CONNECT

MAY 2021 NEWSLETTER

INCOME TAX -CASE LAWS

Where an ex-parte order was passed u/s 144 - all notices remained un-complied- the assessee having shown sufficient cause of not appearing before the AO - Additional evidences submitted under Rule 46A were held to be validly admitted by CIT(A)

THE INCOME-TAX OFFICER WARD- BHIWADI VERSUS M/S ISHIKA FOODS (P) LTD. 2021 (4) TMI 437 - ITAT JAIPUR

Where the business of the assessee is discontinued and the premises have been taken over by the Bank as part of its recovery proceedings, it is quite likely that the focus of the assessee company and its directors is directed towards the crises being faced by them due to non recovery of the Bank dues and consequent action taken by the Bank and it is therefore likely that the notices issued by Assessing Officer have remained un-complied with and there was reasonable cause which prevented the assessee from submitting the requisite information/documents. Therefore, in such peculiar facts and circumstances of the case and especially where the assessment has been completed u/s 144 of the Act, the ld. CIT(A) where he deemed it appropriate to admit the additional evidences under rule 46A(1) to adjudicate the grounds of appeal and also on principle of natural justice, we do not find any infirmity in such action of the ld. CIT(A) in admitting such additional evidences. It is also noted that these additional evidences have been sent to the Assessing Officer for necessary examination and therefore, as far as Revenue's interest is concerned, the same has been duly safe-guarded by way of providing the reasonable opportunity to the AO.

Where the application for admission or additional evidences was rejected by the CIT(A) without giving any reason- the CIT(A) was directed to accept the additional evidences and decide the matter afresh.

CREATIVE INSTRUMENTS & CONTROLS VERSUS ITO, WARD-53 (3) NEW DELHI 2021 (2) TMI 786 - ITAT DELHI

Unexplained credit u/s. 68 - unsecured loans - AR submitted that the CIT(A) erred in not admitting the additional evidence filed by the assessee under Rule 46 A read with Section 250(4) - HELD THAT:- It is pertinent to note that the CIT(A) without assigning any particular reasons has rejected the additional evidence which goes to the root of the matter. We therefore, direct the CIT(A) to admit the additional evidence and to decide the issue afresh after taking cognizance of the evidences filed by the assessee. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose

REQUEST FOR ADDITIONAL EVIDENCE

CIT(A) sent the additional evidences submitted by assessee to AO for his comments- AO failed to submit remand report- CIT(A) decided the matter without considering the additional evidences- order passed by CIT(A) held against the principles laid down in Rule 46A- action of CIT(A) in sending the material to AO intends that he accepted the evidences – matter remanded back to AO for fresh adjudication.

MAHESH YADAV VERSUS ITO, WARD-4 (3) , JAIPUR 2021 (2) TMI 1074 - ITAT JAIPUR

Addition u/s 68 - unexplained cash deposits - CIT-A non admitting additional evidence - default of appellate proceedings under Rule 46A of the Income Tax Rules HELD THAT:- Although, before the ld. CIT(A), all the documents placed on record by the assessee and the ld. CIT(A) had accepted without any objection and in furtherance of his action of having accepted the same, he forwarded it to the A.O. for seeking his remand report. This act of the ld. CIT(A) shown his intention that he had accepted the additional evidences and had no reservations about it but in absence of remand report submitted by the A.O., the ld. CIT(A) has taken contrary view and dismissed the appeal of the assessee by not

admitting the documents submitted by the assessee which in our view, is not correct.

Even the Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs Mst. Katiji [1987 (2) TMI 61 - SUPREME COURT] had categorically held that "technical considerations are pitted against the cause of substantial justice it is the cause of substantial justice that must prevail." Therefore, in view of the above proposition as laid down by the Hon'ble Supreme Court and also keeping in view the principles laid down in the decisions in the cases of CIT v. Virgin Securities and Credits P. Ltd [2011 (2) TMI 207 - DELHI HIGH COURT] . We allow both these grounds of appeal raised by the assessee and admit the documents placed on record by the assessee as additional evidences. In view of the above facts and circumstances, we have admitted the additional evidences, therefore, the matter is remanded back to the A.O. for the deciding the issue afresh. This appeal of the assessee is allowed for statistical purposes only.

Assessment order passed without issuing proper issuance of notice u/s 143(2) by jurisdictional Assessing officer is bad in law- transfer of case to another AO after the question of jurisdiction raised by the assessee - Notice u/s 143(2) was issued by the AO not having jurisdiction- Non-issuance of notice u/s 143(2) by the AO who was having valid jurisdiction makes assessment bad.

M/S. EVERSAFE SECURITIES PVT. LTD. VERSUS ITO, WARD-5 (3) , KOLKATA 2021 (5) TMI 153 - ITAT KOLKATA

The assessment order passed by the AO, ITO, Ward-5(3), Kolkata u/s 143(3) of the Act on 14.03.2015 was without issuance of mandatory notice u/s 143(2) of the Act, by the AO having jurisdiction over the assessee. Thus the assessment order passed u/s 143(3) of the Act, without issuance of valid notice u/s 143(2) of the Act is bad in law as held by the Hon'ble Supreme Court in the case of Hotel Blue Moon [2010 (2) TMI 1 - SUPREME COURT]. Thus we allow the ground nos. 1-4 in favour of the assessee and quash the assessment order passed u/s 143(3) of the Act - Decided in favour of assessee.

Reopening of assessment u/s 147 – Issuance of notice without proper approval- Non disposal of objections prior to issuance of the impugned SCN- Reassessment bad in law.

