vires Article 14 of the Constitution. The petitioners shall be reinstated in service forthwith with full back wages and if the HAFED so chooses it may take disciplinary proceedings against them by taking resort to rule 2.13 of the Rules. The respondents shall also pay costs of these writ petitions which are assessed at Rs. 500 in each case.

(13) It bears mention here that when C.W.P. No. 2302 of 1986 came up for motion hearing before the Division Bench on 27th May, 1986 the learned counsel for the HAFED made a statement that in case the writ petition is allowed and the order of termination is set aside, then payment of the entire amount of arrears of salary along with interest at the rate of 12 per cent per annum thereon shall be paid to the petitioner by respondent No. 2 within a week of the writ petition. Respondent No. 2 is required to abide by that undertaking.

S.C.K.

Before M. R. Agnihotri, J.

SUNDER SHAM KAPOOR AND OTHERS,—*Petitioners.*

versus

HON'BLE CHIEF JUSTICE, PUNJAB AND HARYANA HIGH COURT, CHANDIGARH AND OTHERS,—Respondents.

Civil Writ Petition No. 2363 of 1985

August 6, 1987.

Constitution of India, 1950—Articles 229, 231 and 309—Rule making power of the Chief Justice—Extent of that power—Rules involving financial implications—Approval of such rules—Requirement of publication of Rules—Date of publication—Whether enforcement of rules from such date.

Held, that the Chief Justice is the head of the judiciary in the State and in the matters of appointment of officers and servants of High Court it is the Chief Justice or his nominee who is the supreme authority. The Chief Justice has exclusive power not only in the matter of appointments but also with regard to prescribing the conditions of service of officers and servants of the High

Court. The approval of Governor in the matter of Rules is confined only to such rules as relate to salary, allowances, leave or pension. All other rules in respect of conditions of service do not require his approval.

(Para 10).

Held, that even though the draft Rules had been approved by the Chief Justice on 18th March, 1974, and orders for their enforcement with effect from 1st March, 1974, had been passed, yet the fact remains that these Rules were neither notified signifying the formal enactment of the Rules in their final form, nor were they published till 23rd January, 1975. Therefore, it cannot be conclusively held that the Rules, ordered to be enforced by the Chief Justice with effect from 1st March, 1974, actually came into force on that very date, though they were formally notified on 23rd January, 1975. It is a settled principle of law that in order to ensure scrupulous compliance of statutory provisions contained in some Rules, it is necessary that those Rules must be promulgated, if not formally published.

(Para 11).

Held, that the President of India while according approval to the Rules had specifically provided that "these Rules shall come into effect from the date of their issue". Therefore, the only irresistible conclusion which can be arrived at is, that the Rules which were issued by the Chief Justice with the notification dated 23rd January, 1975, having received the approval of the President of India with the direction, that "these rules shall come into effect from the date of their issue", came into force in the eye of law, with effect from 23rd January, 1975, itself and from no other date.

(Para 15).

Petition under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may be pleased to:—

(*i*) *Issue rule nisi;*

(*ii*) *call for the records and after perusal of the same;*

(*iii*) *issue a writ in the nature of certiorari, quashing/setting aside the Annexure P. 5, which is discriminatory, deterimental to the interests of the employees and in violation of the approval of respondent No. 2 and against the principles of natural justice;*

(*iv*) *issue any other appropriate writ, order and/or direction as this Hon'ble court may deem fit in the facts and circumstances of the case;*

(*v*) *issue a writ in the nature of* prohibition, *mandamus and any other order or direction, directing the respondents to give effect to the Punjab & Haryana High Court (Appointment Establishment and Conditions of Service) Rules* 1973 *from their date of issue i.e.,* 1st *March,* 1974 *and* not from the date of issue of letter *communicating approval of the President of India i.e.,* 25*th September,* 1985; *and further directing to pay the difference and arrear of pay and allowances to the petitioners from* 1st *March,* 1974, *to* 25*th September,* 1985 *with all consequential benefits accrued to the petitioners from time to time;*

(*vi*) *exempt from filing of certifed/original copies of Annexures P.* 1 *to P.* 5.

