

Krantikari Kamgar Union vs M/S Hindustan Unilever Limited on 6 October, 2026

2026:BHC-OS:21841

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CNR No : HCBM020192142013

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2651 OF 2008
WITH
INTERIM APPLICATION (L) NO.22123 OF 2026
IN
WRIT PETITION NO.2651 OF 2008

TOMCO Kamgar Union

...Petitioner

V/s.

M/s. Hindustan Unilever Limited

...Respondent

WITH
WRIT PETITION NO.2642 OF 2013
WITH
NOTICE OF MOTION NO.268 OF 2016
IN
WRIT PETITION NO.2642 OF 2013

Krantikari Kamgar Union

...Petitioner

V/s.

M/s. Hindustan Unilever Limited

...Respondent

WITH
WRIT PETITION NO.2334 OF 2008

M/s. Hindustan Unilever Limited

...Petitioner

V/s.

1. Rajendra M. Sawant
2. Prakash M. Ovhal
3. Laxmikant R. Chachad
4. Govind A. Salunkhe
5. Bhanudas K. Jadhav
6. Ajit V. Mahale
7. Domnic A. Patil
8. Vinayak S. Tulaskar
9. Subhash S. Bhosle
10. Vasant B. Khanvilkar

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11. Sampat D. Howal
12. Appasaheb C. Waghmore

13. Pandurang T. Sable
14. Suryakant R. Parab
15. Dagdu D. Sanawane
16. Anant B. Kadam
17. Satyawan K. Sawane
18. Prakash L. Mitkar
19. Madhav S. Saroday
20. Vasant N. Bhise
21. Augustine J. Pereira
22. Balakrishna V. Vanzare
23. Mohamed Bilal
24. TOMCO Workers Union ...Respondents

WITH

WRIT PETITION NO.2022 OF 2009

Rajendra M. Sawant ...Petitioner

V/s.

M/s. Hindustan Unilever Limited ...Respondent

Mr. Jogy Scaria with Mr. Raju M. Yamgar for the Petitioner in
WP/2651/2008.

Mr. Kiran Bapat, Senior Advocate with Mr. R.N. Shah & Mr. Netaji
Gawade i/b. M/s. Sanjay Udeshi & Co. for the Petitioner in WP/2334/2008
& for Respondent in WP/2651/2008, WP/2022/2009 and WP/2642/2013.

Mr. Ashok D. Shetty with Ms. Rita K. Joshi & Ms. Bushra A. Moughal for
the Petitioner in WP/2022/2009 & for Respondent in WP/2334/2008.

Mr. Bennet D'costa with Ms. Jignasha Pandya & Mr. Sushant Dekhane for
the Petitioner in WP/2642/3013.

CORAM: SANDEEP V. MARNE, J.

Judgment reserved on: 23 SEPTEMBER 2026.

Judgment pronounced on: 06 OCTOBER 2026.

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JUDGMENT:

1) 'Moti' and 'Hamam' are the iconic heritage soap brands, each holding a unique place in the country's cultural and nostalgic history. These soap brands have left an indelible mark on almost every Indian. Moti soap is deeply tied to Diwali, specifically the ritual of Abhyanga Snan (the holy dawn bath). For millions of Indian families, the festival does not truly begin without the distinct aroma of this soap. Moti was India's luxury soap. Hamam on the other hand built its reputation as an honest, no-nonsense family soap. Long before the modern 'herbal' trend, Hamam championed the power of traditional blend of Indian ingredients. These legendary and pioneering soap brands are developed by Tata Oil Mills Company (TOMCO). These soaps used to be manufactured in factory of TOMCO at Sewree, Mumbai. TOMCO got merged with the international consumer giant, Hindustan Unilever Ltd. (HUL) in the year 1993-94. Even after merger of TOMCO with HUL, the iconic soaps of Hamam and Moti are still popular amongst Indians, which are now manufactured and marketed by HUL. The new management decided to close the factory operations at Sewree, where these legendary iconic soaps used to be once manufactured. These Petitions involve disputes relating to closure of the factory and establishment of TOMCO at Sewree, Mumbai by HUL on 8 October 2004.

2) These are cross challenges raised by HUL and by its erstwhile workmen/their Unions to the Awards made by the Industrial Tribunal, Mumbai in respect of the References relating to demands of the workmen /Unions for withdrawal of closure of undertaking and for their reinstatement with backwages.

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3) HUL implemented two Voluntary Retirement Schemes (VRS) in

1996 and 1999 and about 918 workers of the Sewree factory opted for voluntary retirements. However a handful of workmen refused to opt for voluntary retirement offered to them. About 113 workers were left over, who refused to opt for voluntary retirement. After transferring 33 workers to other units, HUL finally shut down the operations at the Sewree factory w.e.f. 8 October 2004 and effected its closure. At the instance of the Unions of workers, who got retrenched on account of the closure, three References (Reference (IT) Nos.56 of 2005, 57 of 2005 and 60 of 2005) were registered with the Industrial Tribunal, Mumbai.

4) The Industrial Tribunal made a common Award dated 5/ 7 April 2008 in Reference (IT) Nos.56 and 57 of 2005 disposing of both the References with a direction to the HUL to consider the cases of workmen as per the VRS scheme of April 1999 and to pay them difference of wages as per the ones offered to every workmen, who had opted for VRS. Cross Petitions are filed by the workers/Unions (Writ Petition Nos.2651 of 2008 and 2022 of 2009) challenging the common Award dated 5/7 April 2008. The challenge by the workers /Union to the common Award is to the extent of non-grant of relief of reinstatement with backwages. Employer- HUL is also aggrieved by the common Award dated 5/7 April 2008 and has filed Writ Petition No.2334 of 2008 to the extent the Award directs grant of benefit of VRS to the workmen.

5) Reference (IT) No.60 of 2005 came to be decided a little later and Award dated 4 April 2012 is made directing HUL to pay retrenchment compensation to the workers covered by the References by adjusting the amount paid towards closure compensation. Award dated 4 April 2012 Page No.4 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt made in Reference (IT) No.60 of 2005 is challenged only by the Union of workers in Writ Petition No.2642 of 2013.

6) Since all the four Petitions involve similar issues, they are taken up for analogous hearing with the consent of the learned counsel appearing for the parties.

FACTS

7) TOMCO was engaged in the activities of the manufacturing and sale of soaps and other toilet preparations. TOMCO was incorporated in the year 1917. Hindustan Lever Limited is also a company engaged in the similar business of manufacturing of soaps, detergents, toiletries, etc. Hindustan Lever Limited was later named as Hindustan Unilever Limited (HUL). The HUL decided to take over TOMCO and accordingly a scheme of merger and amalgamation was approved by this Court vide order dated 18 May 1994.

8) TOMCO used to operate a factory at Sewree, Mumbai on land of Mumbai Port Trust since long. According to HUL, the establishment of erstwhile TOMCO at Sewree remained idle and no manufacturing activities were being conducted therein. Accordingly, HUL entered into settlement with the recognised union of workers and VRS was introduced in the year 1996. It appears that about 336 workers accepted retirement under VRS of 1996. Later HUL introduced one more VRS in 1999 and 537 workers accepted retirements under this scheme. This is how about 918 workers of establishment of erstwhile TOMCO at Sewree were retired on voluntary basis. About 113 workers did not opt for VRS and continued on the rolls at the Sewree Factory of HUL.