SRI VIRESH HEMANI VERSUS INCOME TAX OFFICER, WARD-3, ROURKELA 2021 (4) TMI 1175 - ORISSA HIGH COURT

Relying on the decision in Principal Commissioner of Income Tax, Kerala v. N.C. Cables Ltd [2017 (1) TMI 1036 - DELHI HIGH COURT], Mr. Ray submitted that there was a failure by the competent authority in terms of Section 151 of the IT Act to authorize the reopening of the assessment. Factually, the above position has not been able to be disputed by Mr. Mohapatra, learned Standing Counsel on behalf of the Department. Indeed the impugned letter dated 10th / 20th May, 2013 issued by the Joint Commissioner of Income Tax, Rourkela Range, to the ITO simply states 'Approval is hereby accorded u/s. 151(2) of the I.T. Act, 1961 for initiation of proceeding u/s. 147 of the I.T. Act, 1961 in the case of Sri Viresh Hemani'. There is no indication of any application of mind by the authority. Moreover, the approval under Section 151 of the Act had to be granted by the Principal Chief Commissioner, or the Chief Commissioner, or the Principal Commissioner, or the Commissioner, if the reopening is beyond four years. However, the above approval in the instant case was issued by the Joint Commissioner and therefore, it was not a valid approval under Section 151 of the IT Act. - Decided in favoUr of assessee.

A perusal of the SCN reveals that there is no mention of the Petitioner's detailed objections given in writing on 8th October, 2013. In fact, even the counter affidavit filed by the Department is silent on disposal of such objections prior to issuance of the impugned SCN. Indeed the requirement spelt out by the Supreme Court in GKN Driveshafts [2002 (11) TMI 7 - SUPREME COURT], that an assessee's objection to the reopening of the assessment should be disposed of by the Assessing Officer by a speaking order is a mandatory requirement that cannot be dispensed with. Admittedly this mandatory requirement has not been complied with in the instant case. On this ground alone the re-assessment proceeding is vitiated.

Penalty u/s 271(1)(c) – every addition may not lead to imposition of penalty. Where the dispute was, quantum addition arising from treatment of rental income (as to whether it came under the head 'income from house property' or 'income from business') no penalty was leviable.

RAGHURAM GARIKAPATI, HYDERABAD VERSUS DEPUTY CIT-2, INTERNATIONAL TAXATION, HYDERABAD 2021 (4) TMI 955 - ITAT HYDERABAD

DR fails to dispute that the impugned issue is essentially regarding treatment of assessee's rental

income than involving concealment of particulars or furnishing of inaccurate particulars of income u/s.271(1)(c) of the Act. Hon'ble apex court's landmark decision in CIT Vs Reliance Petroproducts Limited [2010 (3) TMI 80 - SUPREME COURT] holds that quantum and penalty are parallel proceedings wherein each and every disallowance/addition made in former does not ipso facto attract latter penal provision. Respectfully following the same, we direct the Assessing Officer to delete the impugned penalty. - Decided in favour of assessee.

Revision u/s 263 by CIT – where sufficient enquiry was made by AO during assessment proceedings on the issue for which case was selected for scrutiny, order passed under section 263 by the Pr. CIT without bringing any new evidence or showing fallacy in AOs finding - bad in law.

SATISH KUMAR LAKHMANI VERSUS PRINCIPAL CIT- 10, KOLKATA 2021 (4) TMI 1084 - ITAT KOLKATA

We note that pursuant to CASS, the AO had taken note of this issue i.e. Suspicious Long Term Capital Gain on Shares (inputs from the Investigation Wing) [LTCG] and has called for the documents from the assessee to substantiate the genuineness of the transaction and pursuant to which the assessee had filed the documents which the AO in his assessment order has acknowledged to have verified from the share trader, which facts are evident from the perusal of the original scrutiny assessment order - So, the AO's action on the issue of accepting the claim of assessee in respect of LTCG which the Ld Pr CIT would like to rake up by passing the impugned order has already undergone enquiry by the AO; meaning the AO's action in the first round cannot be termed as a case of "no enquiry" on the issue of LTCG. Resultantly, the Ld. Pr. CIT cannot brand the action of AO to accept the claim of assessee in respect of LTCG as a case of no enquiry on the part of AO to term it as an erroneous order; and which finding could have facilitated him to usurp/interfere by exercising his revisional jurisdiction u/s. 263.

We should bear in mind that in case if he wanted to interfere in the present case (since AO had enquired) then he (Ld. Pr. CIT) himself ought to have conducted enquiry to bring out the fallacy as to show how the enquiry conducted by the AO was erroneous. And for that the Ld. Pr. CIT while conducting enquiry is supposed to confront the assessee during the revisional proceedings with the materials which he is going to use against it and after eliciting the reply of the assessed then only could have passed the impugned order directing the AO to make the addition on LTCG. Failure to do so vitiates the impugned order directing addition of LTCG

Penalty u/s 271B - non-filing of Tax audit report u/sec. 44AB of the Act within the due date under section 139(1)- penalty deleted as delay was reasonable

MUMBAI RAO & ASHOK VERSUS ITO, WARD-16 (3) (3) MUMBAI 2021 (5) TMI 73 - ITAT

As per the provisions, the return of income along with tax audit report has to filed on or before 30.09.2013 for the said Assessment Year. Whereas The CBDT has issued notification by extending the due date, as per the order under section 119 of the Act from 30.09.2013 to 31.10.2013. The assessee firm has made submissions before the ld. CIT(A) that there is a marginal delay of 29 days in submitting the Tax Audit Report and filing the income tax return and there is no Wanton Act for the delay.

We find the explanations that the assessee is a Chartered Accountants firm and dealing in auditing of books of Accounts of the Trust. In this particular Assessment Year, the return of income of the Trust have to filed electronically with the Income Tax Department's website. And due to technical issues and pressure of work, the assessee firm could not file their return of income within the due date specified under section 139(1) - Thus the delay is filling is not a wanton act and the explanations has a reasonable cause. Accordingly, we set-aside the order of ld. CIT(A) and direct the Assessing officer to delete the penalty - Decided in favour of assessee.

NOTIFICATIONS-

Notifications and Circular (From 1st April 2021-30th April 2021)

Notification No. 1-4 dated 20th April, 2021

Format, Procedure and Guidelines for submissio n of Statement of Financial Transactions (SFT) for Dividend income

Section 285BA of the Income Tax Act, 1961 and Rule 114E requiresspecified reporting persons to furnish statement of financial transaction (SFT).