(*vii*) *waive off the requirement of serving prior notices upon the respondents in view of the paucity of time and urgency of matter*

and

(*viii*) *Award costs to the petitioners.*

K. T. S. Tulsi, Advocate with K. S. Dadwal, Advocate, *for the Petitioners.*

G. C. Garg, Advocate, *for Respondent No.* 1.

H. S. Brar, Advocate, *for Respondent No.* 2.

Ashok Bhan, Sr. Standing Counsel for U. T. Chandigarh with A. K. Mital, Advocate, *for the Respondent No.* 3.

JUDGMENT

M. R. Agnihotri, J.

(1) Twenty-nine employees working on the establishment of the Punjab and Haryana High Court have invoked the writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, in which this Court has been called upon to determine as to whether the High Court Establishment (Appointment and Conditions of Service) Rules—hereinafter referred to as 'the Rules', made by the

Chief Justice of the High Court of Punjab and Haryana, with the approval of the President of India, in exercise of the powers conferred by clause (2) of Article 229 read with Article 231 of the Constitution of India, regulating the appointment, conditions of service and conduct of persons serving on the staff attached to the High Court. came into force, with effect from—

(i) 1*st March*, 1974—the date of enforcement agreed to by the then Chief Justice while approving the draft Rules on the administrative side, or

(ii) 23*rd January*, 1975—when these Rules were actually made and first published in the Chandigarh Administration Gazette,—*vide* notification No. 38.E.I./V.Z.27. dated 23rd January, 1975, or

(iii) 25*th September*, 1985, when the approval of the President of India to these Rules was received with the direction that "these rules shall come into effect from the date of their issue".

(2) The petitioners, who were working as Revisors/Translators, have been representing to the High Court for revision of their pay scales, as their existing pay scales were not commensurate with their academic qualifications and the nature of duties they were required to discharge. Feeling satisfied with the genuineness of their grievances, the High Court, on its administrative side, recommended their case to the Chandigarh Administration, respondent No. 3, for the revision of their pay scales,—*vide* a communication sent more than twenty years ago. While the matter was still under consideration and correspondence was going on, the Punjab Pay Commission recommended the revision of pay scales of the Junior/Senior Translators working under the State Government. The implementation of the recommendations of the Punjab Pay Commission in the case of employees of the High Court establishment was considered by the Chief Justice and in view of the fact that the framing of the Rules itself was under consideration of the High Court, the following order was recorded by the Chief Justice on 15th April, 1971, on the administrative side:—

"The report of the Pay Commission cannot be implemented in parts. The High Court Establishment (Appointment and Conditions of Service) Rules are being framed in the light

of the recommendations made by the Punjab Pay Commission. Therefore, the proposal of the office for creation of 6 posts of Deputy Superintendents to work as Revisors for the Translation Branch may be declined for the present. The posts will be created, if necessary, according to the new rules which are being framed."

(3) Soon thereafter, the task of framing the new Rules was undertaken and the draft of the Rules, as prepared, was submitted for approval of the Chief Justice on 18th March, 1974, with the proposal to enforce the Rules with effect from 1st March, 1974. This proposal was agreed to by the then Chief Justice on 18th March, 1974, itself, which would be evident from the relevant extract reproduced below from Annexure P. 1:—

"...If approved, these rules may be enforced and made effective from the 1st March, 1974.

The rules involving financial implications may, if approved, be referred to the Central Government through the Chandigarh Administration for according approval thereto.

All new appointments made after 1st March, 1974 have been regulated by the new rules.

Sd/- . . .,
S. D. Bajaj
18th March, 1974.

Hon'ble C. J.

Sd/- . . .,
Harbans Singh
Chief Justice
18th March, 1974.

Immediately thereafter, these Rules were circulated amongst the members of the High Court establishment in order to apprise them of the Rules and to ensure their compliance forthwith. Thus, these Rules started governing the conditions of service of the employees of the High Court with effect from 1st March, 1974.

