(See under: Electricity as also under Code of Civil Procedure, 1908) 658

CONTRACT ACT, 1872:

Contract – Signing of – Plea of the company that its officer had only negotiated the contract on its behalf and was not competent to sign the contract and that he was misguided/enticed by the opponent – Held: Cannot be accepted – Documents, information and correspondence, when taken in their totality, especially in the light of the signed contract document that stipulates the mutual rights and obligations of the parties, do not show that they were simply negotiating a contract but are, on the contrary, clearly suggestive of the parties having finalised and signed a

contract – Besides, there is nothing on record to establish that the signatures appended by the officer concerned to the contract document in token of its acceptance were vitiated by any misrepresentation etc. – Arbitration and Conciliation Act, 1996.

(Also see under: Arbitration and Conciliation Act, 1996)

Alva Aluminium Ltd. Bangkok v. Gabriel India Limited 803

CONVENTION ON SUPPRESSION OF TERRORIST BOMBING:

Articles 2(1) and (3) and 1(3)(d).
(See under: Extradition Act, 1962) 8

COOPERATIVE SOCIETIES:

Approval of resolution.
(See under: Delhi Co-operative Societies Rules, 1973) 621

(2) Co-operative society – Meaning and object of.

(See under: Delhi Co-operative Societies Act, 1972 and Delhi Cooperative Societies Rules, 1973)

Ishwar Nagar Co-op.House Building Society v. Parma Nand Sharma and Ors. 966

(3) Housing Society – Disqualification of the member on acquiring separate accommodation.
(See under: Delhi Co-operative Societies Rules, 1973) 966

CRIMES AGAINST WOMEN:

(1) (See under: Penal Code, 1860) 1, 134,
879, 886, 890,
901 and 1094

(2) (See under: Protection of Women from
Domestic Violence Act, 2005) 706

CRIMINAL LAW:

(1) Conviction with aid of s.34 in place of s.149.
(See under: Criminal Trial as also under
Penal Code, 1860) 311

(2) DNA test and conviction based on
circumstantial evidence.
(See under: Penal Code, 1860) 901

(3) Motive.
(See under: Penal Code, 1860) 1217

(4) Person from whom money was extorted
cannot be said to be an accomplice.
(See under: Prevention of Corruption
Act, 1988) 1105

(5) Witness in police case made accused in
complaint case relating to the same incident –
Protection under Article 20(3) of the Constitution
of India, 1950 claimed.
(See under: Constitution of India, 1950) 1190

CRIMINAL TRIAL:

(1) Failure to frame proper charge – Effect of –
Held: Absence of a charge by itself is not
prejudicial, unless the accused is able to establish
that defect in framing of the charge has caused
real prejudice – There is no bar in law on
conviction with the aid of s. 34 IPC in place of s.

149 IPC, if there is evidence to show that the
accused shared common intention and no
apparent prejudice is shown to have been caused
thereby – On facts, it was permissible for High
Court to convict the accused with the aid of s.34
and non-framing of the charge thereunder is not
fatal to the prosecution – Code of criminal
Procedure, 1973 – ss. 215, 216, 218, 221 and
464 – Penal Code, 1860 – ss. 34 and 149.

Abdul Sayeed v. State of Madhya Pradesh 311

(2) Separation of trial – Absconded accused
charged under various provisions of IPC, TADA,
Arms Act and Explosive Substances Act, alongwith
189 accused – On his detention, his trial separated
from the trial of the other 123 accused whose trial
was nearing completion – Propriety of separation
of the trial – Held: On facts, separation of trial
was correct – Code of Criminal Procedure, 1973.
(Also see under: Extradition Act, 1962)

*Abu Salem Abdul Qayoom Ansari v.
State of Maharashtra & Anr.* 8

CUSTOMS ACT, 1962:

Section 14(1) – Valuation of imported goods for
purposes of assessment – Mis-declaration with
respect to country of origin, quantity and value of
imported items – Held: The assessee admitted
that there was difference between the items
declared and seized and that the value arrived at
after market inquiries was acceptable to him – In
the circumstances, the Tribunal failed to apply the
procedure envisaged in s.14(1) of the Act read
with 1988 Rules – Order of Tribunal set aside and
matter remitted to it for consideration afresh –

Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 – Rules 3(ii), 4(2) and 5 to 8.

Commissioner of Customs (Gen), Mumbai v. Abdulla Koyloth 280

CUSTOMS VALUATION (DETERMINATION OF PRICE OF IMPORTED GOODS) RULES, 1988: Rules 3(ii), 4(2) and 5 to 8.
(See under: Customs Act, 1962) 280

DECREE:
Executability of.
(See under: Government Grants) 1176

DEEDS AND DOCUMENTS:
Contract of insurance – Interpretation of – Held: The terms of the contract of insurance have to be strictly construed – It is not open to the court to add, delete or substitute any words – Insurance contract.
(Also see under: Insurance)

Suraj Mal Ram Niwas Oil Mills (P.) Ltd. v. United India Insurance Co. & Anr. 138

DELAY/LACHES:
(1) Delay in challenging the award of arbitrator.
(See under: Arbitration Act, 1940) 753
(2) Delay in filing appeal by public sector undertaking.
(See under: Limitation Act, 1963) 776
(3) (See under: Export-Import) 1187

DELHI CO-OPERATIVE SOCIETIES ACT, 1972:

(1) s.97(1) – Power of Lt. Governor to frame r.25(2) – Held: r.25(2) prescribes that a member would cease to be a member on incurring certain disqualifications – r.25(2) does not in any manner go beyond the ambit of rule making authority given u/s.97(1) of the Act – Cooperative societies which seek to obtain the land at concessional rate from the government to build houses must necessarily have a limitation that only members who are in real need of houses should be permitted to become members and to take the benefit of land allotment – Cooperative Societies.

(Also see under: Delhi Co-operative Societies Rules, 1973 as also Bye-Laws of Ishwar Nagar Cooperative House Building Society, 1962)

Ishwar Nagar Co-op. House Building Society v. Parma Nand Sharma and Ors. 966

(2) (See under: Delhi Co-operative Societies Rules, 1973) 621

DELHI COOPERATIVE SOCIETIES RULES, 1973:

(1) (i) r.25(2) – Retrospective or prospective in effect – Held: r.25(2) operates in future, though the basis for taking action is the factum of acquiring a plot in the past – Thus, when by virtue of r.25(2), a member is deemed to have ceased to be a member of the society, the cessation operates from April 2, 1973, when the rules came into force – Merely because a person who had become a member of the society at a point of time when the disqualification mentioned in r.25 was not in existence and because of the said rule would cease to be a member of the society, would

not necessarily mean that the said rule is retrospective – Delhi Co-operative Societies Act, 1972 – s.97(1) – Cooperative Societies – Retrospective operation.

(ii) r.25 – Applicability of, when property purchased in the name of HUF – Held: Disqualification of membership shall not be applicable in case of co-sharers of property whose share is less than 66.72 sq. m. (80 yds) of land – In the instant case, the share of the member in the property purchased was more than the prescribed limit – Thus, the exception was not applicable.

(iii) r.25 – Acquiring of separate accommodation by a member of the Cooperative Housing Society – Termination of membership by society – Validity of – Held: In the light of r.25, the action of the society would be valid if the said property was found to be a residential house.

(Also see under: Bye-Laws of Ishwar Nagar Cooperative House Building Society, 1962 and Delhi Co-operative Societies Act, 1972)

Ishwar Nagar Co-op. House Building Society v. Parma Nand Sharma and Ors. 966

(2) r.36(3) – Co-operative Housing Society passing resolution proposing expulsion of its members – Proposal rejected by the Registrar – High Court in a writ petition holding that the proposal would be deemed to be approved as the same was not decided within a period of 6 months as required u/r. 36(3) – Held: The resolution passed by the Society cannot be given effect to, unless approval is accorded by the

Registrar, as mandatorily required under the Act and the Rules – High Court has wrongly gone into the question of delay on the part of the Registrar in deciding the approval of the resolution of the Society, leaving aside the core issue – On facts, no interference was warranted by High Court in its equity jurisdiction for issuing the writ of Certiorari – Delhi Co-operative Societies Act, 1972 – Cooperative Societies.

(Also see under: Interpretation of Statutes and Constitution of India, 1950)

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946:

s.6.

(See under: Code of Criminal Procedure, 1973) 851

DOCTRINES/PRINCIPLES:

(1) Doctrine of duty of adequate disclosure.

(See under: Foreign Exchange Rules, 2000) 99

(2) Doctrine of equal pay for equal work.

(See under: Constitution of India, 1950) 429

(3) (i) Doctrine of 'Speciality' – Applicability of.

(ii) Doctrine of 'Reciprocity' – Applicability of.

(iii) Rule of non-inquiry – Applicability of.

(iv) Doctrine of 'Double Criminality' – Applicability of.

(v) Doctrine of 'Clean Slate' – Applicability of.

Abu Salem Abdul Qayoom Ansari v. State of Maharashtra & Anr. 8

(4) Doctrine of 'substantial compliance' and 'intended use' – Explained.

(Also see under: Central Excise Rules, 1944)

Commissioner of Central Excise, New Delhi v. M/s Hari Chand Shri Gopal & Ors. 820

(5) Rule of double jeopardy.

(See under: Penal Code, 1860 and Constitution of India, 1950) 522

(6) Rule of finality.

(See under: Arbitration Act, 1940) 753

(7) Rule of precedent.

(See under: Precedent) 621

DYING DECLARATION:

(See under: Penal Code, 1860) 1217

EDUCATION/EDUCATIONAL INSTITUTIONS:

(1) Admission – To post graduate medical courses for the year 2008 – Prospectus Notification requiring the in-service candidates to produce NOC in accordance with Circular whereunder candidates were required to furnish a bond of Rs. 2 lacs for a period of 5 years – The Circular amended by another Circular enhancing the requirement of the bond to Rs. 10 lacs for a period of 10 years – Three candidates given admission in the courses – But their NOCs declared invalid as they would not be able to render the required

10 years service after the completion of the post-graduate course due to their superannuation within 5-12 years – Writ Petition – Direction to verify the NOCs and to permit the candidates to continue the course – HOn appeal, held: The amendment Circular not applicable to the admission for the year 2008 – Therefore, the two candidates who fulfilled the requirement under the original Circular permitted to continue the course – The third candidate, since did not fulfil the requirement even under original Circular, not eligible to continue the course – However, since the candidate has completed three-fourth of the course, he is given chance to complete the course as per direction – The order passed by High Court was unsatisfactory – Judgments/Orders.

State of Punjab & Anr. Etc. v. Viney Kumar Khullar & Ors. Etc. 733

(2) Recognition of institutions offering training courses in teacher education.

(See under: National Council for Teacher Education Act, 1993) 483

ELECTION LAWS:

(1) Delimitation of Constituencies – Postponement of.