For the purposes of prefilling the return of income, CBDT has issued Notification No. 16/2021 dated 12.03.2021 to include reporting of information relating to dividend income. The new sub rule 5A of rule 114E specifies that the information shall be furnished in such form, at such frequency, and in such manner, as may be specified by the Director General of Income Tax (Systems), with the approval of the Board. (Please refer relevant Notifications)

Notification No. 28/2021 dated 1st April

In the Income-tax Rules, 1962,- (a) in rule 6G, after sub-rule (2), the following sub-rule shall be inserted, namely:-

The report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant , duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains, if there is payment by such person after furnishing of report under subrule (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B.

Notification No. 29/2021 dated 1st April

Whereas, an Agreement between the Government of the Republic of India and the Government of the Islamic Republic of Iran for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income was signed at New Delhi on the 17th February, 2018 as set out in the Annexure to this notification.

Notification No. 30/2021 dated 1st April

For receiving applications for provisional registration or registration or provisional approval or approval or intimation in Form 10A under clause (i) of sub-rule (1) of rule 2C of the Rules, sub-rule (1) of rule 5CA of the Rules, clause (a) of sub-rule (1) of rule 11AA of the Rules or clause (i) of sub-rule (1) of rule 17A of the Rules; (ii) for passing order granting provisional registration or registration or provisional approval or approval in Form 10AC under sub-rule (5) of rule 2C of the Rules, sub-rule (5) of rule 11AA of the Rules or sub-rule (5) of rule 17A of the Rules. (iii) for issuing Unique Registration Number (URN) to the applicants under sub-rule (5) of rule 2C of the Rules, sub-rule (5) of rule 5CA of the Rules, sub-rule (5) of rule 11AA of the Rules or sub-rule (5) of rule 17A of the Rules. (iv) for cancelling the approval granted in Form 10AC and Unique Registration Number (URN) under sub-rule (6) of rule 2C of the Rules, sub-rule (6) of rule 5CA of the Rules, sub-rule (6) of rule 11AA of the Rules or sub-rule (6) of rule 17A of the Rules. 2. This amendment will come into effect from the date of Notification in the Official Gazette.

Notification No. 31/2021 dated 5th April

In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule

10DA,–

(a) in sub-rule (2), for the word "Commissioner", the word "Director" shall be substituted; (b) in sub-rule (4), – i) for the words "constituent entities resident in India of an international group" the words, brackets and figure "constituent entities of an international group required to file the information and document under sub-rule (2)," shall be substituted;

(ii) in clause (b), for the word "Commissioner", the word "Director" shall be substituted.

3. In the principal rules, in rule 10DB, –

(a) for sub-rule (1) the following sub-rule shall be substituted, namely: –

"(1) The income-tax authority for the purposes of section 286 shall be the Joint Director as may be designated by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be.";

(b) in sub-rule (6), for the words "five thousand five hundred" the words "six thousand four hundred" shall be substituted.

In the principal rules, in the Appendix II, in Form No. 3CEAB, in the heading, the words "resident in India," shall be omitted.

Notification No. 32/2021 dated 15th April

"Form No. 10BBA [See sub-rule (1) of rule 2DC] Application for notification under sub-clause (iv) of clause (c) of Explanation 1 to the clause (23FE) of section 10 of the Income-tax Act, 1961 (Pension Fund) (Please refer relevant Notification).

Notification No. 33/2021 dated 19th April

In exercise of the powers conferred by sub-clause (vi) of clause (b) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the "Act"), the Central Government hereby specifies the sovereign wealth fund, namely, the Norfund, Government of Norway, (hereinafter referred to as "the assessee") as the specified person for the purposes of the said clause in respect of the investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as "said investments") subject to the fulfillment of the following conditions, (Please refer relevant Notification).

Notification No. 34-35/2021 dated 22nd April

In exercise of powers conferred by sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the "Act"), the Central Government hereby specifies the pension fund, namely, the Canada Pension Plan Investment

Board, (hereinafter referred to as "the assessee") as the specified person for the purposes of the said clause in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as "said investments") subject to the fulfillment of the following conditions, (Please refer relevant Notification).

Notification No. 36/2021 dated 23rd April

In the exercise of the powers conferred by clause (b) of sub-section (2) of section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Maa Umiya Temple managed by Vishv Umiya Foundation at Jaspur, Ahmedabad (PAN: AACTV3807E)" to be place of artistic importance and a place of public worship of renown throughout the state of Gujarat State for the purposes of the said section from the Financial Year 2021-2022 relevant to the Assessment Year 2022-2023.

Notification No. 37/2021 dated 26th April

In exercise of the powers conferred by sub-clause (iii) of clause (c) of Explanation 1 to the clause (23FE) of section 10 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:- 1. Short title and commencement. - (1) These rules may be called the Income-tax (11th Amendment) Rules, 2021.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 2DB,-

(i) after clause (ii), the following proviso shall be inserted, namely:–

"Provided that the condition in clause (ii) shall be deemed to have been satisfied with respect to assets being administered or invested, if the following conditions are satisfied; namely:-

(a) value of such assets is not more than ten per cent. of the total value of the assets administered or invested by such fund;

(b) such assets are wholly owned directly or indirectly by the Government of a foreign country; and

(c) such assets vests in the Government of such foreign country upon dissolution.";

(ii) after the proviso to clause (iii), the following proviso shall be inserted, namely:-

"Provided further that the provisions of clause (iii) shall not apply to earning from the assets referred to in the proviso of clause (ii), if the said earning are credited either to the account of the Government of that foreign country or to any other account designated by such Government so that no portion of the earnings inures any benefit to any private person;".

Notification No. 38/2021 dated 27th April

For the removal of doubts, it is hereby clarified that for the purposes of issuance of notice under section 148 as per time-limit specified in section 149 or sanction under section 151 of the Income-tax Act, under this sub-clause, the provisions of section 148, section 149 and section 151 of the Income-tax Act, as the case may be, as they stood as on the 31st day of March 2021, before the commencement of the Finance Act, 2021, shall apply. (Please refer relevant Notification).