(4) Despite all this, the fact remains that the formal notification with regard to enactment of the Rules with the ceremonial citation of the source of power and the authority to enact, did not see the

light of the day till 23rd January, 1975, when the High Court of Punjab and Haryana notification dated 23rd January, 1975, already referred to, was published in the Chandigarh Administration Gazette dated 1st February, 1975. The citation of authority with which the aforesaid Rules were notified reads as under:—

> "The 23rd January, 1975. No. 38.E.I./V.Z.27.—In exercise of the powers conferred by Clause (2) of Article 229 read with Article 231 of the Constitution of India, the Chief Justice of the High Court of Punjab and Haryana, with the approval of the President so far as the rules relate to salaries, allowances, leave or pension, thereby makes the following rules regulating the appointment, conditions of service and conduct of persons serving on the staff attached to the High Court."

(5) Though the aforesaid Rules had been duly notified and were being acted upon and followed meticulously for regulating the appointment, conditions of service and conduct of the employees in the High Court, yet the approval of the President of India to the Rules, especially Rules 26, 27 and 34 and Schedules I, I(A) and III, was not conveyed to the Chief Justice despite repeated reminders issued to the Government of India. Full ten years had elapsed, yet the requisite approval of the President of India was still awaited, even though it had been specifically brought to the notice of the Government of India that the service rules had already been enacted and enforced as far back as 1st March, 1974. Ultimately, it was on 25th September, 1985, that a communication was sent by the Government of India (Annexure P-4) conveying the approval of the President of India with a direction that "these rules shall come into effect from the date of their issue".

(6) Though the aforesaid Rules had already been issued on 23rd January, 1975, as published in the Chandigarh Administration Gazette dated 1st February, 1975, and the matter assumed finality with the approval of the President of India, conveyed on 25th September, 1985, directing that these Rules shall come into force from the date of their issue, yet the High Court, on its administrative side, on receipt of the approval of the President, issued a fresh notification on 23rd January, 1986 (Annexure P. 5), indicating that the Rules shall come into force with effect from 25th September, 1985; obviously meaning

that they never came into force with effect from 1st March, 1974, or in any case from 23rd January, 1975, which had all through been the stand of the High Court on its administrative side.

(7) Feeling aggrieved by the issuance of the notification dated 23rd January, 1986 (Annexure P. 5), the petitioners have approached this Court for quashing of the same and for the issuance of a writ of *mandamus* commanding the respondents to treat 1st March, 1974, as the date of issue of the Rules and to release to them the arrears of pay and allowances with other consequential reliefs, on the basis thereof.

(8) In reply to the writ petition, though separate returns have been filed, one by Shri N. S. Rao, Registrar, Punjab and Haryana High Court, on behalf of the Chief Justice, respondent No. 1, and the other by Shri Surendra Singh, Deputy Secretary to Government of India, Ministry of Law and Justice (Department of Justice), New Delhi, on behalf of the Union of India, respondent No. 2, yet the stand taken is almost identical; that is, the approval of the President of India having been conveyed on 25th September, 1985, the Rules shall come into force from the date of their issue. The Union of India has, however, taken a further stand that retrospective effect could not be given to the approval of the President and, therefore, the Rules shall come into force only from the date on which the approval of the President was conveyed. On the other hand, the High Court has rested content only by stating that, "The answering respondent has taken up the matter with the Government of India to extend the benefit of these Rules with effect from January 23, 1975. The reply of the Government of India in this behalf is still awaited and thus the writ petition is premature and deserves to be dismissed on this ground alone".

(9) The Constitution of India has made separate provisions authorising different functionaries and authorities to make rules for regulating the conditions of service of employees serving in various establishments : Just as Article 309 empowers the President or the Governor of a State to make rules regulating the recruitment and conditions of service of persons appointed on the posts under the Union or the State, as the case may be, Clause (2) of Article 229 of the Constitution empowers the Chief Justice of a High Court to prescribe the conditions of service of officers and servants of a High

Court by making rules in this behalf. Clause (2) of Article 229 as well as Article 309 read as under:—

"229. (2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose :

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State.

309. Recruitment and conditions of service of persons serving the Union or a State.—Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act."