(See under: Jammu and Kashmir Representation of the People Act, 1957) 506

(2) Elections to Panchayat Samitis and Zila Parishads – Lambardards in State of Punjab – Eligibility of to contest the elections – Held: There is nothing to show that the honorarium received by Lambardar is not compensatory in nature –

High Court has quashed the Circular in relation to Anganwari workers – For the same reason, the Circular could not be sustained and is set aside qua the Lambardars also – State Election Commissioner, Punjab, Circular SEC-2008/4365 dated 30.4.2008.

Anokh Singh v. Punjab State Election Commission 455

ELECTRICITY:

Electric supply – State Electricity Board raised supplementary /revised electricity bill – Consumer filed civil suit challenging the bill – Trial court decreed the suit – Order affirmed by the first appellate court – Second appeal – High Court reversed the decree of the courts below – Justification of – Held: Not justified – No show cause notice was given by Board to the consumer before revising the bill – It was a clear cut case of violation of the principles of natural justice as well as of the conditions of electric supply – In any event, on facts, the revised bill could not be held to be showing the correct quantity of energy actually consumed by the appellant – The trial court as well as the first appellate court had considered all factual and legal issues involved – There was no occasion for the High Court to decide the second appeal without framing the substantial question of law – It was also not a case which could warrant consideration u/s.103 CPC – Judgment and decree of trial court, as affirmed by first appellate court, restored – Code of Civil Procedure, 1908 – ss.100 and 103 – Administrative Law – Principle of natural justice – Contract.

(Also see under: Code of Civil Procedure, 1908)

Municipal Committee, Hoshiarpur v. Punjab State Electricity Board and Ors. 658

ESTOPPEL:

(See under: Arbitration Act, 1940) 753

EVIDENCE:

(1) Appreciation of – Held: The court must read whole evidence – One stray admission cannot be read in isolation from the other evidence.

(Also see under: Code of Criminal Procedure, 1973)

Saygo Bai v. Chueeru Bajrangi 1020

(2) Burden of proof.

(See under: Industrial Disputes Act, 1947) 1142

(3) Chance witness – Held: Reliable as he gave a very cogent explanation for his presence at the time of the murder.

(Also see under: Penal Code, 1860)

Anjani Chaudhary v. State of Bihar 227

(4) Child witness – Testimony of – Held: In the instant case, notwithstanding the fact that credibility of child witness has not been doubted, it would be imprudent to award capital sentence on his statement – Sentence/Sentencing.

(Also see under: Penal Code, 1860)

Uttam Chakraborty v. State of Assam 1

(5) Circumstantial evidence.

(See under: Penal Code, 1860) 296,
746 and 890

(6) (i) Circumstantial evidence – False plea taken by an accused in a case of circumstantial evidence is another link in the chain.

(ii) Expert evidence – Expert opinion on technical subject – Held: Court cannot substitute its own opinion for that of an expert, more particularly, in a science such as DNA profiling.

(iii) DNA report – Reliability of.

(Also see under: Penal Code, 1860)

Santosh Kumar Singh v. State Thr. CBI 901

(7) Documentary evidence filed after hearing was concluded and judgment reserved.

(See under: Central Excise Rules, 1944) 957

(8) Dying declaration – Reliability on – Held: If the statement made by injured was candid, coherent and consistent, then there is no reason to disbelieve it – Merely because the dying declaration was not in question-answer form would not render it unreliable – In the circumstances, absence of certificate of fitness by doctor would also not be sufficient to discard it – Penal Code, 1860 – s.302.

(Also see under Penal Code, 1860)

Om Pal Singh v. State of U. P. 558

(9) Expert medical evidence – Securing of.

(See under: Motor Vehicles Act, 1988) 179

(10) Identification of vehicle – A motor cycle recovered as the vehicle used in the offence – Held: Unless tyre marks are lifted from the place of occurrence and upon its comparison with the tyre marks of the motor cycle recovered, both are found to be the same, it cannot be said that the motor cycle recovered was used in the offence – In the instant case, there is no such evidence – Penal Code, 1860 – s. 302.

(Also see under: Penal Code, 1860)

Varun Chaudhary v. State of Rajasthan 296

(11) Ocular evidence vis-à-vis medical evidence – Held: In case of contradiction between ocular and medical evidence, ocular evidence has greater evidentiary value – But if medical evidence completely rules out the ocular evidence, the latter may be disbelieved – On facts, the discrepancy between the ocular and medical evidence is probable and such discrepancy cannot go in favour of the accused.

(Also see under: Penal Code, 1860 and Criminal Trial)

Abdul Sayeed v. State of Madhya Pradesh 311

(12) (See under: Penal Code, 1860) 134
and 1217

(13) Testimony of a witness – Corroboration of in the context of Prevention of Corruption Act, 1988.

(See under: Prevention of Corruption Act, 1988) 1105

EVIDENCE ACT, 1872:
s.113-A.

- (See under: Penal Code, 1860) 134
- EXPLOSIVE SUBSTANCES ACT, 1908:
ss. 3, 4, 5 and 6.
(See under: Extradition Act, 1962) 8
- EXPORT-IMPORT:
Grant of 8 % Cash Compulsory Support premium, against advance import licence under the Scheme – Claim for – Rejection due to closure of Scheme – Writ petition – Direction by High Court to release grant as per the Circular with interest since application was made within time – Held: No infirmity in the order passed by the High Court – Delay/laches – Circular No. 11 dated 05.05.1993.
- Union of India and Others v. M/s. Prince Rubber Industries* 1187
- EXTRADITION ACT, 1962:
ss. 21 and 19 – Absconded accused charged under various provisions of IPC, TADA, Arms Act and the Explosive Substances Act – The accused detained in Portugal – Portuguese Government extradited the accused for certain offences, but denied extradition for others– After extradition, accused tried for all the offences – Accused challenged, his trial for the offence for which extradition was not granted – Held: The extradition of the accused was not only under the provisions of the convention, but also in the light of the principle of reciprocity made applicable through the application of the Act to Portugal and also the provisions of the Act applicable to Non-Treaty States – Trial of the extradited accused is permissible u/s. 21 for 'lesser offences', even if

the same are not covered by extradition Decree – There has been no violation of Rule of Specialty – Penal Code, 1860 – s. 120B r/w. ss. 324, 326, 427, 435, 121, 121A, 122, 307, 302 and 201 – Terrorist and Disruptive Activities (Prevention) Act, 1987 – ss. 3, 4 and 5 – Arms Act, 1959 – ss. 3, 7(a), 25(1A), 25(1AA) 26, 29 and 35 – Explosive Substances Act, 1908 – ss. 3, 4, 5 and 6 – Convention on Suppression of Terrorist Bombing – Articles 2(1) and (3) and 1(3)(d) – Notification No. GSR-822 (E) dated 13.12.2002 issued by Government of India.

Abu Salem Abdul Qayoom Ansari v. State of Maharashtra & Anr.

8

FINANCE ACT, 1994:

(i) ss.65(12), 65(105)(zm), and 66 – Non-Banking Financial Company – Equipment leasing and hire-purchase – Service tax imposed by s.66 on the value of taxable services referred to in s.65(105)(zm) r w s.65(12), insofar as it relates to financial leasing services including equipment leasing and hire-purchase – Held: Is within the legislative competence of the Parliament under Entry 97, List I of the Seventh Schedule to the Constitution by virtue of Article 366 (29A) of the Constitution – Reserve Bank of India Act, 1934 – s.45I – Constitution of India, 1950 – Article 366(29A) – Accounting standard AS-19 – Lease – Notification no.114 dated 2.1.1998 issued by RBI – Constitution (Forty-sixth Amendment) Act, 1982 – Finance Act, 2001– Service tax – Bank/ Banking – Interpretation of Constitution.

(ii) s.65(12) – Banking and financial services –

Meaning of.

(iii) s.65(12) – Funding activity undertaken by the financing party in the form of loan or equipment leasing or hire-purchase financing, would be exigible to service tax if such activity falls in the category of “banking and other financial services” u/s.65(12) of the Act.

(iv) s.65(12) – Equipment Leasing and Hire-Purchase Finance – Meaning of – Held: These are activities of long term financing and fall within the ambit of “banking and other financial services” – A financial lease is a lease that transfers substantially all risks and rewards incidental to ownership – The income which the lessor earns is by way of finance/ interest charges in addition to the management fees or documentation charges, etc. – It is this income which constitutes the measure of tax for the purposes of calculating the value of taxable services u/s.67 of the Act.

(Also see under: Constitution of India, 1950 and Interpretation of Constitution)

Association of Leasing and Financial Service Companies v. Union of India and Ors. 381

FINANCE ACT, 2001:

Service tax.

(See under: Finance Act, 1994 as also under: Constitution of India, 1950 and Interpretation of Constitution) 381

FIR:

(See under: Penal Code, 1860) 1217

FOREIGN EXCHANGE MANAGEMENT ACT, 1999:

(i) Proceedings under the Act – Nature of – Held: The proceedings before the adjudicating authority shall be deemed to be judicial proceedings within the meaning of s. 193 and 228 IPC – Penal code, 1860 – ss. 193 and 228.

(ii) Powers of Adjudicating Authority under the Act – Held: While holding inquiry into allegations of contravention, every adjudicating authority shall have powers of civil court for the purpose of ss. 345 and 346 CrPC – Code of Criminal Procedure, 1973 – ss.345 and 346.

(Also see under: Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000)

Kanwar Natwar Singh v. Directorate of Enforcement & Anr

99

FOREIGN EXCHANGE MANAGEMENT (ADJUDICATION PROCEEDINGS AND APPEAL) RULES, 2000:

r.4(1) – Show cause notice by adjudicating authority – For initiating proceedings under the Act – Noticee demanding all the documents in the possession of adjudicating authority – Held: The provisions of the Act, the Rules or even the principles of natural justice do not require supply of documents upon which no reliance has been placed by the authority to set the law into motion – On facts, demand of the noticee for supply of all the documents is based on vague, indefinite and irrelevant grounds – Foreign Exchange Management Act, 1999 – s. 16 – Natural justice and concept of fairness – Doctrine of duty of

adequate disclosure.

(Also see under: Foreign Exchange Management Act, 1999)

Kanwar Natwar Singh v. Directorate of Enforcement & Anr 99

GENERAL CLAUSES ACT, 1897:

(See under: Penal Code, 1860 as also under Constitution of India, 1950) 522.

GOVERNMENT GRANTS:

Resumption of property – Land in cantonment area – Grant of by Government of India – Grantee constructing a bungalow and letting it out to military officer on rent – Original grantee selling the bungalow and land appurtenant thereto – Suit by purchasers for recovery of arrears of rent, damages and vacant possession of bungalow and land utilized by Government to build barracks, – Decreed – Execution proceedings – Held: Entire extent of land including the one under barracks could be taken over pursuant to resumption – Thus, possession of the said extent of land could not be taken away from Union of India for delivery to decree-holders – Said order had attained finality – Executability of decree qua the main bungalow not assailed or questioned – Decree-holders entitled to retain possession of main bungalow until Union of India issues any further orders of resumption of property – High Court was right in setting aside the execution proceedings – Cantonments – Decree – Execution – Judgment/ Order.

Arun Lal & Ors. v. Union of India & Ors. 1176

GOVERNMENT LITIGATION:

Delay in filing appeal.