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9) According to HUL, since no manufacturing activities were being

conducted at the Sewree factory, it was paying idle wages to the workers. This is disputed by the workers, who claim that they were deployed on various jobs since the factory was being utilised for storage of oil by HUL. According to the workers, HUL deliberately

transferred 33 workers to various sister concerns to bring down the number of left over workers at Sewree factory below 100.

10) HUL issued closure notice dated 8 October 2004 closing the establishment at Sewree w.e.f. 8 October 2004. As per the closure notice, there were 85 permanent workers on rolls, who were rendered unemployed due to closure. According to HUL, all legal dues were paid to the workmen upon effecting the closure.

11) The workers protested against the closure and demanded reinstatement. At the instance of the workmen/their Unions, the Appropriate Government made following reference for adjudication to the Industrial Tribunal, Mumbai:

The Closure declared by the Company, vide notice dated 8.10.2004, be withdrawn forthwith and all the workmen, members of Tomco Kamgar Union, be reinstated in the services of the Company with full back wages, attendant benefits and continuity in services with effect from 8.10.2004, and work to them should be given on their original posts in the Sewree factory or in any other establishment of the Company in Mumbai on the jobs commensurate with the designation and status of the workmen.

12) The Reference was registered as Reference (IT) Nos.56 of 2005 and 57 of 2005 before the Industrial Tribunal, Mumbai. The workers/Union Page No.6 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt filed their Statements of Claim, which were resisted by HUL by filing written statement. To substantiate their claims/contentions, both the parties led evidence. Reference (IT) Nos.56 of 2005 and 57 of 2005 came to be decided by the Industrial Tribunal by a common Award dated 5 /7 April 2008 directing the HUL to consider the cases of workmen covered under the two References as per the VRS scheme of April 1999 and to pay them the difference of wages.

13) At the instance of TOMCO Merged HUL and Allied Companies Union (Their Workmen), Reference (IT) No.60 of 2005 was registered for deciding following demands of about 35 workers:

1. The Notices dated 8th October 2004 for intended " Closure" of "undertaking" at Hey Bunder Road, Sewree, Mumbai - 400 033 and terminating the services of the workman listed in Annexure I should be withdrawn forthwith.

2. The workmen listed in Annexure-I should be reinstated in the services of Hindustan Lever Ltd. With continuity of service and full back wages should be paid to them with 12% compound interest per annum.

4. Workmen listed in Annexure should be allowed entry, work and wages in the Company's unit at the Hey Dunder Road, Sewree, Mumbai

- 400 033.

5. In the alternative to demand number 4' hereinabove, workmen listed in Annexure I should to reinstated/deployed in any of the units of the Company preferably in the state of Maharashtra or nearby.

6. a) Workmen listed in Annexure - I should be paid additional amount every month, in lieu of wage settlement, on and from 1.1.1990 till their day of retirement as described herein below:

Sr No.	Grade	Additional amount to be paid per month from 1.1.1990 till the date of retirement.
1.	Daily rated Grade - F	Rs. 450/- p. m.
2.	Daily rated Grades - E & D	Rs. 573/- p.m.
3.	Daily rated Grades - C, B & A.	Rs. 695/- p.m.

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4.	Monthly rated Grades 1 to 5	Rs. 573/- p.m.
5.	Monthly rated Grades 6 to 8	Rs. 695/- p.m.
6.	Monthly rated Grades 9 to 18	Rs. 817/- p.m.

14) Reference (IT) No.60 of 2005 is decided by the Award dated 4 April

2012 directing payment of retrenchment compensation after adjusting the amounts paid towards closure compensation.

15) Thus, two distinct reliefs are granted under the two Awards. Under Award dated 5 /7 April 2008, the benefit of VRS of 1999 is granted to the workers covered by Reference (IT) Nos.56 and 57 of 2005, whereas the benefit of payment of retrenchment compensation

is granted to the workers covered by Reference (IT) No. 60 of 2005.

16) As observed above, cross Petitions are filed by the employer and by the workmen/their Union challenging Award dated 5/7 April 2008 in Reference (IT) Nos.56 and 57 of 2005. The workmen/Union have filed Writ Petition No.2651 of 2008 and 2022 of 2009, whereas employer-HUL has filed Writ Petition No.2334 of 2008 challenging the common Award dated 5/ 7 April 2008. In respect of Award dated 4 April 2012 made in Reference (IT) No.60 of 2005, only the Union has challenged the same by filing Writ Petition No.2642 of 2013.

17) By order dated 12 January 2009, Writ Petition Nos.2334 of 2008 and 2651 of 2008 came to be admitted staying the impugned Award in Writ Petition No.2334 of 2008 filed by HUL. Writ Petition No.2022 of 2009 came to be admitted by order dated 30 November 2009. Writ Petition No.2642 of 2013 is admitted by order dated 21 February 2014.

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18) Repeated attempts are made by the parties to settle the disputes.

HUL showed willingness to pay the benefits as per the VRS scheme of 1999 to the workers. As per the suggestion by this Court, some interest was also offered by HUL on the amounts arising out of VRS. However, on account of differences between the parties about the exact amounts payable under the VRS of 1999, settlement has finally failed. All the four Petitions are accordingly taken up for final hearing.

SUBMISSIONS

19) Mr. Scaria, the learned counsel appearing for TOMCO Kamgar Union, who is the Petitioner in Writ Petition No.2651 of 2008, submits that the impugned Award made by the Industrial Tribunal is grossly erroneous. That the Industrial Tribunal failed to decide the challenge to the closure effected by the employer. That the closure was impliedly under challenge. [That Chapter V-B of the Industrial Disputes Act, 1947 \(ID Act\)](#) is clearly applicable to the establishment since it had more than 100 workers at the relevant time. That some of the workers were illegally transferred to bring the strength below 100. All these aspects are not taken into consideration by the Industrial Tribunal while passing the impugned Award. That there is functional integrality amongst various manufacturing units and sister concerns of the employer. That if workers of Sewree establishment can be transferred to other sister concerns, the strength of other sister concerns must also be taken into consideration for the purpose of deciding applicability of [Chapter V-B of the ID Act](#).

20) Mr. Scaria further submits that the closure is effected in gross violation of the promise made to this Court while effecting Page No.9 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt amalgamation and merger. That a specific promise was made that no retrenchment of workers of TOMCO will be made by HUL in future on account of amalgamation. He further submits that employer took a false stand of absence of work and payment of idle wages. That the work was very much available at Sewree establishment. That HUL was importing oil and storing the same in tanks at Sewree establishment and the erstwhile workers of TOMCO were made to perform menial nature of jobs at the storage facilities. He invites attention of the Court to judgment dated 18 January 1999 passed in Complaint (ULP) No.1262 of 1996 challenging transfer of workers for performance of lower grade jobs such as watchman, canteen workers, etc. That the transfers were set aside and the order of the Industrial Court was upheld by this Court. He relies on deposition of the management witness in the cross examination (Sanjay Biswas, HR Manager) about storage of oil and deployment of workers to look after those activities.

21) Mr. Scaria submits that case involves closure of the establishment and outsourcing of manufacturing activities. He submits that famous products of TOMCO such as 'Hamam' and 'Moti' are manufactured even today. That manufacturing of those products is deliberately outsourced to get rid of the workers by painting false pictures of absence of work. He relies on letters dated 19 March 1993 and 1 January 1995 in support of his contention that specific promises were made not to terminate services of any of the workers. He submits that Interim Application (L) No. 22123 of 2026 was filed for addition of two workers viz., Shashidharan Nair and Ganesh Y. Sarwade, who were erroneously left out. He accordingly prays for setting aside the impugned Award and for Page No.10 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt direction to pay full backwages to the workers till the date of attaining retirement.