(10) The scope of the rule making power of the Chief Justice conferred by Clause (2) of Article 229 and the extent to which this power has been made subject to the approval envisaged in the

proviso to this clause, have been the subject matter of a number of decisions by their Lordships of the Supreme Court and various High Courts in the country during the last two decades. In this regard, reference may be made to the following : *M. Gurumoorthy* v. *The Accountant General, Assam and Nagaland and others* (1), *The State of Assam* v. *Bhubhan Chandra Datta and another* (2), *State of Andhra Pradesh and another* v. *T. Gopalakrishnan Murthi and others* (3), *Kulkarni V. K.* v. *Accountant General and others* (4), *Chief Justice of Andhra Pradesh and others* v. *L.V.A. Dixitulu and others etc.* (5), and *H. L. Vijh and others* v. *Union of India and others* (6). In nutshell, their Lordships have held as under:—

(i) The unequivocal purpose and obvious intention of the framers of the Constitution in enacting Article 229 is that in the matter of appointments of officers and servants of a High Court, it is the Chief Justice or his nominee who is to be the supreme authority and there can be no interference by the Executive except to the limited extent that is provided in the Article. This is essentially to secure and maintain the independence of the High Courts.

(ii) Clause (1) read with Clause (2) of Article 229 confers exclusive power not only in the matter of appointments but also with regard to prescribing the conditions of service of officers and servants of a High Court.

(iii) The approval of the Governor in the matter of Rules is confined only to such Rules as relate to salary, allowances leave or pension. All other Rules in respect of conditions of service do not require his approval.

(iv) Article 229 has a distinct and different scheme and contemplates full freedom to the Chief Justice in the matter of appointment of officers and servants of a High Court and their conditions of service which can be prescribed by Rules made by him.

(1) A.I.R. 1971 S.C. 1850.
(2) A.I.R. 1975 S.C. 889.
(3) A.I.R. 1976 S.C. 123.
(4) 1978 S.L.J. 40.
(5) 1979 S.L.J. 40.
(6) 1983(2) S.L.J. 396.

(v) When recommendations with regard to conditions of service of the officers and servants of a High Court are made by the Chief Justice, it would be in the fitness of things and in the spirit of Article 229 that ordinarily and normally the said recommendations should be accepted by the Governor/President. This becomes still more important when it is recognised that the sovereignty of the people is reflected in three wings—the Executive, the Legislature and the Judiciary. The Chief Justice is head of the Judiciary in a State. When, therefore, he makes recommendations the inevitable presumption is that they have been made with full sense of responsibility and circumspection and after having weighed various public interests as well as financial aspects involved.

This being the scope and extent of the rule making power conferred on the Chief Justice under Clause (2) of Article 229 of the Constitution, when the Chief Justice, on 18th March, 1974, approved the draft Rules and agreed with the proposal on the administrative side, that the Rules may be enforced and made effective from 1st March, 1974, *prima facie* no other formality remained to be observed for completing the enactment and enforcement of the Rules. Still, the Rules involving financial implications were, of course, required to be referred to the President of India, for which the reference was accordingly made by the Chief Justice (instead of the Governor, the President of India because the High Court is common for the States of Punjab and Haryana and the Union Territory of Chandigarh).

(11) Even though the draft Rules had been approved by the Chief Justice on 18th March, 1974, and orders for their enforcement with effect from 1st March, 1974, had been passed, yet the fact remains that these Rules were neither notified signifying the formal enactment of the Rules in their final form, nor were they published till 23rd January, 1975. Therefore, it cannot be conclusively held that the Rules, ordered to be enforced by the Chief Justice with effect from 1st March, 1974, actually came into force on that very day, though they were formally notified on 23rd January, 1975. It is a settled principle of law that in order to ensure scrupulous complience of statutory provisions contained in some Rules, it is necessary that those Rules must be promulgated, if not formally published. In this regard, reference is made to the judgment of the Supreme

Court in *Harla* v. *The State of Rajasthan* (7), in which it was held as under:—

> "In the absence of any special law or custom, we are of opinion that it would be against the principles of natural justice to permit the subjects of a State to be punished or penalised by laws of which they had no knowledge and of which they could not even with the exercise of reasonable diligence have acquired any knowledge. Natural justice requires that before a law can become operative it must be promulgated or published. It must be broadcast in some recognishable way so that all men may know what it is, or, at the very least, there must be some special rule or regulation or customary channel by or through which such knowledge can be acquired with the exercise of due and reasonable diligence."