(See under: Limitation Act, 1963) 776

HIMACHAL PRADESH HOLDINGS

(CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT, 1971:

ss. 14, 15, 16 and 32 – Consolidation of holdings – Declaration for consolidation of lands – Lands of appellant and public trust, valued and proposed to be exchanged – Notification by State Government u/s. 16(1) canceling the declaration u/s.14 before delivery of possession of allotted holdings to appellants and public trust – Legality of – Held: Notification was legal and valid – State Government had the power u/s. 16(1) to cancel the declaration since the consolidation scheme did not come into force – Appellant and public trust did not enter into possession of the holdings allotted to them pursuant to the orders passed by the Consolidation Officer – State Government was not required to follow principles of natural justice before issuing such notification – Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Rules, 1973 – r. 18 – Principles of natural justice.

Harbhajan Singh v. State of Himachal Pradesh & Ors. 1037

HIMACHAL PRADESH HOLDINGS

(CONSOLIDATION AND PREVENTION OF FRAGMENTATION) RULES, 1973:

r.18.

(See under: Himachal Pradesh Holdings (Consolidation and Prevention of

	1273	
Fragmentation) Act, 1971)	....	1037
IDENTIFICATION:		
Identification of vehicle.		
(See under: Evidence as also under Penal Code, 1860)	....	296
INDUSTRIAL DISPUTES ACT, 1947:		
s. 10(1)(c) – Termination of service – Allegations of misconduct – Non-holding of domestic enquiry – Burden of proof – Held: Onus to prove that it was not possible to conduct the enquiry and the termination was justified on the ground of misconduct by the employee, lies on the management by adducing evidence to justify its action – Workmen can adduce evidence in rebuttal – Orders of Labour Court and High Court, shifting the burden on the workmen are erroneous and set aside – Evidence.		
<i>Amar Chakravarty & Ors. v. Maruti Suzuki India Ltd.</i>	....	1142
INSECTICIDES ACT, 1968:		
s.33.		
(See under: Prevention of Food Adulteration Act, 1954)	....	993
INSURANCE:		
Contract of insurance – In terms of the contract, insured required to disclose each and every dispatch of consignment – Insured not disclosing dispatch of some of the consignments – Dispatch of the consignment in question disclosed – Damage to the consignment during its transit – Insurance claim – Held: Must fail on the ground of		

	1274	
the breach of contract – As per the contract, the insured was required to declare each and every dispatch and not those alone wherein it had insurable interests – Contract.		
(Also see under: Deeds and Documents)		
<i>Suraj Mal Ram Niwas Oil Mills (P.) Ltd. v. United India Insurance Co. & Anr.</i>	....	138
INTERIM ORDERS:		
Final relief prayed for in the writ petition granted in the application for interim relief.		
(See under: Constitution of India, 1950)	....	1131
INTERNATIONAL LAW:		
(i) The term ‘extradition’ – Explained.		
(ii) Convention on Suppression of Terrorist Bombing.		
<i>Abu Salem Abdul Qayoom Ansari v. State of Maharashtra & Anr.</i>	....	8
INTERPRETATION OF CONSTITUTION:		
Legislative entries – Interpretation of – Held: The principle that legislative entries must be given the widest interpretation is subject to the exception that where the entries use legal terms, they must be given their legal meaning – The word ‘sale’ is not defined in the Constitution, but the words used in the three legislative lists should receive the widest interpretation and not to the narrow definition of the word “sale” contained in the Sale of Goods Act for the purpose of interpreting that expression in Entry 54, List II – Sale of Goods Act, 1930 – Constitution of India, 1950 –		

Interpretation of Constitution.

(Also see under Constitution of India, 1950 and Finance Act, 1994)

Association of Leasing and Financial Service Companies v. Union of India and Ors. 381

INTERPRETATION OF STATUTES:

(1) Definition clause – Inclusive definition and exhaustive definition – Difference elucidated.

(Also see under: West Bengal Premises Requisition and Control Act, 1947)

West Bengal State Warehousing Corporation v. M/s. Indrapuri Studio Pvt. Ltd. and Anr. 689

(2) Exemption clause – Construction of – Explained.

(Also see under: Central Excise Rules, 1944)

Commissioner of Central Excise, New Delhi v. M/s Hari Chand Shri Gopal & Ors. 820

(3) Interpretation – Scope of – In the garb of interpretation, court cannot change the language of the statute nor can it legislate or amend the law.

(Also see under: Code of Criminal Procedure, 1973 and Protection of Women from Domestic Violence Act, 2005)

D. Velusamy v. D. Patchaiammal 706

(4) Legal fiction.

(See under: CENVAT Credit Rules, 2002) 1152

(5) Legal fiction – Interpretation of – Held: Interpretation of the legal fiction must be limited to the purpose indicated by the context and it cannot be given a larger effect – What can be deemed to exist under a legal fiction are only facts and no legal consequences not flowing from the law as it stands – In absence of a statutory provision, the particular provision cannot be construed as to provide for a fiction – Creation of fiction by judicial interpretation would amount to legislation.

(Also see under: Delhi Co-operative Societies Rules, 1973 and Constitution of India, 1950)

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

(6) Legislative entries – Interpretation of. (See under: Interpretation of Constitution) 381

JAMMU AND KASHMIR REPRESENTATION OF THE PEOPLE ACT, 1957:

s. 3 – Delimitation Commission – Postponement of delimitation of territorial constituencies of the State pertaining to the Legislative Assembly until publishing of the relevant figures for the first census taken after the year 2026 – Sustainability of – Held: Right to cast vote is a valuable right but to demand any uniform value of one's voting right through the process of delimitation, disregarding the statutory and constitutional dispensation based on historical reasons is not a justiciable right – There is an express constitutional bar to any challenge being made to delimitation law – Amendment to the Constitution of Jammu and Kashmir is not violative of the basic structure of the Constitution – Constitution of Jammu and

Kashmir, 1957 – ss. 47(3) and 142 – Constitution of India, 1950 – Articles 327 and 329A.

J & K National Panthers Party v. The Union of India and Ors 506

JUDGMENTS/ORDERS:

(1) Order attaining finality.
(See under: Government Grants) 1176

(2) Order of High Court.
(See under: Education/Educational Institutions) 733

(3) Recording of reasons in – Requirement of – Held: While deciding an issue, the court is bound to give reasons for its conclusion – Recording of reasons is principle of natural justice – It ensures transparency and fairness in decision making – It is one of the fundamentals of such administration of justice-delivery system – Principles of natural justice – Administration of Justice.
(Also see under: Delhi Co-operative Societies Rules, 1973)

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

JUDICIAL DISCIPLINE:

Stay order – Granted by High Court – Long after dismissal by Supreme Court of tenant's SLP against eviction – Held: This was not expected of the High Court – Judicial discipline requires that High Courts should not try to override orders passed by Supreme Court – Rent Control and Eviction.

(Also see under: Administration of Justice)

D. M. Belgamvala v. Tamilnadu Real Estates (P) Ltd. 1072

JUDICIAL NOTICE:

(See under: Armed Forces) 784

JUDICIAL PROPRIETY:

(See under: Precedent) 621

JUDICIAL REVIEW:

(1) (See under: Contract) 76

(2) (See under: Prevention of Corruption Act, 1988) 1200

JUDICIARY:

(See under: Code of Criminal Procedure, 1973) 851

JURISDICTION:

(1) If there is special law providing for special forum then recourse cannot be taken to general law – Wakf Act, 1995.

(Also see under: Wakf Act, 1995)

Board of Wakf, West Bengal v. Anis Fatma Begum and Anr. 1063

(2) Territorial jurisdiction.

(See under: Constitution of India, 1950) 1131

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000:

ss. 2(K) and 7A – Juvenility – Plea of – Raised before Supreme Court in appeal against conviction u/s 304 B and 498-A IPC – Held: In the facts and

circumstances of the case, an enquiry for determining the age of the applicant on the date of the commission of the offence shall have to be directed – The burden of making out a prima facie case for directing an enquiry has been discharged – Trial court directed to hold an enquiry and submit a report as expeditiously as possible – It is made clear that the trial court shall be free to constitute a Medical Board comprising at least three experts on the subject for determination of the age of the applicant – Penal Code, 1860 – ss.304-B and 498-A.

Jitendra Singh @ Babboo Singh & Anr. v. State of U. P. 879

LAND ACQUISITION ACT, 1894:

(1) s.34 – Interest on solatium – In the decree, the reference court made specific reference to payment of interest on compensation but did not make any reference to payment of interest on solatium – Executing court permitted recovery of interest on solatium, relying upon the Supreme Court judgment in *Sunder's* case – Order set aside by High Court – Held: Though the executing court cannot examine the reasons so as to go behind the decree but since in the decree passed, the reference court made a specific reference to payment of interest but without any such reference to the payment of interest on solatium, it was open to the executing court to apply the ratio of *Sunder's* case and declare that the compensation awarded includes solatium, and consequently, interest on the amount could be directed to be deposited in execution – Interest on solatium was claimed in the pending adjudication, therefore, the executing

court was justified to permit recovery of interest on solatium from the date of judgment in *Sunder's* case, and not for any prior period.

Chimanlal Kuberdas Modi (D) by Lrs. v. Gujarat Industrial Development Corp. & Ors. 722

(2) (i) s.23 – Compensation – Basis for determination – Held: Comparable sale instances are the best piece of evidence for the purpose of determining the compensation – Where record reflects increasing trend in value of land, annual increase of 10% to 15% is normally allowed by the court – In the instant case, 10% is allowed because of the short intervening period between the execution of the sale deed and issuance of notification u/s. 4.

(ii) s.23 – Deduction – Applicability of, while determining compensation – Held: The deduction can be applied for different aspects – If the size of the plot of comparable sale is very small and the land acquired is a large chunk of land, then some deduction on that score is applicable – Deduction on account of expenses of development of the sites could vary from 20% to 70% – In the instant case, agricultural land was acquired to carry out the development scheme for setting up export processing zone – The development purpose, being in public interest, is bound to result in utilization of part of the land for the purposes of roads, by-links, water and electricity lines and other infrastructural amenities of the project – In the facts and circumstances of the case, deduction of 30% is applied.

(iii) ss.23(I-A), 23(2) and 34, proviso – Consequential benefits, solatium and interest – Held: The claimants are entitled to solatium as well as the interest on the aggregate amount including solatium, at the rate specified in proviso to s.34 – Solatium is in consideration of compulsory nature of acquisition which deprives the owner of an opportunity to negotiate and bargain the sale price of its land as it will entirely depend on the Collector or the court to determine the amount of compensation in accordance with the provisions of the Act.

Radha Mudaliyar v. Spl. Tahasildar (Land Acq.), T.N.H. Boar 154

(3) (i) Compensation – Increase in valuation of open space – Held: When a large tract of land is acquired and the valuation thereof is sought to be determined on the basis of sale instances relating to small portion of land, deduction of 33% from the value of such small tract of land is the general trend – High Court held that reference court was justified in awarding compensation @ Rs.225/-sq meter for open space – While coming to the said conclusion, High Court considered the sale related to a small plot of land as compared to the acquired land and made deduction from the exemplar value and on the basis thereof upheld the valuation fixed at Rs. 225 per square meter – Claimants could not show cogent reasons for further increase in valuation – Plea for increase of compensation rejected.