Notification No. 39/2021 dated 27th April

In exercise of the powers conferred by section 3 of the Direct Tax Vivad se Vishwas Act,

2020 (3 of 2020), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, (Department of Revenue), number 85/2020, dated the 27th October, 2020,published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), *vide* number S.O. 3847(E), dated 27th October, 2020 , namely:—

In the said notification, —

(i) in clause (b), for the figures, letters and words "30th day of April, 2021", the figures, letters and words "30th day of June, 2021" shall be substituted;

(ii) In clause (c), for the figures, letters and words "1st day of May, 2021", the figures, letters and words "1st day of July, 2021" shall be substituted.

INCOME TAX CIRCULARS-

Circular No. 08/2021 dated 30th April 2021

1. In view of severe pandemic, the Central Board of Direct Taxes, in exercise of its powers under Section 119 of the Income-tax Act, 1961, provides following relaxation in respect of Income-tax compliances by the taxpayers:

a) Appeal to Commissioner (Appeals) under Chapter XX of the Income-tax Act, 1961 for which the last date of filing under that Section is 1" April 2021 or thereafter, may be filed within the time provided under that Section or by 31" May 2021 , whichever is later;

b) Objections to Dispute Resolution Panel (DRP) under Section 144C of the Income-tax Act, 1961, for which the last date of filing under that Section is 1" April 2021 or thereafter, may be filed within the time provided under that Section or by 31" May 2021 , whichever is later;

c) Income-tax return in response to notice under Section 148 of the Income-tax Act, 1961, for which the last date of filing of return of income under the said notice is 1" April 2021 or thereafter, may be filed within the time allowed under that notice or by 31" May 2021, whichever is later;

d) Filing of belated return under sub-section (4) and revised return under sub-section (5) of Section 139 of the Income-tax Act,1961 for Assessment Year 2020-21, which was required to be filed on or before 31 " March 2021 , rnay be filed on or before 31" May 2021 ;

e) Payment of tax deducted under Section 194-IA, Section 194-IB and Section 194M of the Income-tax Act, 1961 and filing of challan-cum-statement for such tax deducted, which are required to be paid and furnished by 30'h April 2021 under Rule 30 of the Income-tax Rules, 1962, may be paid and furnished on or before 31" May 2021 ;

f) Statement in Form No. 61, containing particulars of declarations received in Form No.60, which is due to be furnished on or before 30'h April 2021 , may be furnished on or before 31" May 2021.

ECONOMIC OFFENCES

PMLA- CASE LAWS

Bail Rejected- Where the enquiries were pending against the accused who had made various criminal activities and was not supporting in enquiry - Enforcement Directorate needed custodial interrogation – Bail was rejected.

VIJAY NARENDRA KUMAR KOTHARI VERSUS DIRECTORATE OF ENFORCEMENT AND THE STATE OF MAHARASHTRA 2021 (4) TMI 507 - BOMBAY HIGH COURT

As it appears from record, the applicant has floated various bogus entities, several money transactions/transfers, have been traced between the companies/firms owned by applicant and accused companies. Prima-facie, evidence suggests, applicant was managing and controlling financial affairs of accused and beneficiary companies. Whereas, one co-accused was an employee of a beneficiary company and another, was director. Besides, evidence suggests, both co-accused had joined the investigation; soon after they were summoned and co-operated investigation.

Reply fled by the Enforcement Directorate suggests, that the investigation is not complete and non-co-operation of the applicant has resulted into lack of financial information available with the respondent in respect of over-seas companies, their bank accounts and financial transaction. Prosecution in their reply has submitted that the applicant has not co-operated in respect of financial information of over-seas companies; that investigation is still going on and there is likelihood of applicant meddling(tampering) with the investigation, if released on bail.

The applicant cannot be released on Bail - application dismissed.

Once an offence under the PMLA is registered on the basis of a Scheduled Offence, then it stands on its own and it thereafter does not require support of Predicate/Scheduled Offence. It further does not depend upon the ultimate result of the Predicate/Scheduled Offence.

DIRECTORATE OF ENFORCEMENT THROUGH ASSISTANT DIRECTOR, ZONAL OFFICE-II VERSUS THE STATE OF MAHARASHTRA, BABULAL VARMA S/O. MULCHAND VARMA,KAMAL KISHORE GUPTA S/O. GOKALCHAND GUPTA 2021 (4) TMI 288 - BOMBAY HIGH COURT

Even if the Predicate/Scheduled Offence is compromised, compounded, quashed or the accused therein is/are acquitted, the investigation of ED under PMLA does not get affected, wiped away or ceased to continue. It may continue till the ED concludes investigation and either files complaint or closure report before the Court of competent jurisdiction - The PMLA itself, does not provide for any contingency like the case in hand and argued by the learned counsel for the Applicants. Section 44(b) only provides for filing of a complaint or submission of a closure report by the Investigating Agency under PMLA and none else.

Merely the fact that FIR of scheduled offence on which ECIR was registered has been compounded by accepting report by concerned person, accused cannot be de rooted of the commission of offence of money laundering.

DIRECTORATE OF ENFORCEMENT, THROUGH THE ASSISTANT DIRECTOR, ZONAL OFFICE-II, MUMBAI-01. VERSUS BABULAL VARMA, KAMALKISHORE GUPTA 2021 (4) TMI 287 - BOMBAY SESSIONS COURT

It is proceeds of crime which construes an offence of money laundering under Section 3 punishable under Section 4 of P.M.L.Act, if such a person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following process or activities connected with proceeds of crime namely concealment or possession or acquisition or use or projecting as untainted property or claiming as untainted property in any manner whatsoever, the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

Merely the fact that FIR of scheduled offence on which ECIR was registered has been compounded by accepting 'C' report by concerned J.M.F.C at Aurangabad, in my view cannot be derooted the commission of offence of money laundering, as described in Section 3 punishable under Section 4 of PMLA. Because sub-clause (i) of the explanation of Section 3, which elaborates the activities connected with proceeds of crime i.e may be concealment, may be possession, may be acquisition, may be use, may be projecting as untainted property or may be claiming as untainted property in any manner whatsoever - accepting 'C' summary final report or compounding of scheduled offence will not give automatic nullification of the acts done by the accused under PMLA.