22) Mr. Shetty, the learned counsel appearing for the Petitioners in Writ Petition No.2022 of 2009 and for Respondent in Writ Petition No.2334 of 2008 adopts the submissions of Mr. Scaria. In addition, he submits that provisions of [Section 25FFA](#) of the ID Act were clearly violated in facts of the present case. That closure notice was issued on 8 October 2004 and the same was implemented on the same day. That under [Section 25FFA](#), it is mandatory to issue notice of 60 days, which is not given in the facts of the present case. He

submits that non-issuance of notice under [Section 25FFA](#) is fatal and relies on judgment of the Apex Court in [Mackinnon Mackenzie and Company Limited Vs. Mackinnon Employees Union](#)¹ and judgment of this Court in [Maharashtra General Kamgar Union Vs. Glass Containers Pvt. Ltd. and Another](#)².

23) He further submits that the closure itself is invalid making the workers entitled to consequential relief of reinstatement and full backwages. He relies on judgment of this Court in [Industrial Perfumes Ltd. Vs. Industrial Perfumes Workers Union](#)³ in support of his contention that closure of the establishment without closure of business is not a valid closure in the eyes of law. That in the present case, the business is continued but establishment is shown to be closed, which cannot be treated as a valid closure. He relies on judgment of Division Bench of this Court in [Biddle Sawyer Ltd. Vs. Chemical Employees Union](#)⁴ in support of his contention that mere closing down the place of business does not 1 (2015) 4 SCC 544 2 1983 I L.L.J 326 3 1998(II) L.L.J. 1177 4 2007 II CLR 193 Page No.11 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt amount to closure. Mr. Shetty accordingly prays for setting aside the impugned Award and for grant of relief of reinstatement and backwages.

24) Mr. D'costa, the learned counsel appearing for the Petitioner-Union in Writ Petition No.2642 of 2013 submits that closure notice was submitted ex post facto to the Appropriate Government on 9 October 2004 and the same is in the teeth of mandatory requirement under [Section 25FFA](#) of the ID Act. That the provisions required issuance of notice at least 60 days before the intended closure. He submits that under the judgment of the Apex Court in [Mackinnon Mackenzie and Company Limited](#) (supra), the provisions of [Section 25FFA](#) of the ID Act have been declared to be mandatory. He also relies on judgment of the Apex Court in Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. V/s. Ram Gopal Sharma and Others⁵ in support of his contention of mandatory provisions of [Section 25FFA](#) of the ID Act. He submits that in Reference (IT) No.60 of 2005, the validity of closure was specifically under challenge. That the Statement of Claim also challenged the closure. He relies on judgment of the Apex Court in Lokmat Newspapers Pvt. Ltd. V/s. Shankarprasad⁶ in support of his contention that when [Section 9A](#) notice was found to have been belatedly issued by the employer, the Apex Court held that such notice did not enable the employer to terminate the services of the workmen.

25) Mr. D'costa further submits that the case involves mere closure of the place of business with continuation of business. That 99% of TOMCO products continued to be sold by HUL. That there is an agreement made by HUL not to close down TOMCO products. That the theory of payment 5 (2002) 2 SCC 244 6 (1999) 6 SCC 275 Page No.12 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt of idle wages is false as workers were deployed to look after storage activities. He submits that HUL earns huge amount of profits and as on year ending 31 March 2025, the profit before tax was Rs.14,300 crores.

26) Mr. D'costa submits that there is no independent adjudication of Reference (IT) No.60 of 2005 and the Industrial Tribunal has proceeded to dispose of the same merely because the other two References were decided. That even the benefit awarded in Reference (IT) Nos.56 and 57 of 2005 of VRS of 1999 is not extended to the workers covered by Reference (IT) No.60 of 2005. He submits that mere acceptance of retrenchment compensation does not validate an invalid termination and relies on judgments of the Apex Court in [Nar Singh Pal Vs. Union of India and Others](#)⁷ and [S.G. Chemicals and Dyes Trading Employees' Union Vs. S.G. Chemicals and Dyes Trading Limited and Another](#).⁸ He relies on judgment of the Apex Court in Ariane Orgachem Private Limited V/s. Wyeth Employees Union and Others⁹ in support of his contention that pure question of law need not be pleaded. Mr. D'costa submitted that mere change of Union does not mean that there is no locus to maintain the Petition. He submits that since earlier Union became non-functional, the workers organised themselves and became members of the Petitioner-Union for challenging the impugned order. He submits that ultimately what needs to be adjudicated is the grievance of the workers. In support, he relies on judgment of the Apex Court in [Manager, Hotel Imperial, New Delhi Vs. Chief Commissioner, Delhi and Others](#).¹⁰ He accordingly prays for setting aside the impugned Award.

7 (2000) 3 SCC 588 8 (1986) 2 SCC 624 9 (2015) 7 SCC 561 10 1959 SCC OnLine SC 160 Page No.13 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt

27) Mr. Bapat, the learned Senior Advocate appearing for the Petitioner- HUL in Writ Petition No.2334 of 2008 opposes the three Petitions filed by Unions/workers and presses Petition filed by HUL. He submits that Writ Petition No.2642 of 2013 filed by Krantikari Kamgar Union is not maintainable as the said Union was not a party before the Industrial Tribunal. He further submits that workers in Writ Petition No.2642 of 2013 were earlier members of a recognised Union, who entered into settlement for implementation of VRS with the employer. That therefore the said workers cannot turn around and question closure of the establishment.

28) Mr. Bapat further submits that the Company has effected valid closure of the factory vide notice dated 8 October 2004. That the closure notice is supported by detailed reasons. That the provisions of [Section 25FFA](#) are followed to the hilt. That the factory was in dilapidated condition and it was unsafe to continue manufacturing operations and that the factory license was surrendered. That the closure compensation and wages in lieu of notice are given to the workers. Notice under [Section 25FFA](#) of the ID Act was given to the Appropriate Government.

29) Mr. Bapat further submits that the closure was never challenged in the References. The only grievance raised before the Industrial Tribunal was about application of provisions of [Chapter V B of the ID Act](#) and violation of [Section 25-O](#). That it got established that only 85 workers were working at the factory. That reasons for closure were never under challenge before the Industrial Tribunal. That the Industrial Tribunal cannot travel beyond the terms of Reference and in support, he relies on judgments of the Apex Court in National Engineering Industries Ltd. V/s.

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[State of Rajasthan and Others¹¹ and Delhi Cloth & General Mills Co. Ltd. Vs. Workmen & Others¹².](#)

30) Mr. Bapat further submits that plea of violation of provisions of [Section 25FFA](#) was neither pleaded nor raised before the Industrial Tribunal. That no issue was framed regarding violation of provisions of [Section 25FFA](#). He submits that it is impermissible to directly raise the issue of violation of [Section 25FFA](#) of the ID Act before this Court. In support, he relies on judgments of the Apex Court in [Ram Sarup Gupta \(Dead\) by LRs Vs. Bishun Narain Inter College and Others¹³](#) and [Bachhaj Nahar V/s. Nilima Mandal and Another¹⁴](#). He also relies on judgment of this Court in [Bajaj Electricals Limited V/s. Bajaj Electrical Kamgar Sanghatana, Pune.¹⁵](#) Mr. Bapat submits that in absence of pleadings, parties can neither be permitted to lead evidence nor any findings can be recorded by the Courts and Tribunals. Mr. Bapat further submits that judgment of the Apex Court in [Mackinnon Mackenzie and Company Limited](#) (supra) has no application to the facts of the present case. That the judgment does not hold that every closure with a shortfall in the notice period is illegal irrespective of pleadings, facts and bonafides. He relies on judgment of this Court in [Azad Kamgar Union Vs. Metagraphs \(Private\) Ltd.¹⁶](#) in support of his contention that failure to issue notice under [Section 25FFA](#) of the ID Act is not fatal.

