

Landmark Judgements of Supreme Court on Section 245N to 245W [Advance Rulings]

[1] Section 245N : Definitions

Appeal against ruling - Supreme Court should not generally entertain SLP directly against Rulings of Authority for Advance Rulings; it should be heard by Division Bench of High Court

Advance Ruling Authority is a body exercising judicial power conferred on it by Chapter XIX-B and is a Tribunal within meaning of expression in articles 136 and 227 of Constitution. Powers of Supreme Court provided under article 136 of Constitution is discretionary. Therefore, even if good grounds are made out in a special leave petition under article 136 for challenge to an advance ruling given by authority, Supreme Court may still, in its discretion, refuse to grant special leave on ground that challenge to Advance Ruling of Authority can also be made to High Court under articles 226 and/or 227 of Constitution on self same grounds. Unless, therefore, a SLP raises substantial questions of general importance or a similar question is already pending before Supreme Court for decision, Supreme Court does not entertain a SLP directly against an order of Tribunal. However, when an Advance Ruling of the Authority is challenged before High Court under articles 226 and/or 227 of Constitution, same should be heard directly by a Division Bench of High Court and decided as expeditiously as possible. [In favour of revenue] – [Columbia Sportswear Company v. Director of Income-tax, Bangalore (2012) 210 Taxman 42 : 25 taxmann.com 470 (SC)]

[2] Section 245R : Procedure on receipt of application

SLP dismissed against High Court's ruling that issue of notice under section 143(2) even prior to filing of application before AAR ipso facto would be insufficient to attract automatic rejection of said application under proviso to section 245R(2)

Procedure on receipt of application for (Proviso to sub-section (2) - High Court by impugned order held that issue of notice under section 143(2) even prior to filing of application before AAR ipso facto would be insufficient to attract automatic rejection of said application under proviso to section 245R(2). Special Leave Petition filed against impugned order was to be dismissed. [In favour of assessee] (Related Assessment year : 2012-13) - [DCIT, New Delhi v. Sage Publications Ltd. UK (2017) 246 Taxman 57 : 79 taxmann.com 118 (SC)]

SLP dismissed against High Court's ruling that a notice under section 143(2) merely asking for certain information from assessee though issued prior to filing of application before AAR will not constitute bar in terms of clause (i) to proviso to section 245R(2), on AAR entertaining and allowing application

Advance ruling - Procedure on receipt of application for (Clause (i) of proviso to sub-section (2)) - High Court by impugned order held that a notice under section 143(2) merely asking for certain information from assessee though issued prior to filing of application before AAR will not constitute bar in terms of clause (i) to proviso to section 245R(2), on AAR entertaining and allowing application. Special Leave

Petition filed against impugned order was to be dismissed. [In favour of assessee] - [*CIT, New Delhi v. Hyosung Corporation* (2017) 244 Taxman 286 : 77 taxmann.com 76 (SC)]