

Citizen Softwares Vs. Union of India (Uoi) and ors.

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Court : Himachal Pradesh

Decided On : Mar-20-2008

Reported in : (2008)216CTR(HP)72

Judge : Jagdish Bhalla, C.J. and; V.K. Ahuja, J.

Appellant : Citizen Softwares

Respondent : Union of India (Uoi) and ors.

Judgement :

ORDER

1. Learned Counsel for the petitioner presses for interim relief because 31st of March, 2003 is approaching very fast. Learned Counsel relies upon Section 245D(4A) of the IT Act, wherein it is categorically provided that in respect of application referred to in Sub-section (2A) or Sub-section (2B) the application be decided on or before 31st March, 2008. The petitioner has reasons to believe that the same would not be decided because of the heavy pendency of cases before the Settlement Commission.

2. We have perused the application for interim relief wherein it has been prayed that the operation of the proposed amendment in Section 245D of the IT Act, 1961 shall be stayed. We are of the considered opinion that this Court has no jurisdiction to stay any proposed amendment because it will amount to interference in the independent functioning of the Parliament. The law in force has

to be enforced by the authorities to be complied within its letter and spirit. The Constitutional validity of Section 245D(2A) and Section 245H of the IT Act, as amended by the Finance Act, 2007 is under challenge through this petition. Therefore, it is provided (sic-prayed) that the application of the petitioner as referred in Section 245D(2A) be decided by 31st of March, 2008 as provided under the law.

3. Till Section 245D of the IT Act, was amended by the Finance Act, 2007, there was no provision for payment of interest on the additional tax. However, by virtue of the amendment the payment of interest has to be made on or before 31st July, 2007 and if the same is not made by the said date then by virtue of Section 245D(2A) the application for settlement shall not proceed and the proceedings before the Court shall abate on the specified date. It has further been contended that the action is violative of Articles 14 and 19(1)(g) of the Constitution of India.

4. Learned Counsel for the petitioner prays for interim relief. The prayer for stay of operation of the proposed amendment in Section 245D of the IT Act is rejected.

5. Desti copy to the learned Counsel for the petitioner on usual charges.

6. Four weeks' time is allowed to the learned Counsel representing opposite party Nos. 1 and 3 to file the response.

7. List for admission as prayed for by the learned Counsel for the petitioner next month.

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