31) Mr. Bapat further submits that the plea of functional integrity sought to be raised on behalf of the Petitioner is totally baseless. That no 11 (2000) 1 SCC 371 12 AIR 1967 SC 469.

13 (1987) 2 SCC 555 14 (2008) 17 SCC 491 15 2018 SCC OnLine Bom 21471 16 2001 (3)L.L.N. 393 Page No.15 of 40 6 October 2026
Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008_group_fc.odt functional integrity is proved in the facts of the present case. He relies on judgments of the Apex Court in [Workmen of the Straw Board Manufacturing Co. Ltd. V/s. M/s. Straw Board Manufacturing Co. Ltd.¹⁷](#) and [Isha Steel Treatment, Bombay V/s. Association of Engineering Workers, Bombay and Antother¹⁸](#) and of this Court in [Saurashtra Trust Karmachari Sangh Vs. States' People \(P\) Ltd. and Others¹⁹](#) in support of his contention that there is no functional interdependence between various units of HUL.

32) Lastly, Mr. Bapat submits that the Industrial Tribunal has erred in directing payment of benefits under VRS -1999, which relief travels clearly outside the scope of Industrial Tribunal. Applicability of VRS- 1999 is not the issue involved in the References. He accordingly prays for setting aside the Award in Reference (IT) Nos.56 and 57 of 2005 and seeks dismissal of the Petitions filed by the workmen /Union.

CONSIDERATION OF SUBMISSIONS, REASONS AND ANALYSIS

33) The workmen of erstwhile TOMCO employed at the factory at Sewree got aggrieved by closure notice dated 8 October 2004 issued by HUL under provisions of [Section 25FFA](#) of the ID Act thereby closing the undertaking and establishment of HUL at Hay Bander Road, Sewree. At the time of issuance of closure notice dated 8 October 2004, apparently 85 workmen were employed at the factory. In the notice, the proposed date of closure was indicated as 8 October 2004. The notice contained various annexures. In Annexure I(a), reasons for closure of the establishment at Sewree were indicated in detail. At the time of effecting 17 (1974) 4 SCC 681 18 (1987) 2 SCC 203 19 1995 SCC OnLine Bom 510 Page No.16 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008_group_fc.odt the closure, HUL paid 60 days' notice wages as well as closure compensation to all the workers. The workers and the Union got aggrieved by the closure and demanded withdrawal of the closure notice. At the instance of the workers of the Union, Reference (IT) No.56 and 57 of 2005 were made by the Appropriate Government for deciding the following demands:

1. The so called closure notice dated 08.10.04 closing down the undertaking of the company at Hay Bunder Road, Sewree, Mumbai- 400 033, be withdrawn and the undersigned workmen be reinstated on their original posts with full back wages and continuity in services w.e.f. 08.10.04
2. The undersigned workmen should be allowed entry work and wages in the company unit at the Hey Bunder Road, Sewree, Mumbai-400 033.
3. In the alternative to demand number 2, hereinabove the undersigned workmen, should be reinstated/deployed in any of the units of the company in the State of Maharashtra with continuity in service and full wages for the intervening period.

"The closure declared by the company vide notice dated 08.10.04 be withdrawn forthwith and all the workmen members of tomcod Kamgar Union be reinstated in the service of the company with full back wages, attendant benefits and continuity in services with effect from 08.10.04, and work to them should be given on their original posts in the Service factory or in any other establishment of the Company in Mumbai, on the jobs commensurate with the designation and status of the workmen.

34) While Reference (IT) Nos.56 and 57 of 2005 remained pending, about 34 more workers, who were members of the erstwhile recognised Union (the Tata Oil Mill and allied Company Employees Union) also raised demands relating to closure and at the instance of the said Union a separate Reference was made by the Appropriate Government by order dated 17 August 2005, which

was registered as Reference (IT) No.60 of Page No.17 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt. In that Reference, the demands were made for withdrawal of notice dated 8 October 2004 for intended closure of the undertaking, for reinstatement of the workers, for allowing them to work in Company's unit at Sewree or in the alternative, to deploy them in other units of HUL.

35) As observed above, Reference (IT) Nos. 56 and 57 of 2005 came to be decided separately by common Award dated 5 / 7 April 2008 and the operative directions in the Award read thus:

(i) Reference (ITO No 56/05 & Reference (IT) No 57/05 are hereby disposed off with the direction to the first party company to consider the case of workmen involved in Ref (IT) No 56/05 and 57/05 as per the VRS scheme of April 1999 and to calculate their legal dues and to pay the difference of wages if any which were offered to the other workmen who had opted for VRS of April 1999 within two months from the date of publication this Award.

(ii) The prayer of the second party workmen for reinstatement with continuity with payment of full back wages and attendant benefit in both the References are hereby rejected.

(iii) Parties to bear their own costs.

36) Reference (IT) No.60 of 2005 came to be decided by Award dated 4 April 2012 in which following operative directions are issued:

(1) The Reference (IT) No. 60/2005 in and amongst both the parties to the litigation so-named in the caption below Exh. O-1 and Exh. O-

2 referred to this Tribunal; for its adjudication of the demands in respect of the enlisted-workmen vide Annexure-'I' appended to the Order of Reference between Exh. O-1 and Exh. O-1 under the 2 provisions of the [Section 12\(5\)](#) of the I.D. Act, 1947; stands allowed to that extent only; of course with no order as to costs.

(2) The first-party-company herein named in the caption below Exh. O-1/Exh. O-2 is hereby directed, to pay to the enlisted-workmen vide Annexure-'I' appended to the Order of Reference below Exh. O-1 and Exh. O-2; the amount of retrenchment-compensation within a month from the date of publication of this Award by the appropriate-

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Government; if not already paid. Failing which, it would carry an interest at the rate of 9% per annum.

(3) It is made clear here, that the amount towards closure- compensation so-paid as per [Section 25-FFA](#) of the I.D. Act, 1947; plus the legal-dues is required to be adjusted with regard to the Order No. 2 as directed hereinabove; to each of the enlisted- workmen vide vide Annexure-'I' appended to the Order of Reference below Exh. O-1 and Exh. O-2; respectively and accordingly. And the net-payment is to be effected by the first-party-company- management to the concerned-workmen and/or to their legal- Representatives in respect of one Shri. Prakash A. Kamath and to the workman; by name: Shri H. F. Daniel; to be worked out till the date of his retirement, i.e., 1st October, 2005; respectively and to that effect.

(4) The payment in respect of PF-amount to the credit of each and every enlisted-workman on the basis of the duly filledoin-form so-given and submitted by each workman-concerned; alongwith the payment of gratuity be paid to them; respectively by the first-party-company; if not already paid.

(5) Award be drawn in terms as above.

