

CASE NO.:
Appeal (civil) 8340 of 2004

PETITIONER:
BHEL WORKERS UNION & ANR

RESPONDENT:
UNION OF INDIA & ANR

DATE OF JUDGMENT: 23/01/2008

BENCH:
ASHOK BHAN & DALVEER BHANDARI & P.SATHASIVAM

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO. 8340 OF 2004
WITH
CIVIL APPEAL NO. 8363 OF 2004
CIVIL APPEAL NO. 8337 OF 2004
CIVIL APPEAL NO. 8339 OF 2004
CIVIL APPEAL NO. 8338 OF 2004
CIVIL APPEAL NO. 8361 OF 2004
T.P.(C) NO. 482 OF 2004

In these cases, appellants have challenged the validity of Rule 3 of the Income Tax Rules, 1962, as amended by the Income Tax (Twenty-second) Amendment Rules, 2001 (hereinafter referred to as "the Rules") which amended the method of computing valuation of perquisites under Section 17(2) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). According to the appellants, amended Rule 3 is inconsistent with the parent Act and also ultra vires Article 14 of the Constitution.

Writ Petitions filed by the appellants herein have
CIVIL APPEAL No.8340 OF 2004 etc.etc.

-2-

been dismissed by the High Court, aggrieved against which the present appeals have been filed.

The amended notification was the subject matter of appeals in this Court in the case of Arun Kumar & Others vs. Union of India & Others reported in (2007) 1 SCC 732. A three Judge Bench of this Court did not strike down Rule 3 of the Rules but read down the Rule to make it in line with Section 17(2)(ii) of the Act.

The point involved in the present appeals has been concluded by the aforesaid judgment and they are disposed of in terms thereof.

Counsel for the appellants have very fairly brought to our notice that subsequent to the aforesaid judgment of this Court, the Legislature has added an 'Explanation 1' to Section 17(2) of the Act by the Finance Act, 2007 w.e.f. 1.4.2002 taking away the effect of the judgment on or after 1.4.2002. According to them, the year 2001-2002 which was also covered under Rule 3 has not been affected by the amendment. Since, there is no challenge to the amended provision before us, we decline to record any opinion on the same and dispose of the appeals noticing the subsequent amendment brought out by the Legislature.
CIVIL APPEAL No.8340 OF 2004 etc.etc.

-3-

The appeals are disposed of accordingly.

The order passed by us today in Civil Appeal No. 8340 of 2004 shall also apply to the proceedings pending in Writ Petition No. 1425 of 2002 in the High Court of Delhi at New Delhi which has been sought to be transferred to this Court.

In view of above, the present Transfer Petition has become infructuous and is disposed of as such.

JUDIS