(ii) Compensation – Valuation of acquired structure – Held: Age of structure is relevant for

valuation purpose – Expert could not state the age of structure when it was notified in 1983 for acquisition – The fine condition of structure and superior quality of material used for construction in the structure was beyond doubt and never questioned – Schedule Rates cover costs of construction in the entire district – A deduction of 60 per cent from the said valuation of the cost of construction in 1991 found appropriate – Compensation to be calculated accordingly.

Prabhakar Raghunath Patil and Ors. v. State of Maharashtra 586

LAND LAWS AND AGRICULTURAL TENANCY:
(See under: Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971) 1037

LEASE:
“Finance lease” and “Operating lease” – Distinction between.
(Also see under: Finance Act, 1994)
Association of Leasing and Financial Service Companies v. Union of India and Ors 381

LIABILITY:
Vicarious liability of Directors of Company.
(See under: Prevention of Food Adulteration Act, 1954) 993

LIMITATION ACT, 1963:
s.5 – Condonation of delay in filing appeal by a

public sector undertaking – Declined by High Court – Held: High court erred in declining the prayer – It is manifest that though s.5 envisages the explanation of delay to the satisfaction of the court, and makes no distinction between the State and the citizen, nonetheless, adoption of a strict standard of proof in case of the Government, may lead to grave miscarriage of justice and, therefore, certain amount of latitude is permissible in such cases – In the instant cases, the conduct of the appellants does not indicate inaction, negligence or mala fides – The explanation furnished for the marginal delay of 59 days, constitutes a sufficient cause and, therefore, deserves to be accepted – The impugned judgment set aside, and matter remanded to High Court for consideration on merits – Government litigation – Delay in filing appeal.

Indian Oil Corporation Ltd. & Ors. v. Subrata Borah Chowlek, Etc. 776

MAINTENANCE:

(See under: Code of Criminal Procedure, 1973) 706,
894, 897 and 1020

MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY RULES, 1972:

(See under: Administrative Law) 234

MAXIMS:

(1) Maxim – ‘*quando aliquid prohibetur, prohibeas et omne per quod devenitur ad illud*’ – Applicability of.

(Also see under: Delhi Co-operative Societies Rules, 1973)

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

(2) ‘*Nemo debet bis vexari pro eadem causa*’ – Meaning of – No one should be put on peril twice for the same offence.

Monica Bedi v. State of A. P. 522

(3) (i) “*nemo iudex in causa sua*”

(ii) “*audi alteram partem*”.

(See under: Natural Justice) 658

MOTOR VEHICLES ACT, 1939:

(See under: Motor Vehicles Act, 1988) 868

MOTOR VEHICLES ACT, 1988:

(1) ss. 104, 99 to 103 – Applicability of new transport Scheme to pending cases - Restriction on grant of permits in respect of a notified area or notified route – Four stage carriage permits for plying – Invitation of applications by State Transport Commissioner before enactment of 1988 Act – Grant of two permits to Pepsu State Transport Corporation – Withholding of two permits – Claim for grant of said two permits by private operators – During pendency of appeals, Motor Vehicles Act, 1939 repealed by Motor Vehicles Act, 1988; and new Transport Scheme coming into operation whereby all future operations of the monopoly route would be operative by State Transport Undertaking – Dismissal of appeals by courts below, in view of the 1988 Act and new Transport Scheme –

Held: Justified – Motor Vehicles Act, 1939.

Raj Transport Co. Pvt. Ltd., Amritsar v. State Transp. Appellate Tribunal Pb. & Ors.

868

(2) ss. 163-A, 166, 168 and 169 – Non-fatal motor accident – Partial permanent disability – Compensation towards loss of future earnings – Principles enumerated – Illustrations given – Securing of expert medical evidence – Guidelines laid down – In order to do complete justice, permanent functional disability of the claimant and loss of future earning capacity assessed – Monthly income of claimant re-assessed – In calculating compensation towards loss of future earnings due to disability, there is no need to deduct one-third or any other percentage from the assessed income towards the personal and living expenses – Age of claimant being 25 years, multiplier of 18 applied – Compensation towards loss of future earning and loss of earnings during the period of treatment enhanced accordingly – Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 – s.2(1) – Workmen’s Compensation Act, 1923 – Evidence – Expert medical evidence – Securing of – Constitution of India, 1950 – Articles 136 and 142.

Raj Kumar v. Ajay Kumar & Anr.

179

(3) s.166 – Compensation – Claim for – Fatal motor accident – Held: Deceased was 22 years old and was not married, and was earning about Rs. 1,000/- p.m. – Evidence on record that deceased would have got government job in future

– In view of the facts, taking annual loss of dependency as Rs. 12,000/- and applying multiplier of 11, keeping in view the age of claimant, compensation enhanced to Rs. 1,32,000/- with simple interest of 10% p.a.

Shakti Devi v. New India Insurance Co. Ltd. & Anr.

574

NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985:

(i) s. 50 – Search of persons (suspects) – Requirements – Expression “if the person to be searched so requires” – Scope of – Held: Obligation of the authorised officer under sub-s.(1) of s.50 is mandatory and requires a strict compliance – The mandate of s.50 is precise and clear – If the person intended to be searched expresses to the authorised officer his desire to be taken to the nearest gazetted officer or the Magistrate, he cannot be searched till the gazetted officer or the Magistrate, as the case may be, directs the authorised officer to do so – Though s.50 gives an option to the empowered officer to take the suspect either before the nearest gazetted officer or the magistrate, but in order to impart authenticity, transparency and credit worthiness to the entire proceedings, in the first instance, an endeavor should be to produce the suspect before the nearest Magistrate.

(ii) s. 50 – Object of – Explained.

Vijaysinh Chandubha Jadeja v. State of Gujarat

255

NATIONAL COUNCIL FOR TEACHER EDUCATION ACT, 1993:

s.14 – Recognition of Institutions offering course/training in teacher education – Special BTC Course in State of Uttar Pradesh – Eligibility – Order dated 10.7.2007 specifying conditions for Special BTC course 2007 as B.Ed. from any recognized college run by State/Central Government and approved by NCTE – Some of the candidates selected, but not sent for training on the ground that the institution from which they secured B. Ed degree were not recognized by NCTE – Held: Degrees granted by the institutions already in existence offering a course or training in teacher education shall be deemed to be at par with the degrees or certificates granted by the recognized institutions after the commencement of the Act provided those institutions in existence offering the course also received recognition under the Act – Once the recognition is granted by the Regional Committee to the Institution offering a course or training in teacher education, the same shall relate back to the date of filing of the application – Constitution of India, 1950 – Articles 14 and 16 r/w 21-A – Government of Uttar Pradesh Order dated 11.7.2007.

State of U. P. & Ors. v. Bhupendra Nath Tripathi & Ors. 483

NATURAL JUSTICE:

(1) Applicability of – Principles of natural justice and concept of fairness – Discussed – Principles of natural justice do not supplant the law of the land, but supplement it.

(Also see under: Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000)

Kanwar Natwar Singh v. Directorate of Enforcement & Anr 99

(2) Principles of – Applicability of – Held: The principles of natural justice cannot be applied without reference to the relevant facts and circumstances of the case – In cases where on admitted and undisputed facts, only one conclusion is possible, the application of the principles of natural justice would be a futile exercise and an empty formality – However, there may be cases where non-observance of natural justice is itself prejudice to a person and the proof of prejudice is not required at all – “*nemo judex in causa sua*” and “*audi alteram partem*”.

(Also see under: Code of Civil Procedure, 1908 and Electricity)

Municipal Committee, Hoshiarpur v. Punjab State Electricity Board and Ors. 658

(3) (See under: Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971) 1037

(4) (See under: Administrative Law) 234

(5) (See under: Judgments/Orders) 621

PENAL CODE, 1860:

(1) s.120-B r/w. ss. 324, 326, 427, 435, 121, 121A, 122, 307, 302 and 201.

(See under: Extradition Act, 1962) 8

(2) ss. 120-B, 419, 420, 465 and 468 – Accused

entering into a conspiracy with other co-accused, to secure passport in the assumed name – Submission of false documents – Framing of charges – Plea of double jeopardy by accused that she was tried and convicted by Lisbon court for being in possession of fake passport – Conviction of accused for the offences punishable u/ss. 120-B, 419 and 420 and all other co-accused under various provisions-- Held: Same set of facts can constitute offences under two different laws – Bar to punishment to the offender twice over for the same offence would arise only where the ingredients of both the offences are the same – On the basis of the judgment passed by the Constitutional Court, Lisbon and the facts of the case, plea of double jeopardy not sustainable – Accused was involved in conspiracy at both pre-passport application stage and post-passport application stage – Her conviction upheld, however, sentence reduced to the period already undergone – Evidence on record established that the Postman participated in the conspiracy in securing the passport for accused in the assumed name; and the Head Constable submitted a false report in order to enable the accused to secure a passport for herself in the assumed name – Their, conviction also upheld but, the sentence reduced – As regards Revenue Inspector, ingredients of the offence of forgery not satisfied, thus, he is acquitted – Constitution of India, 1950 – Article 20(2) – Rule of double jeopardy – Prevention of Corruption Act, 1988 – s.13(1)(d) r/w 13(2) – Sentence/Sentencing.

(Also see under: Constitution of India, 1950)

Monica Bedi v. State of A. P. 522

(3) ss. 193 and 228.

(See under: Foreign Exchange Management Act, 1999) 99

(4) ss. 300, Exception 4, and s.304 (part 1) – Culpable homicide not amounting to murder – Punishment – Altercation between father and the drunken son – Son slapped the father whereupon son's friend intervened and was stabbed to death by the son – Conviction of accused u/s 302 affirmed by High Court – Held: A perusal of the facts would reveal that the incident would fall under Exception 4 to s.300 –The conditions for the applicability of Exception 4 are clearly satisfied – It cannot be said with certainty that the accused intended to cause the very injury that he inflicted – Accused convicted u/s.304 (part-I), and sentenced to undergo five years RI.

Sangharaj Bhogappa Kamble v. State of Maharashtra 376

(5) s. 302.

(See under: Evidence) 296

(6) s.302 – Accused convicted of murdering his wife, and sentenced to life imprisonment – SLP filed by accused before Supreme Court – Held: The facts of the case prima facie reveal that the deceased was killed in a barbaric and brutal manner – Accused said to have been alone with the victim at that time – Notice to issue to accused-petitioner why his sentence be not enhanced to death – Sentence/ sentencing – Enhancement of sentence – Circumstantial evidence.