37) Thus, the Industrial Tribunal has not adopted a uniform approach while deciding the two sets of References. In Reference (IT) Nos.56 and 57 of 2005, direction is issued for payment of difference of wages by extending the benefit of VRS Scheme of April-1999, whereas in Reference (IT) No.60 of 2005 direction is issued for payment of retrenchment compensation to the concerned workers. It is also a complaint of the Union that Reference (IT) No.60 of 2005 has not been decided independently and is disposed of only on account of the fact that the Award dated 7 April 2008 was rendered in Reference (IT) Nos.56 and 57 of 2005.

38) It would be first necessary to decide preliminary objection raised by Mr. Bapat about maintainability of Writ Petition No.2642 of 2013. The objection is to filing of the Petition by Krantikari Kamgar Union, which Page No.19 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt was not the Union at whose instance Reference (IT) No.60 of 2005 was made. Mr. Bapat has contended that Krantikari Kamgar Union does not have locus to challenge the Award made in Reference (IT) No.60 of 2005. I am not inclined to accept the said objection. It is the contention of the Petitioner-Union that the

erstwhile Union became non-functional on account of which concerned workers were required to reorganise themselves through another Union. In my view, Union is just a representational body through which, collective grievance of the workers can be espoused. The Union does not espouse its own cause and ultimate beneficiaries in the dispute, like the present one, are the individual workers. In Writ Petition No.2642 of 2013, grievance of about 34 workers is sought to be espoused through Krantikari Kamgar Union. The grievances of other similarly placed workers are being espoused in other two Petitions. Mr. D'costa's reliance upon judgment of the Apex Court in [Manager, Hotel Imperial, New Delhi](#) (supra) is apposite, in which it is held as under:-

2. ...The fact remains that the dispute which was referred for adjudication was between the employer, namely the management of the hotel, and its employees, which were mentioned as its workmen.

The addition of the words "as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi " was merely for the sake of convenience so that the tribunal may know to whom it should give notice when proceeding to deal with the reference. That however did not preclude the workmen, if they wanted to be represented by any other union, to apply to the tribunal for such representation or even to apply for being made parties individually. [Section 36](#) of the Act provides that a workman who is party to a dispute shall be entitled to be represented in any proceeding under the Act by (a) an officer of a trade union of which he is a member, or (b) an officer of a federation of trade unions to which the trade union of which he is a member is affiliated; or (c) where the workmen is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in, the industry in which the workman is employed. The fact therefore that in the order of reference the quoted words were added for the sake of convenience as to where the notice to the workmen should be sent would not in our opinion make the reference Page No.20 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt incompetent. The objection further is that even if the workman is entitled to be represented by an officer of a trade union of which he is a member, the reference in this case does not mention any officer of the trade union, but mentions the union itself. This in our opinion is a technicality upon technicality, for the union not being a living person can only be served through some officer, such as its president or secretary and it is that officer who will really represent the workmen before the tribunal. We are therefore of opinion that the reference which is otherwise valid does not become incompetent simply because it is mentioned therein that the workmen will be represented by such and such union in the dispute. We may in this connection point out that the large 'majority of references under the Act which we have come across are usually in this form and the reason for it is obvious, namely, the convenience of informing the tribunal to whom-it should send a notice on behalf of the workmen, whose number is generally very large. We therefore reject the contention that the reference is bad simply because in the order of reference the words " as represented by the Hotel Workers' Union, Katra Shahanshahi, Chandni Chowk, Delhi " have been added.

(Emphasis added) I therefore do not find any valid ground to close the doors of this Court for the 34 workers in Writ Petition No.2642 of 2013 by accepting the technical objection of Krantikari Kamgar Union not being a party to the Reference before the Industrial Tribunal. The preliminary objection raised by Mr. Bapat to the maintainability of Writ Petition No.2642 of 2013 is accordingly rejected.

39) Before proceeding further, it would also be necessary to deal with Interim Application (L) No.22123 of 2026 filed in Writ Petition No.2651 of 2008. The Interim Application is filed for the purpose of inclusion of names of two workmen viz., Shashidharan Nair and Ganesh Y. Sarwade, contending that their names were inadvertently left out in the list of members. It is contended that the said two workers are members of TOMCO Kamgar Union and since they have similar grievances, their names be also considered for extending the benefit of the order that this Page No.21 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt Court may pass in the Petition. Though Mr. Bapat has opposed the Interim Application, in my view, the same deserves to be allowed. There is no dispute to the position that the said two workmen are also similarly situated to that of the other workers. Allowing the said two workers to participate in the present proceedings would result in holistic determination of rights and entitlements of all the workers, who desire to participate in the present proceedings. If the said two workers are not allowed to be party to the present proceedings, the same would lead to multiplicity of proceedings. In my view, therefore, the Interim Application deserves to be allowed and the same stands allowed. Accordingly, the workmen -Shashidharan Nair and Ganesh Y. Sarwade shall be considered as members of TOMCO Kamgar Union and a part of Writ Petition No.2651 of 2008.

40) Coming to the merits of the impugned Awards, it is seen that though the workers and the Unions have sought to question the validity of closure effected by HUL, in none of the Reference orders, the reasons for closure were actually under challenge. In Reference (IT) Nos.56 and 57 of 2005, the demand was for withdrawal of the closure notice. The demand was essentially premised on violation of [Section 25-Q](#) of the ID Act contending that provisions of [Chapter V-B of the ID Act](#) were applicable to the establishment on account of employment of more than 100 workers. Otherwise, there was no real challenge in Reference (IT) Nos.56 and 57 of 2005 to the reasons declared in the closure notice. Even in Reference (IT) No.60 of 2005, the demand was for withdrawal of closure notice dated 8 October 2004. Be that as it may, since withdrawal of closure notice was sought, it would not be appropriate to be too technical in holding that validity of closure notice or reasons for closure Page No.22 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt were not challenged in the References. In the Statements of Claim, detailed pleadings were made as to why the closure was unwarranted. I accordingly proceed on a footing that validity of the closure was also under challenge in the three References.

41) However, even if it is held that validity of the closure was under

challenge in the three References, in my view, the workers and their Unions thoroughly failed to establish that any manufacturing activities were going on at the factory at Sewree. On the other hand, there is voluminous evidence on record to suggest that there was absolutely no manufacturing activity in the factory at Sewree and the factory premises were being used essentially to store

imported oil. In fact, there is implied admission on behalf of the workers about absence of any manufacturing activities in the factory at Sewree when it is sought to be suggested that workers were being utilised to do menial jobs after company started using the factory for storage of oil. Thus, non-conduct of any manufacturing activity at the factory is clearly established and in fact it is an admitted position.

42) In addition to non-conduct of any manufacturing activities, it also got established that the Factory Inspector had directed closure of the factory on account of the same being in dangerous and dilapidated conditions. There is an admission given by one of the workers- Mr. Joseph Vessaoker that the workmen were sitting idle because of directions of Inspector of Factories to stop the manufacturing activities.

Mr. Scaria has sought to contest the claim of payment of idle wages by contending that workers were being utilised for looking after storage activities. However, we are concerned with manufacturing activity at the Page No.23 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt factory and there is no evidence that the manufacturing activity actually continued till the date of closure. To supervise the activity of storage of oil, such large number of employees are not needed. Mr. Scaria himself has submitted that the workers were asked to perform menial works by deploying them in the canteen, security purposes, etc. May be the employer thought it appropriate that instead of paying idle wages to the workers, some of them could be utilized for doing other activities, to mitigate the losses. There is also a direct admission by the worker himself about workers sitting idle in the factory at Sewree in absence of any work. Thus non-conduct of manufacturing activity at the factory was fully established in the present case.