In the face of the aforesaid authoritative pronouncement of the Supreme Court, it would be difficult to hold that the draft Rules which were approved by the Chief Justice on 18th March, 1974, but were ordered to be enforced from 1st March, 1974, came into force *ipso fcto,* from that very date. Hence 1st March, 1974, cannot be treated as the date of issue of the Rules.

(12) Obviously, when the Rules were notified on 23rd January, 1975, with the formal citation of authority signifying their source of power, the Rules made by the Chief Justice came into force from that very date. Though the Rules were also published in the Chandigarh Administration Gazette, within a week thereof, that is, on 1st February, 1975, yet for all intents and purposes, the date of issue of the Rules, shall be the date of notification itself on which the same were made, and not the date on which they were actually published. For arriving at this conclusion, a reference to the General Clauses Act, 1897, which has been made applicable for interpretation of the Constitution by Article 367 of the Constitution, would be helpful. Under section 5 of the General Clauses Act, 1897, a Central law comes into operation on the day on which it receives assent and not on the day when the same is published in the Gazette. Therefore, the Rules made by the Chief Justice under Article 229 read with Article 231 of the Constitution on 23rd January, 1975, came into force immediately on the date of their issue, that is, on 23rd January, 1975, itself, and not on 1st February, 1975, when they were published in the Gazette of the Chandigarh Administration.

(7) A.I.R. 1951 S.C. 467.

(13) Having arrived at the aforesaid conclusion, the stand taken by the Union of India in their return becomes wholly untenable in law. There is no substance in the plea taken by the Union of India that the Rules had come into force only on 25th September, 1985, that is, the day when the approval of the President of India was conveyed, and not earlier thereto. This is because, the communication dated 25th September, 1985 (Annexure P. 4), with which the approval of the President of India was conveyed to the Rules had specifically provided as under:—

"These rules shall come into effect from the date of their issue."

The Rules having been made by the Chief Justice and issued,—*vide* notification dated 23rd January, 1975, the expression "the date of their issue" shall obviously relate back and have reference to the date of 23rd January, 1975, and not to any date subsequent to 23rd January, 1975. Moreover, the President of India, while according approval to the Rules, and the Government of India, Ministry of Law and Justice, while conveying the same to the Chief Justice of the High Court, were fully aware of the authoritative pronouncement of the Supreme Court in *B. S. Vadera etc.* v. *Union of India and others* (8), according to which the rules framed under the proviso to Article 309 could also have retrospective operation. The rule-making power exercisable by the High Court under Clause (2) of Article 229 being analogous to the rule-making power under Article 309 of the Constitution, the Rules made by the Chief Justice of the High Court on the parity of reasoning could also be given retrospective effect. Therefore, assuming for the sake of argument, that while conveying the approval of the President to the Rules framed by the Chief Justice, the Government of India in their communication dated 25th September, 1985, did not specify 23rd January, 1975, as the date on which the Rules had come into force, it was still within its competence to give retrospective effect to the approval of the President of India, in order to bring the same in conformity with the original date of issue of the Rules, that is, 23rd January, 1975.

(14) Viewing it from another angle, it was all through the intention of the Union of India also to treat 23rd January, 1975, as the date when the Rules came into force. This intention of the

(8) A.I.R. 1969 S.C. 118.

Union of India became further clear during the course of arguments, when it transpired from the records of respondent No. 2 that in an earlier letter dated 24th/25th July, 1984, the Union of India had itself presumed that the Rules were being acted upon from 23rd January, 1975. This letter reads as under:—

"*Subject.*—Proposal from the Punjab & Haryana High Court for the approval of the G.O.I. to rules 26, 27 and 34 and Schedules I, IA, II & III respectively to the draft—High Court Establishment (Appointment and Conditions of Service) Rules, 1973.

Sir,

I am directed to refer to your letter No. 5125/8-I.V.Z.27, dated 5th March, 1981, on the subject mentioned above. The above proposal has not yet been finalised as the same remained linked up with a writ petition.

2. It appears that the proposal in question has not been routed through Chandigarh Administration and, therefore, the comments and recommendations of that Administration on the proposals are not available. It is very essential for Chandigarh Administration to examine the proposals in all respects including financial implications, if any.