There are no hesitation to extend judicial custody of both the accused till ED may file final report. Further, under Section 167 of Cr.P.C., there is adequate grounds, for authorize detention of the accused. Hence, judicial custody of both the accused is extended for next 14 days.

Where the accused was supporting the Enforcement Directorate in execution of proceedings under PMLA Act and where the trial was taking longer time than expected the accused was allowed to travel abroad subject to disclosure of itinerary

ANAND P.K. ASSISTANT DIRECTOR, DIRECTOR OF ENFORCEMENT VERSUS AFROZ MOHAMMED HASANFATTA 2021 (4) TMI 284 - GUJARAT HIGH COURT

It is a matter of fact that the offence pertains to the year 2014 and as of now, trial has not proceeded. There is no any possibility or likelihood of completion of trial in near future or at least say 3 years. There is no disagreement on this fact situation. Secondly, though 7 to 8 years have passed, there is no any possibility of completion of investigation even in near future or say at least for 3 to 5 years. These facts are not in dispute since the prosecution agency was not in a position to state at bar as to what further period would require to complete the remaining investigation in the offences alleged against private respondent and other co-accused persons - Since the private respondent, when permitted to travel abroad during the year 2018 to 2020, observed all the conditions in its letter and spirit and there is no grievance ventilated at bar that he committed breach of any of the conditions or there is any material placed before the Court at the time of hearing of previous applications for permission for a short period. Not only that, no any order, whereby the private respondent was permitted to travel abroad, has been challenged by the applicant.

The private respondent is granted permission to visit for limited period of 3 months at a time, to provide complete itinerary and contact details both to the Court and the investigating officer, to file undertaking to remain present at the time of conducting trial and not to leave India when crucial witnesses are going to be examined by the Court and further not to stay continuously for more than three months in foreign country at a time and more particularly to move out of India for the purpose of business activities only, are sufficient safeguards provided in the impugned order.

On combined reading of the conditions imposed upon the private respondent, it transpires that the Designated Court took all care and caution to secure the presence of the private respondent at the time of trial, to trace the accused as and when he goes out of India as he is required to provide complete itinerary and contact details in advance and not to stay continuously for more than three months in foreign countries. Thus, there is complete check on the movement of the private respondent to the knowledge of the concerned investigating agency and the Court and therefore, to impose condition to seek leave of the Court is futile exercise on the part of the Court.

There are no reason to interfere with the impugned order - revision application dismissed.

REAL ESTATE-

MAHARASTRA

NEWS

MahaRERA instructed promoters to disclose sold, booked inventory

Maharashtra Real Estate Regulatory Authority (MahaRERA) has told all promoters in the state to disclose their inventory of sold or booked flats, houses, plots and shops, among other

constructions, saying such a database was necessary to give more clarity to purchasers and to avoid multiple transactions.

Asking the promoters to furnish the details in a stipulated format, Maha RERA invoked the enabling section 11(1) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 3 (a) and (b) of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017

The online format asks for details such as total number of floors/wings, number of flats/shops/row houses, carpet area, sold/booked/unsold inventory and registration date with the sub-registrar's office.

The Confederation of Real Estate Developers' Association of India (CREDAI), Maharashtra, welcomed the MahaRERA order, saying that it aiming to weed out illegal constructions mostly seen in smaller towns and all promoters should take the circular in the right spirit as it stands by developers who do their business ethically and follow the law.

Source:https://realty.economictimes.indiatimes.com/news/regulatory/maharera-tells-promoters-to-disclose-sold-booked-inventory/82138007

Committee for Capacity Building and Certification of Real Estate Agents in Maharashtra

Maha RERA through its order no. 16/2021 on 12/04/2021 constituted a steering committee to bring consistency in practices of real estate agents, to enhance knowledge and awareness of regulatory framework and practices, to enforcement of code of conduct in order to bring greater professionalism, accountability and competency into the agents.

Real Estate Agents are essential element of Real Estate Sector, who connect Allottees and Promoters and facilitate most of the real estate transactions. Real Estate Agents need to have comprehensive understanding of the real estate transaction in order to guide the allottees and prevent disputes. Therefore, this initiative has been taken by RERA which will improvise the traditional practices of a real estate agent in a homogeneous approach. The Committee shall be responsible for recommending and developing Framework, Structure and Roadmap for Real Estate Agents Training and Certification in Maharashtra along with implementation of the same.**Source:https://maharera.mahaonline.gov.in/Upload/PDF/order%20no%2016.pdf**

MREAT directs Piramal Estate Pvt Ltd (Promoter) to pay back buyers' money on account of 'medical emergency'

Maharashtra Real Estate Appellate Tribunal (MREAT), in a recent judgment, ordered that the home-buyers' right to make a request for reservation of flat ***includes*** right to withdraw such a request for reservation of flat.

MREAT, while hearing an appeal against a Maha RERA order of 3 October 2019, directed Piramal Estate Pvt Ltd (Promoter) to pay Rs 5.6 lakh, which allottee had paid in 2019 towards cost of a flat in Vaikunth cluster in Thane. The allottee canceled the booking in May and sought a refund due to a medical emergency.

While stating that MahaRERA had passed the impugned order without proper application of mind and without correct appreciation of facts, MREAT observed that the clauses, relating to forfeiture of 10% of the price of flat or amount paid till date whichever is lesser in case of withdrawal, in the request for reservation form was an unreasonable, unfair and one-sided condition, and was against the object and purpose of RERA.

MREAT also observed that though this claim of refund was not governed by any specific provision of RERA, it cannot be ignored that the objective of RERA was to protect interests of consumers.

Complainant (Allottee) submitted a form of "request for reservation of flat" on January 29, 2019, and booked a flat in Vaikunth Cluster -02, paying 1,12,393 as booking amount. Later he also paid Rs 4,49,574 on March 1, 2019, towards price of the flat. But due to a medical emergency in the family, he decided to cancel the booking and requested the promoter to refund of total amount i.e. Rs 5,61,967. But the promoter claimed the amount had been forfeited on account of cancellation, as per clause 17 of form of request for reservation.