43) Perusal of the closure notice would indicate that genuine reasons were indicated therein for taking extreme step of closure of the undertaking. In the concluding paragraphs of Annexure-I to the Closure Notice, containing statement of reasons, it was pointed out as under:-

CONCLUSION :

1. The workmen are sitting idle as the Government has restrained the Management from conducting any manufacturing operations for the last over 10 years.
2. The manufacturing facility lying idle for over a decade is old, rusted, dilapidated and unsafe for carrying out any activity and needs to be demolished.
3. The Company has already paid about Rs.40 crores as idle wages and about Rs.55 crores as cost of rehabilitation packages.
4. The Company has already given handsome VRS package to 918 Workmen and has transferred/rehabilitated 3 workmen against vacancies in other units.
5. There are no vacancies to rehabilitate the remaining workmen in any of the other units of the Company owing to their profile and their skills not being In line with what is required elsewhere.

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6. The interest locational disadvantages / high overheads rule out the possibility of any fresh Investments and / or conducting any profitable Industrial activity at the site.
7. The Company's other old manufacturing unit located at Mumbai already has over 800 surplus workmen.
8. The falling prices of finished goods in the market place owing to stiff competition faced by the Company.
9. The Company cannot bleed any further after having paid idle wages of about Rs.40 crores to these every workmen for over a decade apart from other unproductive over heads of about Rs. 15 crores.

Hence, it can be seen very clearly from the above that while the Company is facing tremendous competitive pressures and falling profitability despite which it has carried idle workmen for the last over 11 years who are not contributing in any manner to creation of any economic value. The Company is, in the circumstances, left with no other alternative but to close down the establishment. In view of the above, the Notice compliance with Sec. 25 FFA of the Industrial Disputes Act, 19 is furnished to the Government for the intended closure of establishment on and from 8th October 2004.

44) No evidence is led by the workers to counter or disprove the existence of the above quoted circumstances in the closure notice. Thus, the workers were found to be sitting idle for 10 years in absence of any manufacturing activities, the factory machinery had rusted and

the building was dilapidated. In my view therefore, there was no warrant for setting aside the Closure Notice even if it is assumed that validity thereof was questioned by the workers.

45) As a matter of fact, the main ground on which withdrawal of closure notice was sought by the workers was violation of provisions of [Section 25-O](#) of the ID Act. It was contended that even after implementation of two VRS schemes in 1996 and 1999, there were about 113 workers at Sewree factory and that therefore provisions of Chapter V-B were applicable to the said factory. Under Chapter V-B, special provisions relating to lay-off, retrenchment and closure of Page No.25 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt establishments, where not less than 100 workmen are employed, are made. [Section 25K](#) of Chapter V-B reads thus:-

CHAPTER V-B SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS 25K. Application of Chapter V-B.--(1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

46) In respect of establishments /undertakings to which Chapter V-B applies, the procedure for closing down the same is prescribed under [Section 25-O](#) of the ID Act, which provides thus:

25-O. Procedure for closing down an undertaking.--(1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-

section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refused to grant such permission and a Page No.26 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-

section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

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47) In the closure notice, the employer indicated the total number of

workers as 85. According to the workers, the number of workmen was deliberately reduced in the factory at Sewree by transferring about 33 workers to other sister concerns. However, such transfers were not questioned nor challenged by the transferred workers. In my view, therefore, the alleged transferred workers cannot be computed for determining the strength of workers at Sewree factory. Argument of functional integrity is raised on behalf of the workmen contending that strength of entire manufacturing units of HUL must be taken into consideration, particularly because the products of TOMCO, which were being manufactured at Sewree factory are continued to be manufactured even after the closure by manufacturing the same at other places.

48) No doubt, HUL is a large company engaged in manufacturing fast moving consumer goods. However, presumption of functional integrity cannot be readily inferred in absence of evidence. In the present case, there is no evidence to infer that the manufacturing activities at Sewree factory were dependent on activities of HUL at other factories/ places. Merely because business of HUL has continued at other places, the same cannot be a ground to readily infer functional integrity. In *Isha Steel Treatment, Bombay* (supra) the Apex Court has held that it is not necessary that for effecting closure of the business, the establishment must close down all branches of its business. It is held in paragraph 8 of the judgment as under:

8. It is not necessary that in order to effect closure of business the management should close down all the branches of its business.

In [Management of Hindustan Steel Ltd. v. The Workmen & Others](#), [1973] 3 S.C.R. 303 this Court has held that the word 'undertaking' used in [section 25-FFF](#) seems to have been used in its ordinary sense Page No.28 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt connoting thereby any work, enterprise, project or business undertaking. It is not intended to cover the entire industry or business of the employer. Even the closure or stoppage of a part of the business or activities of the employer would seem in law to be covered by the said provision. In deciding [the above case](#) this Court relied upon its earlier decision in [Workmen of the Indian Leaf Tobacco Development Company Limited, Guntur v. Management of the Indian Leaf Tobacco Development Co. Ltd., Guntur](#), [1969] 2 S.C.R. 282. In that case the Court observed that a genuine closure of depots or branches, even though it did not amount to closure of the business could not be interfered with by an Industrial Tribunal. It further held that the closure was stoppage of part of the activity or business of the management and such stoppage is an act of management which is entirely in the discretion of the management. The Court further observed that no Industrial Tribunal could interfere with the discretion exercised in such a matter.

49) In [Workmen of the Straw Board Manufacturing Co. Ltd.](#) (supra) the Apex Court has laid down the tests to decide whether two units form part of a single establishment or not. It is held that mere factum of some material by one unit being prepared by another unit is not a decisive test. In [Saurashtra Trust Karmachari Sangh](#) (supra) a coordinate Bench of this Court has taken into consideration judgments of the Apex Court in [Isha Steel Treatment, Bombay and Workmen of the Straw Board Manufacturing Co. Ltd](#) (supra) as well as various other judgments of the Apex Court and held in paragraphs 10 and 11 of the judgment as under:

10. A survey of the precedents of the Apex Court shows that although several tests were evolved in [Associated Cement Company Case](#) (supra), the test of functional integrity and functional interdependence has emerged superior, particularly in cases involving retrenchment and closure. I am unable to accept the contention of Mr. Dharap that the Industrial Court misdirected itself in emphasising and giving greater weightage to the functional integrity test. The Industrial Court has correctly analysed the evidence on record in the present case and come to the conclusion that the evidence did not make out any functional integrity in the Gujarati Newspaper Department and Job Department Printing Presses of the first and second respondents. It also rightly pointed out that there was no functional interdependence between the said two establishments and, therefore, they could not be considered one Page No.29 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt Industrial Establishment in the eyes of law. In these circumstances, it is not possible to hold that the Industrial Court erred or misdirected itself in law.

11. Though Mr. Dharap read out the evidence on record in detail and invited me to hold that some findings given by the Tribunal are erroneous, I decline. It is not the function of this Court while exercising powers in writ jurisdiction to sit in appeal over the findings of fact recorded by the Court below. Suffice it to say that I am broadly in agreement with the factual conclusions recorded by the Industrial Court and I do not see any reasons to interfere with the same.

50) In my view therefore, the workmen and their Unions have thoroughly failed to establish existence of functional integrality between the factory at Sewree and other units of HUL. Therefore, the strength of workers at other units cannot be combined with the workers employed at Sewree factory for the purpose of applicability of provisions of [Chapter V-B of the ID Act](#).

