

ITEM NO.20

COURT NO.6

SECTION IIIA

**SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (Civil).....CC 12060 / 2008

(From the judgment and order dated 27/06/2007 in APO No. 301/2005 of The HIGH COURT OF CALCUTTA)

**COMMR. OF INCOME TAX & ORS.**

**Petitioner(s)**

VERSUS

**M/S EXIDE INDUSTRIES LTD.& ANR.**

**Respondent(s)**

(With I.A. No.1 - appln(s) for c/delay in filing SLP)

Date: 08/09/2008 This Petition was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE S. H. KAPADIA  
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. Parag Tripathi, ASG.  
Mr. Rahul Kaushik, Adv.  
Mr. Rakesh Garg, Adv.  
Mr. A. Tariq, Adv.  
Mr. Kunal Bahri, Adv.  
Mr. B.V. Balaram Das, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following ORDER

Issue notice.

In the meantime, there shall be stay of the impugned judgment, until further orders.

(S. Thapar) (Madhu Saxena)

P S to Registrar Court Master

**SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (Civil) No(s).22889/2008

(From the judgment and order dated 27/06/2007 in APO No. 301/2005 of The HIGH COURT OF CALCUTTA)

**COMMR.OF INCOME TAX & ORS.**

**Petitioner(s)**

VERSUS

**M/S EXIDE INDUSTRIES LTD.& ANR.**

**Respondent(s)**

(With appln(s) for c/delay in filing SLP and prayer for interim relief and office report)

Date: 08/05/2009 This Petition was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE S.H. KAPADIA  
HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s) Mr. V. Shekhar, Sr.Adv.  
Mr. A. Tarikh, Adv.  
Mr. Rahul Kaushik, Adv.  
Mr. Rakesh Garg, Adv.  
Mr. Kunal Bahri, Adv.  
Mr. B.V. Balaram Das,Adv.

For Respondent(s) Mr. Harish N. Salve, Sr.Adv.  
Dr. D.P. Pal, Sr.Adv.  
Dr. Aman Hingorani, Adv.  
Ms. Priya Hingorani, Adv. for  
M/S Hingorani & Associates,Adv.

UPON hearing counsel the Court made the following

ORDER

Delay condoned.  
Leave granted.

Pending hearing and final disposal of the Civil Appeal, Department is restrained from recovering penalty and interest which has accrued till date. It is made clear that as far as the outstanding interest demand as of date is concerned, it would be open to the Department to recover that amount in case Civil Appeal of the Department is allowed.

We further make it clear that the assessee would, during the pendency of this Civil Appeal, pay tax as if Section 43B(f) is on the Statute Book but at the same time it would be entitled to make a claim in its returns.

(S. Thapar)  
PS to Registrar

(Madhu Saxena)  
Court Master