MREAT observed that the forfeiture clause and clause that allottees had no right to withdraw their request for reservation, was unfair, unreasonable, one-sided and inequitable, and home-buyers cannot be restrained from exercising their right of withdrawing from the project. MREAT pointed out that such unreasonable and unfair transactions cannot be enforced and directed Piramal Estate Pvt Ltd to pay the allottee the full amount i.e. Rs 5,61,967 which allottee had paid in 2019.Source :- https://maharera.mahaonline.gov.in/Upload/PDF/AT-006-41967.pdf

KARNATAKA

NEWS

HC Kishore Chandra is new Chairman of Karnataka RERA

The Karnataka Real Estate Regulatory Authority (K-RERA) has appointed **HC Kishore Chandra**, a retired DGP rank officer, as the chairman.

The authority that was notified on July 10, 2017 has seen four interim and one permanent chiefs since inception. "The term of the chairperson shall be for a period of five years from his assumption of office or till the age of sixty five years or until further order, whichever is earlier and he shall not be eligible for reappointment,"

The newly appointed chairman will take over from 1st June after superannuation of existing chairman M R Kamble and one other member.Source: - **https://realty.economictimes.indiatimes.com/news/regulatory/hc-kishore-chandra-is-new-chairman-of-karnataka-rera/82429098**

UTTAR PRADESH

NEWS-

UP-RERA seeks direction from state government to end flats registration deadlock

Thousands of homebuyers are still waiting to register their flats due to a deadlock because of dues between promoters and authorities. To end flat registration delay in Noida and Greater Noida, the Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) has sought a direction and guidelines from the state government. As per an estimate, more than 50,000 homebuyers are waiting to get their flats registered in the district. In the absence of a payment plan by the local authorities, the developers in the district are not able to clear their dues and the registration of many completed flats is stuck for several months now. Now UP-RERA is working with the state government to find a solution to this issue so that completed flats get registered and a deadlock between authorities and promoters can come to an end. Many buyers are unable to sell their properties due to non-registration and some are forced to sell much below the market rates to exist such properties.

{https://realty.economictimes.indiatimes.com/news/industry/up-rera-seeks-direction-from-state-government-to-end-flats-registration-deadlock/82287952}

UP RERA defers physical hearing of cases

Owing to the rising number of COVID-19 cases in the state, the Uttar Pradesh Real Estate Regulatory Authority has deferred the option of physical hearing of complainants.

It was proposed to start physical hearing of complaints from May 1, 2021.UP RERA in its 59th meeting on March 19, presided over by its Chairman Rajiv Kumar, had decided to provide the opportunity of physical hearing to parties concerned on their request with effect from May 1, 2021 subject to strict compliance of COVID protocol as applicable but now the same has been deferred by the Authority owing to COVID-19 Pandemic. For the time being, the UP RERA will continue to hear cases virtually.

UP RERA has been hearing complaints through virtual mode under the e-courts system in order to maintain social distancing norms amid the novel corona virus pandemic.

UPRERA Appellate Tribunal has preponed the summer vacation from 10.05.21 to 04.06.21 in lieu of 01.06.21 to 30.06.21

Any urgent matter may be reported to Registrar on mobile no. 7510001065 who shall inform the formation of bench and date of personal/video conference hearing if found suitable.

RAJASTHAN

NEWS

Rajasthan RERA has extended the deadline for registering of sale agreement til March 31, 2022.

In this *force majeure* situation of Corona Pandemic it has been ordered by Rajasthan RERA vide its order dated 6/5/2021, in furtherance of its earlier order dated 15/5/2020, to facilitate promoter and allottee to proceed with Agreement to Sale, it is allowed to proceed with agreement for sale executed on a stamp paper of appropriate value, , pending registration of the said agreement, provided the said agreement is subsequently is registered by the promoter and the buyer, preferably within 4 months, otherwise within8months, of execution [as stipulated under section 23 and section 25 of the Registration Act, 1908]. Accordingly, the allottees are allowed to deposit instalments and the banks/financiers of the allottees are allowed to sanction housing loan for the sold unit and disburse the due amount of loan on the basis of such executed agreement for sale. However, after

registration of such agreement within the time stipulated under the Registration Act, 1908, the registered document shall be deposited with the concerned bank/financial institution. These directions would apply only to such agreements which do not involve transfer of possession of the sold unit. This order shall continue in force till 31/3/2022.

MADHYA PRADESH

NEWS

Ajit Prakash Shrivastava appointed as New MP RERA Chief appointed

Ajit Prakash Shrivastava has been appointed as Chairman, Real Estate Regulatory Authority (RERA) Madhya Pradesh. He is a 1984 batch IAS officer of MP cadre. AP Srivastava was scheduled to retire on 31 March 2021. He was a 1984-time IAS officer. After the consent of Chief Minister Shivraj Singh Chauhan, the order to appoint AP Srivastava as the new chairman of RERA.

Source:https://www.powercorridors.in/-officer-appointments-transfers-/a-p-shrivastava-is-new-chairman-rera-in-mp

HARYANA

NEWS

Real estate developers are required to sell properties on the basis of carpet area ruled Haryana RERA.

Selling flat on super area basis by the promoter, consider as fraudulent and unfair trade practice statement, it was stated that regulations were enacted by the authority to ensure the effectiveness and transparency in selling of a plot, apartment, or house, as the case may be, or the sale of a real estate project, and to protect the interests of consumers in the real estate sector.

The regulation has been introduced by Haryana RERA due to lack of legal description of the carpet area and concrete definition of carpet area which now has addressed the vagueness and uncertainty in this regard.

GUJARAT

NEWS

RERA suspends hearings till mid-May

AHMEDABAD: Amid the unprecedented surge in Covid-19 cases across the state, Gujarat Real Estate Regulatory Authority (GujRERA) has decided to suspend all hearings, online or offline, till May 15.