51) The next objection raised on behalf of the workers and their Union is violation of [Section 25-FFA](#) of the ID Act. [Section 25-FFA](#) deals with closure of an undertaking to which Chapter V-B does not apply. [Section 25-FFA](#) provides for 60 days' notice of intention to close down the undertaking and provides thus:-

25FFA. Sixty days' notice to be given of intention to close down any undertaking.--(1) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in the prescribed manner, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Provided that nothing in this section shall apply to--

(a) an undertaking in which--

(i) less than fifty workmen are employed, or

(ii) less than fifty workmen were employed on an average per working day in the preceding Page No.30 of 40 6 October 2026

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(b) an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

52) According to the workmen and their Unions, the provisions of [Section 25-FFA](#) of the ID Act are violated in the present case as the closure notice was issued on 8 October 2004 and the closure was effected on the same day. Mr. D'costa has in fact contended that the closure was effected a day before the Notice. According to Mr. Bapat, the point of violation of provisions of [Section 25-FFA](#) of the ID Act was never urged before the Industrial Tribunal. Mr. Bapat is not entirely wrong in contending so. In none of the Statements of Claim, the issue of violation of provisions of [Section 25-FFA](#) was raised in any of the References. In the Reference order also, the issue of violation of [Section 25-FFA](#) was not involved.

53) Mr. Bapat has relied on judgments of the Apex Court in [Ram Sarup Gupta and Bachhaj Nahar](#) (supra) in support of his contention that what is not pleaded cannot be permitted to be argued. On the other hand, Mr. D'costa has relied upon judgment of the Apex Court in [Ariane Orgachem Private Limited](#) (supra) in support of his contention that pure question of law need not be pleaded. In my view, violation of provisions of [Section 25-FFA](#) is not a pure question of law and it also involves question of fact. Therefore, it was necessary that the same was pleaded and urged before the Industrial Tribunal. It is impermissible to directly urge the said point Page No.31 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt before this Court in a Petition under [Article 227](#) of the Constitution of India.

54) However, even if the objection of non-raising of plea of violation of provisions of [Section 25-FFA](#) of the Industrial Tribunal is to be momentarily ignored, in my view, closure notice dated 8 October 2004 is not rendered invalid only on account of non-issuance of prior notice of 60 days under [Section 25-FFA](#) of the ID Act. The sheet anchor of the workers and their Unions in support of plea of violation of provisions of [Section 25-FFA](#) of the ID Act is the judgment of the Apex Court in [Mackinnon Mackenzie and Company Limited](#) (supra). The Apex Court has rejected the contention raised on behalf of the Appellant Company therein that [Section 25-FFA](#) was not mandatory. It is held that statutory provisions are mandatory and not directory requiring rigid compliance. The Apex Court held in paragraph 44 of the judgment as under:

44. The statutory provisions contained in [Section 25FFA](#) of the I.D. Act mandate that the Company should have issued the intended closure notice to the Appropriate Government should be served notice atleast 60 days before the date on which it intended to close down the concerned department/unit of the Company. As could be seen from the pleadings and the findings recorded by the Industrial Court, there is a categorical finding of fact recorded that there is no such mandatory notice served on the State Government by the appellant-Company. The object of serving of such notice on the State Government is to see that the it can find out whether or not it is feasible for the Company to close down a department/unit of the Company and whether the concerned workmen ought to be retrenched from their service, made unemployed and to mitigate the hardship of the workmen and their family members. Further, the said provision of the [I.D. Act](#) is the statutory protection given to the concerned workmen which prevents the appellant-Company, from retrenching the workmen arbitrarily and unreasonably & in an unfair manner.

55) Mr. Bapat has distinguished the judgment in Mackinnon Mackenzie and Company Limited contending that each case needs to be Page No.32 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt decided in the peculiar circumstances. He has contended that in facts in the case in Mackinnon Mackenzie and Company Limited the Court found that genuineness of closure was not proved and that there was cumulative breaches of provisions of [Section 25F\(C\)](#), [25\(G\)](#) and Rule 81. That the case involved partial closure and that there was no notice at all. He has further submitted that Mackinnon Mackenzie and Company Limited arise from a complaint under Item 9 of [Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971](#) where breach of statutory provision itself was the cause of action. In the present case, proceedings are a Reference under the [ID Act](#). He has contended that since the Reference did not cover the aspect of violation of

provisions of [Section 25-FFA](#), this Court cannot directly entertain the said issue. In support of his contention of impermissibility to travel beyond scope of Reference, Mr. Bapat has relied upon judgment of the Apex Court in [National Engineering Industries Ltd.](#) (supra). Reliance is also placed by Mr. Bapat on judgment of Single Judge of this Court in [Azad Kamgar Union](#) (supra) in which it is held that action of the Respondent therein was not mala fide or motivated to victimise the workmen. In the facts of that case, this Court accepted the finding of the Industrial Tribunal that provisions of [Section 25-FFA](#) of the ID Act were not applicable as number of workmen were less than 50 and violation of provisions of [Section 25-FFA](#) did not render closure illegal or non est.

56) In my view, the peculiar facts of the present case need to be kept in mind. There was a specific direction that the Government authorities directed the Petitioner-Company to close down the factory. About 90% of the workers had opted for voluntary retirement and there is nothing on Page No.33 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt record to indicate that employer had any mala fide intentions. Even though 90% of the workers had left the establishment by 1999, the employer was still paying idle wages to the remaining workers for over five long years. The employer was not expected to continue paying wages to the workers without extracting any work from them forever. There was urgent need to close down the factory. The workers have been paid wages for notice period of two months. The workers themselves never raised the issue of violation of provisions of [Section 25-FFA](#) of the ID Act before the Industrial Tribunal. Also, the Industrial Tribunal in the present case has granted the partial relief to some of the workers by directing payment of VRS benefits. This Court is proposing to extend the similar benefits to the remaining workers also. Considering these circumstances, I am not inclined to declare the closure as illegal only on account of failure to issue prior notice of 60 days before effecting the closure.

57) It is sought to be contended on behalf of the workers that the business of HUL has continued and merely one of the factories is closed. It is sought to be contended that mere closure of place of employment does not mean closure of the establishment itself. Reliance is placed on judgments of this Court in [Industrial Perfumes Ltd. and Biddle Sawyer Ltd.](#) (supra). I am however, not inclined to accept the contention sought to be raised on behalf of the workers in the light of the fact that valid closure of establishment at Sewree factory is effected by the employer.

58) I am also not impressed by the submission made on behalf of the workers that closure is contrary to the promise made to this Court while seeking approval for the scheme of merger between HUL and TOMCO, which was a business and commercial decision taken by the two entities.

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This Court did take into consideration the concerns of the workers who apparently opposed the merger expressing apprehension that HUL might close down operations post the merger. However, the order passed by this Court, while approving the merger, does indicate that a permanent embargo was put on effecting closure at any point of time in future. Also, the merger was effected in the year 1994, whereas the closure has been effected 10 years later in the year 2004. Though HUL was not in a position to operate the factory at Sewree due to dilapidated and dangerous condition and prohibition imposed by the Factory Inspector, where the manufacturing activities had come to a standstill, it still paid wages to workers for over 5 long years, who had no job to perform at the factory. HUL also doled out a voluntary retirement scheme, which was accepted by over 900 workers and incurred a huge expenditure in paying compensation to the workers. It therefore cannot be contended that the HUL violated the promise made to this Court by closing the factory at Sewree.