Thathamsetty Suresh v. State of A. P. 890

(7) s.302 – An eight month pregnant woman died of burn injuries – Post-mortem report revealing severe cut in abdomen and foetus removed – Husband of deceased and his friend convicted of murder – Husband sentenced to death – Life imprisonment to co-accused – Held: One of the witnesses though supported the prosecution case in her statement u/s 164 CrPC, but before the court she resiled therefrom – Since a statement recorded u/s 164 CrPC is not substantive evidence, the court has to go to the other evidence produced in court by the prosecution – The only other evidence against the accused-husband was the statement of a 4-5 year old child and it is primarily his evidence that has led to the conviction of the accused – However, notwithstanding the fact that credibility of the child witness has not been doubted, it would be imprudent to award a capital sentence on his statement – Therefore, though the conviction of the accused-husband is maintained, the death sentence is commuted to life imprisonment – There is absolutely no evidence to connect the co-accused – He is acquitted – Evidence – Sentence/Sentencing.

Uttam Chakraborty v. State of Assam 1

(8) s.302 – Murder – Conviction by courts below, based on circumstantial evidence – Held: In the case of circumstantial evidence, there must be a complete chain of evidence which would lead to a conclusion that the accused was the only person, who could have committed the offence and none else – In the instant case, there is nothing to show that the accused had committed the offence – Judgments of courts below set aside and accused

acquitted – Evidence – Circumstantial evidence – Test Identification parade.

(Also see under: Evidence)

Varun Chaudhary v. State of Rajasthan 296

(9) s. 302 – Murder – Conviction by High Court – Victim chased by accused and three others armed with weapons – Accused firing shot at victim from the back – Death of victim – Recording of three dying declarations – Acquittal by trial court on account of discrepancies in the dying declarations and eye-witnesses turning hostile – High Court convicting one of the accused u/s.302 – Held: All three dying declarations are unanimous and reliable – Minor discrepancies in the dying declarations not relevant – Motive established – FIR was lodged promptly – Conviction upheld – FIR – Evidence – Dying declaration – Criminal law – Motive – Code of Criminal Procedure, 1973.

Abra v. The State of Uttar Pradesh 1217

(10) s.302 – Murder – An army personnel, in the night shot three shots at the member of Quick Reaction Team, who had been summoned to locate the intruder – In Court Martial proceedings it was held a deliberate act of murder and accused convicted u/s 302 and sentenced to imprisonment for life, besides other penalties imposed upon him under Army Act – Conviction upheld by High Court – Held: From the order of the Court Martial, it is evident that the appellant had fired three shots at the deceased, who was one of his colleagues in the Army, and this incident had been witnessed by several Army personnel who had been posted with the accused at that time – No error can be

found with the findings of fact recorded by the Court Martial and upheld by the High Court – The Court would not, in these circumstances, interfere with the same – Army Act, 1950.

Sachidanand Thakur v. Union of India & Ors.

203

(11) s.302 – Murder – Previous enmity between deceased and accused – Deceased shot dead by accused – Conviction based on evidence of eyewitnesses and dying declaration – Interference with – Held: The eyewitnesses gave consistent version of various incidents which precipitated the enmity between the deceased and the accused – The evidence of eyewitnesses was clear and consistent with the medical evidence and dying declaration – No reason to interfere with the order of conviction – Evidence – Dying declaration.

Om Pal Singh v. State of U.P.

558

(12) s.302 – Parricide – Dispute over landed property – Three accused stated to have been armed with various weapons – Victim assaulted and killed on the spot – Conviction by courts below u/s.302 on the basis of evidence of eye-witnesses – Appeals by two accused – Held: Since the instant matter involves close relatives belonging to farming families with deep set animosities, some evidence beyond the ocular evidence is also required to be looked at – Medical evidence corroborated the presence of the accused who were armed with 'farsa' and 'bhala' which could have caused the incised and penetrating wounds found on the dead body – The medical evidence, however, did not support the presence of

appellant-A-1, as there was no injury with a pistol or a 'lathi' on the body of the deceased – His conviction set aside.

Anjani Chaudhary v. State of Bihar

227

(13) (i) ss. 302/34 – Murder – Prompt lodging of FIR – Accused named in FIR – Eye-witnesses to the incident – Motive established – Trial court convicting the accused of offences punishable u/ ss. 302, 147 and 148 – High Court acquitting all the accused u/ss. 147 and 148 and convicting the appellants-accused u/s. 302 r/w s. 34 – Other co-accused acquitted of all the charges – Held: In the facts of the case, courts below rightly concluded that the appellants-accused were responsible for the offence.

(ii) s. 34 – Common intention – Applicability of – Discussed.

(iii) ss. 34 and 149 – Conviction with the aid of Section 34 in place of s.149.

(Also see under Criminal Trial)

Abdul Sayeed v. State of Madhya Pradesh

311

(14) ss. 302/34 – Murder – Strained relations between the accused persons and the deceased – No eye-witnesses – Independent witnesses and medical evidence supporting the case of the prosecution – Conviction of three accused and acquittal of one by the trial court – High Court confirming the conviction – Held: The chain of circumstances envisaged for a successful prosecution, present in the instant case –

Conviction justified – Circumstantial evidence.

Mohd. Usman Mohd. Islam Shaikh & Ors. v. State of Maharashtra 746

(15) s. 304-B – Conviction of accused-husband and mother-in-law by trial court – Husband sentenced to imprisonment for life and mother-in-law to 2 years RI – High Court reducing sentence of husband to 10 years RI – Held: It appears to be a case of barbaric and brutal murder – Injuries sustained by the deceased prima facie indicate that her head was repeatedly struck and she was also throttled – Notice to issue to accused-husband why his sentence be not enhanced to life sentence as awarded by trial court – Administration of criminal justice – Sentence/sentencing.

(Also see under: Administration of Criminal Justice)

Rajbir @ Raju and Anr. v. State of Haryana 886

(16) ss.304-B and 498-A.
(See under: Juvenile Justice (Care and Protection of Children) Act, 2000) 879

(17) ss. 341, 323, 506 and 384.
(See under: Code of Criminal Procedure, 1973) 368

(18) ss. 376 and 302 – Conviction based on circumstantial evidence – Victim found dead in her house with multiple injuries – Trial court acquitted the accused – High Court relying on the circumstantial evidence, convicted the accused u/

ss.302, 376 and awarded death sentence – Held: Circumstances formed a chain so complete that there was no escape from the conclusion that within all probability the crime was committed by the accused – DNA test showed that rape was committed, and that too by the accused – In the light of evidence, the order of conviction upheld – However, in the interest of justice, sentence commuted to life imprisonment – Sentence/Sentencing – Criminal law – Evidence – Circumstantial evidence – Code of Criminal Procedure, 1973 – s.313.

Santosh Kumar Singh v. State Thr. CBI 901

(19) s. 393 – Cohabitation caused by a man deceitfully inducing a belief of lawful marriage – Complainant and accused lived together for nine years and had two children – Accused stated to have turned the woman out of his house – Complaint by the woman that accused had given her assurance to marry her and even executed an agreement to this effect – Conviction by trial court – Upheld by appellate court as also by High Court – Held: There being difference of opinion, the matter referred to another Bench.

Ram Chandra Bhagat v. State of Jharkhand 1094

(20) ss.409, 480, 467, 468, 471, 477A and 120-B.
(See under: Code of Criminal Procedure, 1973) 851

(21) (i) ss. 498-A and 306 – ‘Cruelty’ – Abetment of suicide – A woman drowned in river after one

and a half years of marriage – Prosecution case of harassment of the victim by her husband and his sisters – Allegation of illicit relationship between husband of deceased and another woman – Conviction of husband – Held: First and foremost, this is an appeal under Article 136 of the Constitution by way of special leave – Two courts, on a minute appreciation of the evidence, have found against the accused – There is no reason to hold otherwise – Nonetheless, on merits, harassment meted out to the deceased has been clearly revealed and a presumption u/s 113-A of the Evidence Act must, therefore, be raised against the accused – It was a case of suicide on account of harassment meted out to the deceased and not a case of accident – Constitution of India, 1950 – Article 136 – Evidence Act, 1972 – s.113-A.

(ii) s.498-A – ‘Cruelty’ – Evidence of illicit relationship between husband of deceased and another woman – Held: An illicit relationship of a married man with another woman would clearly amount to cruelty within the meaning of s. 498-A – Even assuming that this did not amount to cruelty within the meaning of s. 498-A, it could still be used as a piece of evidence of harassment and misbehaviour of the accused towards the deceased – Evidence.

Laxman Ram Mane v. State of Maharashtra 134

PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995:
s.2(1).

(See under: Motor Vehicles Act, 1988) 179

PLEADINGS:

Allegation of existence of an ‘arbitration agreement’ and denial thereof in the statement of defence – Discussed.

S. N. Prasad v. Monnet Finance Ltd. and Ors. 207

PRACTICE AND PROCEDURE:

(1) Documents supplied to Tribunal after arguments heard and judgment reserved.
(See under: Central Excise Rules, 1988) 957

(2) Practice in Supreme Court of including list of judicial authorities in compilation, without the leave of the Court – Held: Not approved.

Kanwar Natwar Singh v. Directorate of Enforcement & Anr 99

PRECEDENT:

(1) Observations in Judicial pronouncement – Precedent value of – Held: Observations not to be read as Euclid’s theorems nor as provisions of the statute, but to be read in the context it is made – A line or a word in a judgment not to be read in isolation or as if interpreting statutory provisions – Constitution of India, 1950 – Article 141.

Kanwar Natwar Singh v. Directorate of Enforcement & Anr. 99

(2) Rule of precedent – Co-ordinate Bench of High Court, after considering the judgment passed by another co-ordinate Bench of that High Court,

taking a contrary view – Propriety of – Held: A co-ordinate Bench cannot comment upon discretion exercised or judgment rendered by another co-ordinate Bench of the same Court – The rule of precedent is binding on the court – In judicial administration, precedents which enunciate rules of law form foundation of administration of Justice – Judicial Propriety – Administration of Justice.

(Also see under: Delhi Co-operative Societies Rules, 1973)

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

PREVENTION OF CORRUPTION ACT, 1988:

(1) ss. 7 and 13 (1)(d) r/w s. 13 (2) – Demand of illegal gratification by public servant and voluntary acceptance thereof – Conviction and sentence u/ ss. 7 and 13 (1)(d) r/w s. 13(2) by courts below – Held: Justified – Ingredients of ss. 7 and 13(1)(d)(ii) satisfied – Contractor who gave bribe, cannot be said to be an accomplice as the same was extorted from him – Evidence of contractor corroborated in material particulars by shadow witness – Evidence – Testimony of a witness – Corroboration of.

C. M. Sharma v. State of A. P. Thr. I. P. 1105

(2) ss. 8, 9, 13(2) r/w s. 13 (1) (d) and 14.
(See under: Code of Criminal Procedure, 1973) 851

(3) s.13(1) (d) r/w 13(2).
(See under: Penal Code, 1860
as also under: Constitution of India, 1950) 522.

(4) s.19 – Sanction for prosecution of public servant, initially refused – Review of on same materials – Held: Not permissible – Power of the sanctioning authority being not of continuing character could be exercised only once on the same materials – On the basis of fresh materials collected by the investigating agency subsequent to the earlier order, sanctioning authority can reconsider the matter and form an opinion to grant sanction to prosecute the public servant – On facts, Sanctioning authority not justified in changing its opinion and ordering sanction to prosecute the public servant on the same material – Review.