"Considering the Covid situation, which continues to become more serious by the day, Gujarat Real Estate Regulatory Authority has decided to suspend all offline/online hearings till May 15, 2021," the state real estate regulator said in its circular issued on April 27.

The regulator will communicate the next date of hearings and mode to those concerned through its web portal.

Taking in account hardships faced by stakeholders amid the steady rise in Covid-19 cases, the regulator had previously suspended all hearings to be conducted in April. This has further been extended till the middle of May.

Source:
https://realty.economictimes.indiatimes.com/news/regulatory/gujarat-rera-suspends-hearings-till-mid-may/82303185

LEGAL

Supreme Court Judgments

West Bengal HIRA v. RERA: Can State enact Legislation under Concurrent List to Occupy same field as Parliament, in the name of Cooperative Federalism?

The Forum for People's Collective Efforts, an umbrella homebuyers association, challenged the constitutional validity of West Bengal Housing Industry Regulation Act, 2017 before the Hon'ble Apex Court, it being identical to RERA (Central Legislation).

It was argued by petitioners that RERA was enacted by the Central Government in 2016. In August the same year, West Bengal notified the draft Real Estate (Regulation and Development) Rules, 2016 under the RERA. Thereafter WBHIRA, 2017 was notified in March 2018 and rules under the WBHIRA were also published in June 2018, which is a copy paste of the Central Act except for few provisions which are in conflict with Central Act viz., sale of open car parking spaces as opposed to garages with walls and roofs, the compounding of offences which should be tried by courts and definition of events falling under force majeure.

It was also brought to the attention of Court that despite the field being occupied by the 2016 Central law RERA, the State Government did not reserve the impugned State Act, notified in June, 2018,to obtain Presidential consent on the same nor was the Presidential assent obtained so as to make it valid under Article 254(2) of Constitution of India.

The judgment was delivered by a Bench of Justices DY Chandrachud and MR Shah, and it was observed and stated that ***"From our analysis of RERA and WBHIRA, two fundamental features that emerge are that WBHIRA overlaps with RERA and is copied word to word and it does not complement RERA. Both the statutes refer to same entry in the concurrent list."***

It was further observed by Supreme Court that if RERA is in force in West Bengal, the central government may use its executive authority Under Article 256 to give directives to the State, if the state government has not enacted the required Rules under the Act, but the Central Act cannot be reduced to a dead letter by the State government. The State is therefore unable to intervene. We won't allow the laws to apply the legislation until it is enacted. The Union of India loses this freedom the moment a central rule is abolished and has no authority until a state enacts pari materia legislation under the Concurrent List, and it becomes the state's exclusive domain. If it is a state law, the central government cannot require such framing of the Rules.

It was also held that the WBHIRA being on the same subject matter with identical statutory provisions to the RERA, which are also referable to Entries 6 and 7 in the Concurrent List, attracts the third test of repugnancy, as per which the State Law is Unconstitutional, it being on the identical subject matter as a law made by the Parliament, whether prior or later in point of time. Laws under this head are repugnant even if the rule of conduct prescribed by both laws is identical. "The WB HIRA purports to occupy the same subject matter as the Centre's RERA which is constitutionally impermissible and the State Act stands impliedly repealed", ruled the bench.

The Parliament does not preclude the states from enacting legislation on any cognate or allied subjects and in furtherance of Section 88 of RERA Act, it was observed that "If any areas have been left out in the RERA, the state legislatures can provide for them by way of a cognate legislation so long as they deal with a subject which is incidental", but the State Legislature cannot encroach upon the Authority of the Parliament in the name of Cooperative Federalism, as it could be denude the Government of India of its authority under Article 256 over the State.

If a Central law is in force in the state, the executive power of the Union of India, by virtue of Article 162, extends under Article 256 so as to instruct the state government and the state government is bound to comply. Also as per proviso to Article 162, when both the State Legislature and Parliament have power to make laws on a subject matter, the executive power of the State shall be subject to, and limited by, the executive power conferred by the Constitution or by any law made by Parliament upon the Union or its authorities.

Proceedings Under Article 32 of the Constitution of India by a homebuyer cannot be entertained held in Upendra Choudhury vs. Bulandshahar Development Authority (Writ Petition (Civil) No.150 of 2021)

The petitioner had sought relief under Article 32 of Constitution of India against the respondent Bulandshahar Development Authority in respect of a real estate project called "Sushant Megapolis" in Bulandshahar for (i) cancellation of all the agreements; (ii) refund of moneys to purchasers; and in the alternative (iii) ensuring that the construction is carried out and that the premises are handed over within a reasonable period of time. Incidental to the above reliefs, the petitioner sought constitution of a Committee headed by a former Judge, to monitor and handle the projects of the developer in the present case, along with forensic audit, an investigation by CBI and by other authorities such as the Serious Fraud Investigation Office and Enforcement Directorate.

The Hon'ble Apex Court considered the issue on maintainability and it was held that it would be inappropriate to entertain a petition under Article 32 for more than one reason, it being, there are specific statutory provisions holding the field, including among them: (i) The Consumer Protection Act 19863 and its successor legislation; (ii) The Real Estate (Regulation and Development) Act 20164 ; and (iii) The Insolvency and Bankruptcy Code 2016, each of which contain provisions to protect home buyers.

It was observed that the RERA contains specific provisions and remedies for dealing with the grievance of purchasers of real estate. The provisions of the IBC have specifically taken note of the difficulties which are faced by home buyers by providing for remedies within the fold of the statute. Entertaining a petition of this nature will involve the Court in virtually carrying out a day to day supervision of a building project. Appointing a Committee presided over by a former Judge of this Court would not resolve the problem because the Court will have nonetheless to supervise the Committee for the reliefs sought in the petition

under Article 32. Adequate remedies being available in aforesaid Statues and Code of Criminal Procedure 1973, it was held that the statutory procedures enunciated under them have to be invoked. Adequate provisions have been made in the statute to deal with the filing of a complaint and for investigation in accordance with law.