59) It is contended on behalf of the workers that mere acceptance of retrenchment compensation does not prevent them from challenging the closure. However, neither the Industrial Tribunal has nor this Court is shutting the doors on the workmen on the ground that they have accepted retrenchment compensation. Therefore, it is not necessary to discuss ratio of the judgment in [Nar Singh Pal and S.G. Chemicals and Dyes Trading Employees' Union](#) (supra) relied upon by Mr. D'costa.

60) The Industrial Tribunal has not left the workers high and dry. In Reference (IT) Nos.56 and 57 of 2005, it has granted partial relief in favour of the workers by directing payment of difference of wages arising Page No.35 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt out of VRS of 1999 to them. The Tribunal has however, committed an error in not extending the same benefit to the workers involved in Reference (IT) No.60 of 2005. To that extent, the Award dated 4 April 2012 passed in Reference (IT) No.60 of 2005 deserves to be modified and all the workers covered in the three References need to be granted same benefit in the form of VRS benefits under the 1999 scheme.

61) There is a challenge to the Award made in Reference (IT) Nos. 56 and 57 of 2005 by HUL, which has challenged the direction for grant of difference of wages under the VRS of 1999 to the workmen covered by those References. However I am not inclined to interfere in the Award at the instance of challenge by HUL in the facts and circumstances of the case. By that direction, the workmen would receive the difference of VRS compensation and closure compensation. There is ofcourse an ambiguity in the operative direction of the

Industrial Tribunal, which needs to be clarified. However considering what is observed in the paragraphs to follow, there is no warrant for entertaining the challenge raised by HUL in its Petition, which deserves to be dismissed.

62) Coming to the slight ambiguity in the operative directions in the Award, it is seen that the Award passed in Reference (IT) Nos. 56 and 57 of 2005 envisages the direction for 'calculate their legal dues and to pay the difference of wages if any which were offered to the other workmen who had opted for VRS of April 1999'. The direction is slightly unclear and is likely to be misinterpreted to mean payment of only 'difference of wages' under the VRS. However, there are other benefits under the VRS of 1999, which would then get denied to the workmen, if the direction in the Tribunal's Award is strictly construed. It would therefore be Page No.36 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt necessary to clarify what exactly would be payable to the workmen as per the VRS of 1999.

63) A copy of the 1999 VRS scheme is placed on record which contemplated payment of maximum lumpsum compensation upto Rs.5,00,000/- based on PF salary multiplied by balance months of service. The scheme also contemplated early bird incentive, Group incentive payment of Rs.75,000/- depending on the month of service left. The Scheme also contemplated payment of pension upto the retirement age. Before hearing of the Petitions on merits commenced, this Court made repeated attempts to settle the disputes. Though the Award directing payment of VRS benefits is also under challenge, the HUL fairly agreed to extend those benefits to all the workers involved in the three References. The HUL showed willingness to pay uniform lumpsum compensation of Rs. 5,00,000/- after deducting the closure compensation. Purely out of deference to the suggestion made by this Court, the HUL had also unwillingly agreed to pay 6% interest on the lumpsum compensation, early bird incentive of Rs.75,000/- and wages under settlement from 1 January 1990 to 31 March 1999. A chart of exact amounts payable to each of the 85 workers were presented before the Court. However, the workers demanded interest on the entire amounts. I have gone through the said chart and the same indicates that the HUL has shown willingness to pay entire lumpsum compensation of Rs. 5,00,000/- irrespective of the formula agreed under the VRS of 1999. Similarly, the entire early bird incentive of Rs.75,000/- is agreed to be paid regardless of the balance months of service. Thus, willingness was shown to pay amounts over and above the ones admissible under the VRS. To illustrate, the amount shown to be payable to the worker Mr. Sudhir Sule was as under:

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V Emp- Gross Lumpsu Closure Lumpsu 6% int. Total Early Wages Part Total Total Name salary m compen m Upto O+P Bird
Settlem Adjust without as on sation closure July Incenti ent ment adjustm Octo paid compen 2026 ve 01.01.1 ent 2004 sation 990
to 031.03.

1999

Sudhir 20882 500000 326,265 173,735 227,558 401,293 75000 91500 0 567793 567,793 M. Sule

64) Though the chart of computations was placed on record on a without prejudice basis, in my view, ends of justice would meet if each of the 85 workers is directed to be paid the amounts indicated in the last column of the said Chart without making any adjustments. The said Chart is taken on record and marked 'X' for identification with a view to avoid any disputes between the parties. In my view therefore the HUL can be directed to pay the amounts indicated in the Chart taken on record towards full and final settlement of all demands of the workers involved in the present case.

65) As a matter of fact, the workers involved in the present References are getting higher benefits than their counterparts, who had quit their jobs by accepting voluntary retirement benefits under the 1996 and 1999 schemes. By not opting for VRS of 1999, the workers drew idle wages for the next about 5 years. They have enjoyed the amounts of closure compensation and two months' wages received at the time of effecting the closure. Now, they are being paid additional compensation as per the VRS scheme (with 6% interest), the entire amount of early bird incentive, settlement wages, etc. The workers who opted for VRS of 1999 received early bird discount depending on years of service left. Similarly, the VRS compensation of Rs. 5,00,000/- was also the maximum amount payable and every worker did not receive the same. However, the workers here are Page No.38 of 40 6 October 2026 Uploaded on - - Downloaded on - 06/10/2026 21:55:49 Megha 908_wp_2651_2008 group_fc.odt being paid the entire amounts of compensation and incentive, irrespective of the applicable formula. For some of the workers, there are adjustment towards recoveries, etc. However, the last column of the Chart ensures that no adjustments are made. If the direction of the Tribunal is strictly construed, many of the amounts under the VRS would get denied and even if interest is computed on 'difference of wages' awarded by the Tribunal, the workmen would receive lesser amounts. It is therefore necessary to avoid disputes between the parties and direct payment of ascertained sums. These amounts are not lawfully due to the workers, since they did not opt for voluntary retirements and continued to bleed the employer by drawing idle wages for 5 long years. The arrangement puts financial burden of approximately Rs. 5 crores on HUL. However, since it had shown willingness to pay these amounts to the workers and since the Award of the Tribunal also envisages payment of benefit of VRS of 1999 to some of the workers, I deem it appropriate to balance the equities by directing the payments as indicated in the Chart. This arrangement would ensure that there are no disputes between the parties about the exact amount payable and shall bring to an end the long dispute pending over the closure of the erstwhile TOMCO factory.

66) I accordingly proceed to pass the following order:

- (i) Award dated 5 /7 April 2008 in Reference (IT) Nos.56 and 57 of 2005 is upheld except with a modification that the amounts payable under VRS of 1999 shall be as indicated in the last column of the Chart taken on record and marked 'X' for identification.

(ii) Award dated 4 April 2012 passed in Reference (IT) No.60 of 2005 is modified and substituted with a direction to pay to the concerned workmen amounts indicated in the last column of the Chart taken on record and marked 'X' for identification.

(iii) The HUL shall pay to each of the 85 workers the amounts indicated in the last column of the Chart within a period of four weeks, failing which the amount shall carry interest @ 8% per annum after expiry of period of four weeks.

(iv) The amounts payable to the workmen as per the direction in (ii) and (iii) above shall be treated as deferred wages for the income tax purposes.

67) With the above directions, all the four Petitions are disposed of. Rule in Writ Petition Nos.2651 of 2008, 2022 of 2009 and 2642 of 2013 is partly made absolute. Rule is discharged in Writ Petition No.2334 of 2008. Interim Application (L) No.22123 of 2026 is allowed as directed above.

68) In view of disposal of the Petitions, the Notice of Motion stands disposed of.