State of Himachal Pradesh v. Nishant Sareen 1200

PREVENTION OF FOOD ADULTERATION ACT, 1954:

ss.2(h) and (ia), 2(m) and 17 – Vicarious liability of Directors of a Company – Held: In a complaint against a Company and its Directors, the complainant has to indicate in the complaint itself as to whether the Directors concerned were either in-charge of or responsible to the Company for its day-to-day management, or whether they were responsible to the Company for the conduct of its business – A mere bald statement that a person was a Director of the Company against which certain allegations were made is not sufficient to make such Director liable – In the instant case, since Manager, Quality Control was nominated u/ s.17(2) to be in-charge and responsible to the Company for the conduct of its business, the appellant-company and its Directors could not be held liable for the adulteration of food – Prevention of Food Adulteration Rules, 1955 – r.65 –

	1301	
Insecticides Act, 1968 – s.33.		
<i>Pepsico India Holdings Pvt. Ltd. v. Food Inspector and Anr.</i>	....	993
PREVENTION OF FOOD ADULTERATION RULES, 1955: r.65. (See under: Prevention of Food Adulteration Act, 1954)	....	993
PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005: s. 2(f), 2(s) – Expression ‘relationship in the nature of marriage’ – Meaning of – Held: Expression is akin to a common law marriage – Ingredients enumerated – All live-in relationships will not amount to a relationship in the nature of marriage – Words and Phrases – Interpretation of Statutes. (Also see under: Code of Criminal Procedure, 1973)		
<i>D. Velusamy v. D. Patchaiammal</i>	....	706
REFERENCE TO LARGER BENCH: (1) Disqualification of members of Parliament, expelled from the party – Matter referred to larger bench. (See under: Constitution of India, 1950)	....	792
(2) Interpretation of r.2(g) of CENVAT Credit Rules, 2002 referred to Larger Bench. (See under: CENVAT Credit Rules, 2002)	....	1152
(3) Right to Information as regards appointment of Judges of the Supreme Court and the High Courts – Mater referred to larger Bench.		

	1302	
(See under: Right to Information Act, 2005)	....	1120
(4) (See under: Code of Criminal Procedure, 1973)	....	1034
(5) There being difference of opinion between the Judges of Supreme court comprising the Division Bench as regards offence punishable u/s.493 IPC, matter referred to another Bench. (See under: Penal Code, 1860)	....	1094
RELIEF: (See under: Constitution of India, 1950)	....	1131
RENT CONTROL AND EVICTION: (See under: Administration of Justice as also under Contempt of Court)	....	1072
RES JUDICATA: (See under: Arbitration Act, 1940)	....	753
RESERVE BANK OF INDIA ACT, 1934: s.45I – Financing activities – Equipment leasing and hire-purchase undertaken as business by NBFCs – Held: Are financial activities encompassed u/s.45-I(c)(i) rendered by NBFCs to their customers and they fall within the meaning of the words “banking and other financial services” which is brought within the service tax net u/s.66 of the Finance Act, 1994 – Service tax – Finance Act, 2001. (Also see under: Finance Act, 1994 and Constitution of India, 1950)		
<i>Association of Leasing and Financial Service Companies v. Union of India and Ors</i>	....	381

RETROSPECTIVE OPERATION: (See under: Delhi Co-operative Societies Rules, 1973)	....	966
REVIEW: (See under: Prevention of Corruption Act, 1988)	....	1200
RIGHT TO INFORMATION ACT, 2005: ss.6 and 8(1)(j) – Request to CPIO, Supreme Court of India to furnish complete file/s and copies of correspondence exchanged between constitutional authorities concerned relating to appointments of certain Judges of Supreme Court and High Courts – Held: The case raises questions of constitutional importance relating to the position of the Chief Justice of India and independence of Judiciary in the scheme of the Constitution on the one hand and, on the other, fundamental right to freedom of speech and expression, of which right to information is an integral part – Matter referred to larger Bench. <i>Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agrawal</i>	....	1120
SALE OF GOODS ACT, 1930: Service Tax. (See under: Constitution of India, 1950 and Finance Act, 1994))	....	381
SCAMS: Ghaziabad Provident Fund Scam. (See under: Code of Criminal Procedure, 1973)	....	851

SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989: ss. 3(1) and 2(vii). (See under: Code of Criminal Procedure, 1973)	....	368
SENTENCE/SENTENCING: (1) Enhancement of sentence. (See under: Penal Code, 1860)	....	890
(2) (See under: Penal Code, 1860 and Administration of Criminal Justice)	....	886
(3) (See under Penal Code, 1860 as also under Constitution of India,1950)	....	522
(4) (See under: Penal Code, 1860 as also under Evidence)	....	1
(5) Where the option is between life sentence or capital punishment and if the court itself feels some difficulty in awarding one or the other, it is only appropriate that the lesser sentence should be awarded – Mitigating circumstances need to be taken into account – Penal Code, 1860 – ss. 376 and 302. (Also see under: Penal Code, 1860) <i>Santosh Kumar Singh v. State Thr. CBI</i>	....	901
SERVICE LAW: (1) Pay scales – Parity in – Public sector undertaking – Company's policy that every Unit/ Plant would be separate and independent for the purpose of appointments – Employee appointed in a Plant/Unit of the company on a post in non-executive cadre – Claim for parity with the post in		

executive cadre in another plant – Held: Cannot be allowed – Law does not prohibit an employer to have different grades of posts in different units owned by him – As every unit may make appointment taking into consideration the local needs, it is neither desirable nor permissible to allow the claim for parity raised by the employee holding a post in non-executive cadre with a post of executive cadre – It is also not permissible for the court to have judicial review of the reasons for which the said post was kept in executive cadre in another unit – Judicial review – Constitution of India, 1950.

Steel Authority of India Ltd. and Ors. v. Dibyendu Bhattacharya 429

(2) Pension.

(See under: Armed Forces) 784

(3) Seniority – Determination of – State Medical and Health Services – Candidates from non-teaching cadre obtaining lateral transfer to teaching cadre on acquiring post-graduate qualification – Claim for taking into account their service as non-teaching staff, for computing seniority in the teaching cadre – Held: The period of service of such candidates as non-teaching staff cannot be taken into account for computing their seniority in the teaching cadre – Andhra Pradesh Medical and Health Services Rules, 1982.

Challa Jaya Bhaskar & Ors. v. Thungathurthi Surender & Ors. 643

(4) (i) Termination of service – Selection and appointment of employee as constable – Furnishing of false information by employee in the

verification roll as regards criminal case registered against him – Termination of service – Held: Justified – Central Reserve Police Force Rules, 1955 – r. 14(b) – Central Civil Services (Temporary Service) Rules, 1965 – r. 5(1).

(ii) Appointment – Verification form – Questions in – Held: Should be clear and simple and straightforward – Variation between English and Hindi version should be avoided – Ambiguity and vague questions would lead to hardship and mistakes.

Daya Shankar Yadav v. Union of India & Ors. 1076

SIKKIM FINANCIAL RULES, 1979:
(See under: Constitution of India, 1950) 345

SIKKIM PUBLIC WORKS CODE, 2009:
(See under: Constitution of India, 1950) 345

SUIT:
Territorial jurisdiction.
(See under: Constitution of India, 1950) 1131

TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ACT, 1987:
ss. 3, 4 and 5.
(See under: Extradition Act, 1962) 8

TEST IDENTIFICATION PARADE:
(See under: Penal Code, 1860) 296

TRANSFER PETITION:
(See under: Code of Criminal Procedure, 1973) 851

WAKF ACT, 1995:

ss.83 and 84 – Jurisdiction of Wakf Tribunal to entertain dispute relating to wakf or wakf property – Held: Wakf Tribunal has been constituted for deciding any dispute, question or other matters relating to wakf or wakf property – All such matters should be filed in the first instance before the Wakf Tribunal and should not be entertained by the civil court, or by the High Court straightaway under Article 226 of the Constitution – Wakf Tribunal has all the powers of civil court under Code of Civil Procedure – Jurisdiction – Code of Civil Procedure, 1908 – Constitution of India, 1950 – Article 226.

Board of Wakf, West Bengal v. Anis Fatma Begum and Anr. 1063

WEST BENGAL PREMISES REQUISITION AND CONTROL ACT, 1947:

ss.11(1)(f) and 2(d) – Compensation – ‘Person interested’ in – Premises requisitioned by State Government transferred to Corporation – Arbitrator, appointed for determination of compensation, passed award – Corporation filed appeal challenging the award – High Court declined to entertain the appeal holding that Corporation was not a ‘person interested’ in the compensation payable on account of requisition of the premises – Held: The definition of the expression ‘person interested’ as contained in s.2(d) is exhaustive – Corporation is not covered by the said definition and, as such, its appeal was rightly dismissed by High Court as not maintainable – West Bengal Premises Requisition and Control Rules, 1947 – rr.7-10, 13 and 15 –

Interpretation of Statutes.

West Bengal State Warehousing Corporation v. M/s. Indrapuri Studio Pvt. Ltd. and Anr. 689

WEST BENGAL PREMISES REQUISITION AND CONTROL RULES, 1947:

rr.7-10, 13 and 15.

(See under: West Bengal Premises Requisition and Control Act, 1947) 689

WITNESSES:

(1) Injured eye-witness – Evidentiary value – Held: Deposition of such witness to be relied upon unless there are strong grounds for rejection thereof on the basis of major contradictions and discrepancies – On facts, evidences of eye-witnesses are reliable as they are corroborated by version of other witnesses.

(Also see under: Penal Code, 1860 as also Criminal Trial)
Abdul Sayeed v. State of Madhya Pradesh 311

(2) Chance witness.

(See under: Evidence and Penal Code, 1860) 227

(3) Child witness.

(See under: Evidence and Penal Code, 1860) 1

WORDS AND PHRASES:

(1) ‘Accomplice’ – Connotation of in the context of Prevention of Corruption Act, 1988.

C. M. Sharma v. State of A. P. Th. I. P. 1105

(2) 'Allegation' and 'statements of claim and defence' – Meaning of.

S. N. Prasad v. Monnet Finance Ltd. and Ors. 207

(3) (i) 'Approval' – Meaning of.

(ii) Expression, 'an error apparent on the face of the record' – Meaning of.

Sant Lal Gupta & Ors. v. Modern Coop. Group Housing Society Ltd. & Ors. 621

(4) Expression 'at any time' – In the context of s.16(1) of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971.

Harbhajan Singh v. State of Himachal Pradesh & Ors. 1037

(5) Expression, 'person interested' – Connotation of.

(See under: West Bengal Premises Requisition and Control Act, 1947) 689

(6) Expression 'relationship in the nature of marriage' – Connotation of – In the context of ss.2(f) and 2(s) of Protection of Women from Domestic Violence Act, 2005 and s.125 of the Code of Criminal Procedure, 1973.

D. Velusamy v. D. Patchaiammal 706

(6) (i) 'Extradition' – Connotation of.