3. You are, therefore, requested to send your proposal through Chandigarh Administration. While doing so, the relevant rules may be made upto-date as on 31st July, 1984, with a view to finalise the matter on the basis of the latest ruling position.

4. *It is presumed that the rules in question are being acted upon from 23rd January, 1975. Please confirm.*

5. Since the High Court has ordered that the matter should be finalised within a period of six months, the final decision is required to be taken by 15th October, 1984. You are, therefore, requested to do the needful latest by 20th August, 1984."

This letter was received by the Chief Justice under the signatures of Mr. Surendra Singh, Deputy Secretary to Government of India,

Ministry of Law and Justice. While intimating the stage of the case regarding conveying of the approval of the President, it was clearly stated in para 4 of that letter that, "It is presumed that the rules in question are being acted upon from 23rd January, 1975. Please confirm." Incidentally, the letter dated 25th September, 1985 (Annexure P. 4), with which the approval of the President has been conveyed with the direction that, "these rules shall come into effect from the date of their issue" as well as the written statement of the Union of India, also happen to be signed by the same officer.

(15) Therefore, from the aforesaid material on the record, the only irresistible conclusion which can be arrived at is, that the Rules which were issued by the Chief Justice with the notification dated 23rd January, 1975, having received the approval of the President of India with the direction, that "these Rules shall come into effect from the date of their issue", came into force in the eye of law, *with effect from 23rd January,* 1975, itself and from no other date.

(16) Having arrived at the aforesaid conclusion, I am of the considered view that there was hardly any necessity of publishing the notification dated 23rd January, 1986 (Annexure P. 5). There was no warrant in law for changing the date of enforcement of the Rules from 23rd January, 1975, to 25th September, 1985, as has been done by the impugned notification dated 23rd January, 1986. Obviously, all amendments to the Rules made between 23rd January, 1975, and 25th September, 1985, were to take effect from the respective dates on which such amendments were issued, from time to time. To change the date of enforcement of the Rules which had already come into force, with the idea of re-enacting the same from a future date amounts to repeal of the statutory Rules, which course was neither permissible in law nor could there be any intention of adopting the same.

(17) Consequently, the writ petition is allowed, the impugned notification dated 23rd January, 1986 (Annexure P. 5) is quashed and a writ of *mandamus* is issued, commanding the respondents to treat *23rd January,* 1975, as the date of enforcement of the High Court Establishment (Appointment and Conditions of Service) Rules, and on the basis thereof, to grant to the petitioners and other employees similarly situated their arrears of pay and allowances, along with other consequential benefits, to which they are found entitled under

the Rules. Since implementation of the Rules has already been delayed for a considerably long period, the respondents are further directed to release the necessary benefits, in accordance with the Rules, within three months from today. There shall be no order as to costs.

S.C.K.

Before H. N. Seth, C.J. and M. S. Liberhan, J.

DURGA DASS AGGARWAL AND COMPANY, LUDHIANA,—*Petitiner.*

versus

COMMISSIONER OF INCOME TAX, PATIALA,—Respondent.

Income Tax Case No. 48 of 1986

August 12, 1987.

Income Tax Act (XLIII of 1961)—Sections 271(1)(c), 275—Order imposing penalty made within limitation—Demand notice served beyond period prescribed—Validity of such notice—Effect of such notice on order imposing penalty.

Held, that after the penalty order had been made within the period of limitation prescribed therefor the demand notice in respect of it could be served even after the time limit laid down by Section 275 of the Income Tax Act, 1961. The order imposing penalty is not rendered invalid on this score.

(Para 4).

Held, that the question regarding validity of notice of demand or whether the same was barred by limitation is concerned the same falls outside the purview of appellate order of the Tribunal and the Tribunal was quite justified in refusing to state the case for the opinion of this Court.

(Para 11).

Petition under section 256(2) of the Income Tax Act, 1961 (Assessment Year 1972-73) praying that this Hon'ble Court may be pleased to direct the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh to refer the following questions of law which arise out of the said order of the Tribunal :—

(1) *Whether on the facts and in the circumstances of the case, the Tribunal is right in holding that the penalty order*