

South Eastern Coalfields Ltd.

Vs

Century Textiles & Industry Ltd. and others

Civil Appeals Nos. 5501, 5502, 6148 to 6176 of 1990 and 6177, 6178 and 6180 of 1990 (arising out of

S.L.P. (Civil) Nos. 15262, 15387 and 15633 of 1990, and C.A. Nos. 6181 and 6179, of 1990

(S. Ranganathan, N. M. Kasliwal JJ)

04.04.1991

JUDGEMENT

RANGANATHAN, J.:-

1. These Civil Appeals and SLPs raise the same issues as have been dealt by us in our judgment of even date in Civil Appeals Nos. 1640 to 1662 of 1986 and connected cases. They arise in the following circumstances.
2. In the connected judgment referred to above we have held that the levy of cess under the Madhya Pradesh Karadhan Adhiniyam, 1982 (Act 15 of 1982) is not a valid levy. In fact it had been so held by the Madhya Pradesh High Court in Hiraial v. State of M.P., 1986 MPLJ 514. The appeal preferred by the State of Madhya Pradesh has been disposed of by us in the connected batch of cases above referred to.
3. Despite the judgment of the High Court the amounts collected from various assesseees had not been refunded; on the contrary, the State appears to have continued collecting the cess apparently on the strength of the interim orders obtained in one of the above appeals viz. C. A. No. 1649 / 86 though, as pointed out by us in the connected judgment no such modification seems to have been ordered by this Court of the initial order of 2-5-86.
4. In April /May, 1990, some of the assesseees filed writ petitions in the High Court challenging the continued recovery of the cess and asking for the refund of amounts already collected. The respondents brought to the notice of the Court the orders of this Court in the earlier matter and pleaded that since the collections were being made in pursuance of the orders of this Court the writ petitions could not be entertained. The High Court rejected the respondent's plea and allowed the writ petitions. The coalfields concerned and the State Government have preferred petitions for leave to appeal from the order dated 28-7-90 and 22-8-90 in these cases. In one set of these appeals leave has been granted by us earlier : C.A. Nos. 5501 and 5502 of 1990. The other SLPs had been listed before us subsequent to our hearing the main appeals and it was agreed that suitable orders may be passed there, in the light of the conclusion we reach in the main batch of appeals. We grant leave to appeal in all the Special Leave Petitions and proceed to dispose of all the appeals by this judgment.
5. These appeals have to be disposed of in the light of our judgment in the connected batch of cases referred to above. We have held there that the collection of any cess under Act 15 of 1982

subsequent to the date of the judgment of the Madhya Pradesh High Court in Hiralal's case, 1986 MPLJ 514 cannot be upheld. For the reasons set out in the judgment in the connected cases, we hold that the appellant will not be entitled to the refund of any cess paid or collected prior to the date of the said judgment,. They would, however be entitled to the refund of the amounts collected subsequent to that date from the coalfields or the State, as the case may be, along with interest in cases where there is an interim direction or undertaking to pay such interest at the rates specified in such direction or undertaking.

6. With these observations these appeals are disposed of.

Order accordingly.

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