(ii) 'Lesser offence' and 'minor offence'-

Difference between.

(iii) 'Lesser offence'- Meaning of, in the context of s. 21 of Extradition Act, 1962.

Abu Salem Abdul Qayoom Ansari v. State of Maharashtra & Anr. 8

(7) 'Honorarium', 'Office of profit' in the context of election laws – Connotation of.

Anokh Singh v. Punjab State Election Commission 455

(8) 'Sale' – Meaning of.

Association of Leasing and Financial Service Companies v. Union of India and Ors 381

(9) Word 'be' – Meaning of – Constitution of India, 1950 – Article 102(1).
(Also see under: Bye-Laws of Ishwar Nagar Cooperative House Building Society, 1962)

Ishwar Nagar Co-op. House Building Society v. Parma Nand Sharma and Ors. 966

(10) Word "include" – Connotation of.

Ramala Sahkari Chini Mills Ltd., U. P. v. Commissioner, Central Excise, Meerut-I 1152

WORKMEN'S COMPENSATION ACT, 1923:
(See under: Motor Vehicles Act, 1988) 179

(ii)

**REFERENCE MADE BY
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI S.H. KAPADIA
IN THE MEMORY OF
LATE SHRI SIDDHARTHA SHANKAR RAY,
SENIOR ADVOCATE
ON 9TH DECEMBER, 2010**

Mr. Attorney General, Mr. Solicitor General, Shri Ram Jethmalani, President of the Supreme Court Bar Association, Shri D.K. Garg, President of AOR Association, Ladies and Gentlemen.

My Brother and Sister Judges and I learnt with deep regret of the passing away of Shri Siddhartha Shankar Ray on 6th November, 2010.

Born in an illustrious family on 20th October, 1920. His father, Shri Sudhir Kumar Ray, was a well known barrister of Calcutta High Court and his mother, Smt. Aparna Devi, was the eldest daughter of the nationalist leader, Deshbandhu Chittaranjan Das. His Younger sister is Justice Manjula Bose, one of the first two women judges of the Calcutta High Court.

He was married to Maya Ray, who was referred to as 'a Noted Barrister' by Thomas J. Manton, a member of the United States House of Representatives.

Late Shri S.S. Ray was educated at St. Xavier school and Presidency College, Calcutta and then was called to the Bar in England. He stepped into the hallowed portals of the High Court when he enrolled in 1946.

He had a career of great brilliance and utility to his fellowmen. He had a natural link with politics and law.

Though he was a politician and a Cabinet Minister, his first

(i)

love was law. A man of varied taste, was fond of sports, particularly, cricket and tennis. An aristocrat politician. He belonged to the school of "pleasant advocacy". I missed the opportunity of knowing him. Since you, Mr. Attorney General and President of Bar, have referred to some of the leading cases in which he appeared, I do not consider it appropriate to repeat them. His advocacy was incisive and trenchant yet pleasant. In *Sadhu Ram's case* [(1984) 3 SCC 410], he submitted that social justice is the recognition of greater good to larger number without deprivation of accrued legal rights of anybody. It is in response to the felt necessities of time and situation in order to do greater good to a larger number that the concept of social justice stood evolved and once in a given case it is so established then to that extent technical rules in favour of the party would not prevail. Apart from constitutional matters, Shri Ray appeared in several commercial matters. In the case of *N. Parthasarathy v. Controller of Capital Issues* [(1991) 3 SCC 153], he submitted that the consent granted by the Controller of Capital Issues cannot be dissected by the court applying the *Blue Pencil Theory* thereto.

The gamut of activities in which Shri Ray involved himself was so broad that one wonders, how, in the midst of these pre-occupations, he found time to be involved with social organizations, sports, etc.

He was:

- (i) Member, West Bengal Legislative Assembly, 1957-71, 1972-77 and 1991 to 10.10.92.
- (ii) Member, Lok Sabha (Lower House of the Indian Parliament) 1971-72.
- (iii) Member of Law and Tribal Welfare, West Bengal Government, 1957-58.
- (iv) Leader of the Opposition, West Bengal Assembly,

(iii)

1969- 71 and 1991-92.

- (v) Central Cabinet Minister for Education, Social Welfare, Culture, and West Bengal Affairs of Government of India, 1971- March, 1972.
- (vi) Chief Minister, West Bengal, March 1972-May 1977.
- (vii) Governor of Punjab, 04-01-86 to 31-12-89.
- (viii) Ambassador of India to the United States (and concurrently High Commissioner of India to the Commonwealth of the Bahamas) with the rank of a Federal Cabinet Minister, 10-10-92 to 27-02-96 (when he resigned from his post to contest the recent Lok Sabha Elections as a Congress Nominee (which he lost).
- (ix) Member of the Working Committee and Parliamentary Board of Indian National Congress 1969-1978. Also President of West Bengal Pradesh Congress Committee 1991-92.

Was Triple University Blue in Football, Cricket and lawn tennis during University days. Was elected President, Cricket Association of Bengal in 1982 and re-elected in 1983, 1984, 1985.

Mr. Ray was a Trustee, Jawaharlal Nehru Memorial Trust since 1971 and a Member of the Executive Committee of that Trust, and Trustee, Nehru Trust for Cambridge University since 1988. He was a member of the Board of Directors of the Mahatma Gandhi Memorial Foundation, Inc., Washington, D.C.

- (x) Given Lifetime Achievement Award 2009 in recognition of his contribution to the Legal Profession.

We feel diminished at the loss of this handsome, strong personality. His love for the law was such that despite his advanced age, until very recently, he presented himself in the

(iv)

court halls of this august institution, allowing us (Judges) to take advantage of the vast reserves of his experience and knowledge. **However, this should not be merely a mournful occasion but an occasion to be grateful for the contribution that Shri Ray had made to many facets of law.**

In conclusion, I would like to say that **“he walked with kings yet lost not the common touch”**.

Shri Ray leaves behind his wife Maya. I, on behalf of my brethren and on my own behalf, offer heartfelt condolences to his bereaved wife.

**REFERENCE MADE BY
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI S.H. KAPADIA
IN THE MEMORY OF
LATE SHRI PRABHAT KUMAR CHATTERJEE,
SENIOR ADVOCATE
ON 9TH DECEMBER, 2010**

Mr. Attorney General, Mr. Solicitor General Shri Ram Jethmalani, President of the Supreme Court Bar Association, Shri D.K. Garg, President of AOR Association, Ladies and Gentlemen.

My Brother and Sister Judges and I learnt with deep regret of the passing away of Shri Prabhat Kumar Chatterjee on 28th October, 2010.

One of the first lawyers to practice in the Apex Court in 1949. He appeared in 209 cases. In *Sri Radha Kanta Deb's case* [(1981) 2 SCC 226], he submitted that concept of private endowment or private trust is unknown to English law where all trusts are of purely charitable and religious nature. He emphasized the crucial tests to determine the nature of endowment. On the basis of his submissions, the Court held that the temple in question was of private nature.

Shri Chatterjee was born on 10th October, 1922. His father, late Shri Rai Bahadur A.D. Chatterjee, was a member of the judicial service in Bihar. He completed his graduation from Govt. College, Bhagalpur, went to do his law from Patna Law College. Subsequently, he began his law practice in Patna High Court before coming to Delhi and becoming part of the first group of lawyers to practice in the Supreme Court. He joined the chamber of late Shri N.C. Chatterjee and was closely associated with him for many years, besides being part of many

leading cases of his times. He was amongst the first group of lawyers then known as agents to have started his Law practice before the Federal Court, then located in the Parliament House. He was closely associated with the chambers of Shri N.C. Chatterjee. He also worked closely with Shri M.C. Setalvad, Shri C.K. Daphtary and Shri Niren De. He was designated as Senior Advocate by the Supreme Court of India in 1974.

Shri Chatterjee has published a large number of articles on current affairs, politics and judiciary. A collection of his works will be published shortly. He was deeply concerned about various environmental issues. He was the founder member of the Green Circle Delhi, an environment protection group formed to protect the gardens and public parks of Delhi from environment and misuse. Upon his death, the New Delhi Municipal Council and the Green Circle honoured his memory on 9th November in a tree planting ceremony at the Lodhi Gardens. A man of intense feeling. A man of profound moral conviction. His principles governed his actions. His energies got dissipated in writings, advocating socialism, education reforms. He once said that "prosperity of the country does not mean affluence of the few; that blind faith in free market is causing havoc and that growth cannot be used to mask the prevailing poverty in the country".

Shri Chatterjee was a keen gardener. Lover of music and art. He could play tanpura. He was well-versed in Sanskrit and Bhagwad Gita. An ardent lover of animals.

By the death of Shri Chatterjee at the age of 88 years, a link with the distant past and the values of those years is severed.

**“The good individual is he who
ministers to the good of the country”**

--B. Russell

Having gone through the lives of both these senior

(vii)

advocates and their works, I would like to say that **“sagacity and judgments owe little to legal training and much to experience and age, being qualities that we the Judges should respect.”**

We, the Judges of this Court, join the Bar in conveying our condolences to his wife Anima and son Abhijeet Chatterjee, daughter in law Mini and grand daughter Arunima.

May the departed soul rest in peace.

**REFERENCE MADE BY
ATTORNEY GENERAL FOR INDIA
SHRI G.E. VAHANVATI
IN THE MEMORY OF
LATE SHRI SIDDHARTHA SHANKAR RAY,
AND LATE SHRI PRABHAT KUMAR CHATTERJEE,
SENIOR ADVOCATES
ON 9TH DECEMBER, 2010**

My Lord Justice Kapadia, Chief Justice of India, Hon'ble Judges, Mr Ram Jethmalani, the President of the Supreme Court Bar Association, Office Bearers of the Bar Association, the Learned Solicitor General, Mr Gopal Subramaniam, other Law Officers, Members of the Bar, Members of the families of Siddhartha Shankar Ray and Prabhat Kumar Chatterjee, Ladies and Gentlemen.

We are assembled today in the Supreme Court, in Full Court, to pay homage to two giants of the Indian Bar who, have left us recently. I had heard a lot about Siddhartha Shankar Ray before I was presented with the opportunity to meet him in 1982. He came to move a petition to the Bombay High Court, where I was practicing at the time as a Junior Counsel. In the early eighties, there was a spurt of litigation all over the country by importers trying to clear imported edible oil relying on revalidated import licences contending that even though the import of such oil had subsequently been restricted, these goods could still be imported by using licences issued earlier and revalidated. This was an important part of the then booming import control litigation cases which provided sustenance to lawyers in the Bombay, Delhi and Calcutta High Courts.

There were many different factions among the importers. One set of Petitioners swore by Mr Ashok Sen. Another relied heavily on Siddhartha Shankar Ray. I worked with Sen extensively. I got my first opportunity to work with Siddhartha

(viii)

(ix)

Shankar Ray when he came to Bombay to move a petition in the Bombay High Court. I went to his favourite suite in the Taj Mahal Hotel which was on the top floor and built on two levels.