Thus, in view of the statutory framework, both in terms of civil and criminal law and procedure, it was held that entertaining a petition under Article 32 would be inappropriate as recourse to Article 32 is not the correct remedy when alternative modalities are available and particularly since the engagement of the Court in a petition of this nature would involve a supervision which does not lie within the province of judicial review. Judicial time is a precious resource which needs to be zealously guarded.

The bench also clarified that nothing contained in the present judgment will affect those proceedings or similar cases which have been monitored in the past viz, (i) Projects of Amrapali Group (Bikram Chatterji v Union of India); and (ii) Unitech matter (Bhupinder Singh v Unitech Ltd).

Remedy with homebuyer to file Complaint under RERA and Consumer Protection Act are concurrent, reiterates Supreme Court. (Case Today Homes And Infrastructure Pvt Ltd Petitioner(S) Versus Ajay Nagpal & Ors. Special Leave to Appeal (C) No(s). 23386/2019)

In this case SLP was filed against the Judgment of Delhi High Court where the question which came up for consideration before the Court was :-

"...whether proceedings under the Consumer Protection Act, 1986 [hereinafter referred to as "CPA"] can be commenced by home buyers (or allottees of properties in proposed real estate development projects) against developers, after the commencement of the Real Estate (Development and Regulation) Act, 2016 [hereinafter referred to as "RERA"].

Relying on the decision of three Judges of this Court in ***Pioneer Urban Land and Infrastructure Ltd. & Anr. Vs. Union of India [(2019) SCC Online SC 1005]***, the Hon'ble High Court concluded as:-

"22. On the basis of the above discussion, I am of the view that the judgment in Pioneer (supra) constitutes the law declared by the Supreme Court under Article 141 of the Constitution, even in respect of the question raised in these petitions. Following the said judgment, therefore, it is held that the remedies available to the respondents herein under CPA and RERA are concurrent, and there is no ground for interference with the view taken by the National Commission in these matters."

In the meantime, in ***M/s Imperia Structures Ltd. Vs. Anil Patni and Another [Civil Appeal Nos.3581-90/2020 and Civil Appeal No.3591/2020***, it was observed by Apex Court that Section 79 of the RERA Act would not in any way bar the Commission or Forum under the provisions of the Consumer Protection Act to entertain any complaint on behalf of an allottee.

Thus, the instant matter was concluded by decisions of the Hon'ble Apex Court in Pioneer Urban Land and Infrastructure Ltd. and M/s Imperia Structures Ltd., thus the SLP was dismissed.

Supreme Court issues guidelines for payment of maintenance in matrimonial matters (Case: Rajnesh v. Neha and Another, Criminal Appeal No. 730 of 2020.)

The Hon'ble Supreme Court headed by Bench of Justices Indu Malhotra and R. Subhash Reddy, has issued guidelines on issue of overlapping jurisdiction and payment of maintenance in matrimonial matters.

Issue of overlapping jurisdiction

To overcome the issue of overlapping jurisdiction and maintain uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country, it has been directed that: (i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or setoff, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding; (ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding; (iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding.

Payment of Interim Maintenance

The Affidavit of Disclosure of Assets and Liabilities, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the Courts throughout the country. For determining the quantum of maintenance payable to an applicant, the Court has laid down criteria's and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary

or of relevance in the facts and circumstances of a case.

It was also held by the Court that from the date of filing the application for maintenance it has to be awarded and Enforcement/ Execution of orders of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C., as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 r.w. Order XXI.

Business run by a karta of a Hindu Undivided Family in a tenanted premise, cannot be presumed to be a joint Hindu family business. (Case: Kiran Devi Vs. Bihar State Sunni Wakf Board [CA 6149 OF 2015])

A civil appeal was filed before the Hon'ble Apex Court, seeking declaration of tenancy rights on the basis of a claim that Plaintiff's great grandfather had been running a hotel business as a tenant of the Wakf Board relating to the tenancy rights over a property owned by the Bihar Sunni Wakf Board. It was alleged by the respondents that tenancy rights were surrendered by the successor of the original tenant and the hotel business was discontinued and hence the plaintiff had no rights over the property, however, plaintiff contended that the surrender of tenancy was invalid, as it was a unilateral surrender made by the karta without taking note of the rights of the coparceners of the joint Hindu family. Plea of Plaintiff was rejected by Wakf Tribunal but accepted by Patna High Court, against which appeal was preferred in SC, to decide the validity of the surrender of the tenancy and to consider the issue whether the business run in the tenanted property was a joint family business.

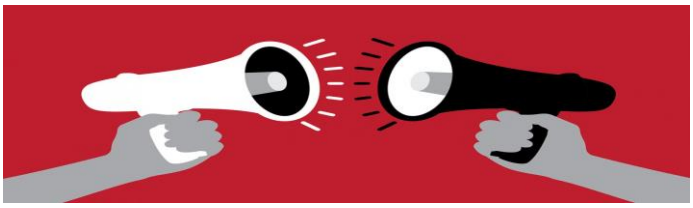
It was held by Apex Court headed by Justices Ashok Bhushan, S Abdul Nazeer and Hemant Gupta, that the High Court erred in concluding that the business run by the tenant was a joint Hindu family business. It was observed that:-

"A perusal of the facts on record would show that it was a contract of tenancy entered upon by great grandfather of the plaintiff. Even if the great grandfather was maintaining the family out of the income generated from the hotel business, that itself would not make the other family members as coparceners in the hotel business. It was the contract of tenancy which was inherited by the grandfather of the plaintiff who later surrendered it in favour of the Wakf Board.

The contract of tenancy is an independent contract than the joint Hindu family business, thus, overruled the High Court Judgment and restored Wakf Tribunal Judgment.

Legal News

Upholding Freedom of Speech, SC held Citizens have right to know what transpires in open Courts.



Supreme Court in case of Election Commission of India v MR Vijaya Bhaskar, upholding right freedom of speech and expression under Article 19(1)(a) extends to reporting judicial proceedings as well. It was held that an open court proceeding ensures that the judicial process is subject to public scrutiny. Public scrutiny is crucial to maintaining transparency and accountability. Transparency in the functioning of democratic institutions is crucial to establish the public's faith in them.

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