He emerged from his bedroom with a gentle smile, dressed in shorts as usual. As I have said, at this point, I had already worked extensively with Mr. Ashok Sen whose conferences were short and crisp. With Mr. Siddhartha Shankar Ray, I was in for a bit of surprise. He gave time for his conferences. There was no hurry. He went deep into the matter. He was slow, deliberate, and made copious notes. I am told by his juniors that a conference could start at 6:30 in the evening and would go on till 3 or 4 in the morning. He had a particularly affable way of conducting the conferences and arguing in court, with a perpetual half-smile on his lips. One learnt a lot from him, including the value of patience.

One of the tributes paid to Siddhartha Shankar Ray after his recent death sums him up best. 'Westernised, tall and handsome, Ray was one of the last representatives of the colourful but cerebral pre-Independence genre of Politicians , who could fit into any role with effortless ease by using his acumen and diplomatic skills'.

Siddhartha Shankar Ray was born into the law. His father, Sudhir Kumar Ray, a legal luminary, was a well-known Barrister of the Calcutta High Court. His mother was the eldest daughter of the nationalist leader 'Deshbandhu' Chittaranjan Das. His younger sister is Justice Manjula Bose, one of the only two women judges of the Calcutta High Court. His pedigree was impeccable.

Ray was educated at the St Xavier's School, and then at the Presidency College in Calcutta. While in college, he was not confined to academia, he was also the captain of the Presidency College cricket team, and a keen tennis lover.

Apart from his career as an outstanding lawyer in the legal firmament, Ray donned many hats. He started his political career as a Cabinet Minister in Bidhan Chandra Ray's cabinet

(x)

in West Bengal. Later, he quickly moved on to national politics and became Union Cabinet Minister of Education and Youth Services for the Government of India.

His stint as Chief Minister of West Bengal for five years was as difficult as it was long. Few remember today that he took office after the Bangladesh Liberation War and was confronted with the massive problem of resettling over a million refugees. In relation to his role regarding the imposition of the Emergency, I only wish to say that at all times he acted in what he considered to be the best interest of the country.

Siddhartha Shakar Ray was in active court practice between the period 1980 to 1986. Justice Ruma Pal and Justice Badar Durrez Ahmed hail from his chamber. The former Solicitor General, Mr Dipankar Gupta also comes from his chamber.

From April 1986 to 8 December 1989, he had the distinction of serving as Governor of Punjab. Along with the tough supercop KPS Gill, he dealt with and contained terrorism and separatism. Later, as the Indian Ambassador to America between the period 1992 and 1996, he made the most significant contributions to the warming of Indo-US relations. He took bold decisions and saw to it that India's image in America improved.

At no stage did Siddhartha Shankar Ray lose his immense zest for life. Some people look old when they are young. Ray managed to look young even when he was old. I am told that even a few years ago, he would sit in the lawn of his Beltala Road residence in South Kolkata, wearing a deep red T-shirt and spotless white trousers basking in the sun. Only he could pull this off.

He enjoyed correspondence and getting into controversies, and despite this it was difficult to get upset with him. It is for this reason that Siddhartha Shankar Ray and Jyoti Basu, the perennial Chief Minister of West Bengal for 37 years, remained good friends even though they disagreed politically. Ray said, "Jyoti Basu was a rabid Marxist Communist and I was a rabid

(xi)

anti-Marxist Communist. That is where our separation begins and that is also where our closeness begins.”

It is said that several people were in love with a beautiful girl with a brilliant mind named Maya Bhattacharjee, and it is no surprise that Siddhartha Shankar Ray stole the young woman's heart. They married in 1947, and have spent a wonderful, fulfilling life together. He loved children, though he had none of his own. I wish him peace and I wish her fortitude. May he rest in peace.

I now turn to pay tribute to Prabhat Kumar Chatterjee, another giant from Kolkata who died at his New Delhi residence on the morning of 28 October 2010.

Mr. Prabhat Kumar Chatterjee was born on the 10th of October, 1922. His father Rai Bahadur A.D. Chatterjee was a member of the Bihar Judicial Services. Shri P.K. Chatterjee had his early education in Bhagalpur and Mongyr.

During his college days, besides playing football and badminton, PK Chatterjee was part of the Bihar State Table Tennis Team.

Mr. P.K. Chatterjee studied Law at Patna Law College and enrolled at the bar in 1944. He practiced in the Patna High Court for five years before moving to Delhi in 1949. Mr. P.K. Chatterjee was amongst the first group of lawyers known as Agents to have started his Law practice before the Federal Court, then located in Parliament House. Mr. P.K. Chatterjee was closely associated with the chambers of Mr. N.C. Chatterjee. He also worked closely with Mr. M.C. Setalvad, Mr. C.K. Daphtary and Mr. Niren De.

Shri P.K. Chatterjee was designated as Senior Advocate by the Supreme Court of India in 1971.

During the decades spanning his career, besides his association with the late Mr. NC Chatterjee, PK Chatterjee contributed to many leading cases of his times. As a Senior

(xii)

Advocate, P.K. Chatterjee was well known in the legal fraternity for his independent and outspoken views on all matters of national interest, which he articulated fearlessly without any trace of hesitation.

In his later years, PK Chatterjee was concerned with the falling standards of public life and governance. He wrote extensively in Mainstream, and his last article in which he lashed out at the parliamentarians for having enhanced their own emoluments to the detriment of national interest, appeared a month-and-a-half before his death, that is, on September 18, 2010, under the heading “Shame! Shame!” His concern for public values was transparent. In an article published in Mainstream in August 2010, he wrote:

“It appears that public opinion in India is gaining strength; this raises the hope that a strong, real democracy will emerge. We can only pray to God to infuse more courage and sense of shame in all of us.”

PK Chatterjee abhorred any kind of display of wealth and affluence. He was a keen gardener and his garden at his residence (210 Jor Bagh) always won prizes for the best lawn in Jorbagh. He was one of the founders of the Green Circle at Lodi Gardens.

PK Chatterjee was a great lover of music, the arts, and an ardent lover of animals. He could play the tanpura and his knowledge of the various ragas was extensive. He was well versed in Sanskrit. He was also a scholar of the Bhagwad Gita. Fali S. Nariman described P.K.C. as the “last of the Old Oaks.”

He has left behind his wife Anima Chatterjee, a well known social worker who for many years was closely associated with the National Federation of Indian Women, his son Abhijeet, an Advocate in the Supreme Court, daughter-in-law Mini and granddaughter Arunima. I pray to God to give them all the strength and courage to bear this loss. May his soul rest in peace.

(xiii)

(xiv)

JUDGES OF THE SUPREME COURT OF INDIA

(From 10.09.2010 to 16.12.2010)

1. Hon'ble Shri Justice S. H. Kapadia, Chief Justice of India
2. Hon'ble Mr. Justice Altamas Kabir
3. Hon'ble Mr. Justice R. V. Raveendran
4. Hon'ble Mr. Justice Dalveer Bhandari
5. Hon'ble Mr. Justice D. K. Jain
6. Hon'ble Mr. Justice Markandey Katju
7. Hon'ble Mr. Justice H. S. Bedi
8. Hon'ble Mr. Justice V. S. Sirpurkar
9. Hon'ble Mr. Justice B. Sudershan Reddy
10. Hon'ble Mr. Justice P. Sathasivam
11. Hon'ble Mr. Justice G. S. Singhvi
12. Hon'ble Mr. Justice Aftab Alam
13. Hon'ble Mr. Justice J. M. Panchal
14. Hon'ble Dr. Justice Mukundakam Sharma
15. Hon'ble Mr. Justice Cyriac Joseph
16. Hon'ble Mr. Justice Asok Kumar Ganguly
17. Hon'ble Mr. Justice R.M. Lodha
18. Hon'ble Mr. Justice H. L. Dattu
19. Hon'ble Mr. Justice Deepak Verma
20. Hon'ble Dr. Justice B. S. Chauhan
21. Hon'ble Mr. Justice A. K. Patnaik
22. Hon'ble Mr. Justice T. S. Thakur
23. Hon'ble Mr. Justice K.S. Panicker Radhakrishnan
24. Hon'ble Mr. Justice Surinder Singh Nijjar
25. Hon'ble Mr. Justice Swatanter Kumar
26. Hon'ble Mr. Justice Chandramauli Kr. Prasad
27. Hon'ble Mr. Justice H. L. Gokhale
28. Hon'ble Mrs. Justice Gyan Sudha Misra
29. Hon'ble Mr. Justice Anil R. Dave

MEMORANDA
OF
JUDGES OF THE SUPREME COURT OF INDIA
(From 10.09.2010 to 16.12.2010)

Hon'ble Mr. Justice H. S. Bedi, Judge, Supreme Court of India was on leave for two days from 10.11.2010 and 11.11.2010 on full allowances.

Hon'ble Mr. Justice G.S. Singhvi, Judge, Supreme Court of India was on leave for three days from 10.11.2010 to 12.11.2010 on full allowances.

Hon'ble Mr. Justice Chandramauli. Kr. Prasad, Judge, Supreme Court of India was on leave for one day on 01.12.2010 on full allowances.

Hon'ble Mr. Justice Surinder Singh Nijjar, Judge, Supreme Court of India was on leave for one day on 09.12.2010 on full allowances.

Hon'ble Mr. Justice J. M. Panchal, Judge, Supreme Court of India was on leave for four days from 13.12.2010 to 16.12.2010 on full allowances.

ERRATA

<i>Page No.</i>	<i>Line No.</i>	<i>Read for</i>	<i>Read as</i>
1	10	s.304	s.302
76	2	M/S INDIAN <u>RAILWAYS</u> CATERING & TOURISM	M/S INDIAN <u>RAILWAY</u> CATERING & TOURISM
99	4	<u>DIRECTORATE</u> OF ENFORCEMENT & ANR	<u>DIRECTOR</u> OF ENFORCEMENT & ANR
523	17	Nemo <u>delset</u> bis vexari pro	Nemo <u>debet</u> bis vexari pro
524	19	Nemo <u>delset</u> bis vexari pro	Nemo <u>debet</u> bis vexari pro
539	1 (from bottom)	Nemo <u>delset</u> bis vexari pro	Nemo <u>debet</u> bis vexari pro
890	6 (from bottom)	[2010] 12 SCR relied on para 9	(stands deleted)
1072	5	S.L.P. (C) No. <u>13740</u> /2010 etc.)	S.L.P.(C) No. <u>13704</u> /2010 etc.)
1074	8	for a <u>drection</u> that	for a <u>direction</u> that
1075	8 (from bottom) 6 (from bottom) 1 (from bottom)	Petition is <u>aken</u> on board. has been filed by <u>he ...</u> Matter <u>adjourned.</u>	Petition is <u>taken</u> on board. has been filed by <u>the ...</u> Matter <u>dismissed.</u>

CORRIGENDA

<i>SCR Volume</i>	<i>Page No.</i>	<i>Line No.</i>	<i>Read for</i>	<i>Read as</i>
(2010) 13	619	19	Ahmad Ali Vs. Suptd., Jail, CrI. L. J.	Ahmad Ali Vs. Suptd., Jail, <u>1987</u> CrI. L. J.