(2011) 12 MP CK 0065

In the Madhya Pradesh High Court

Case No : Writ Petition No. 9017 of 2010

Manganese Ore India Ltd. APPELLANT

Vs

The State of M.P. and Others RESPONDENT

Date of Decision : 01-12-2011

Acts Referred:

Madhya Pradesh Electricity Duty (Amendment) Act, 1995 — Section 3
Madhya Pradesh Electricity Duty Act, 1949 — Section 3(b)

Citation : (2011) 12 MP CK 0065

Hon'ble Judges : Sushil Harkauli, J;Alok Aradhe, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. In the instant writ petition the petitioner inter alia has prayed for a direction to the respondents to hold that ferro-manganese is not a ''mineral'' and will not come under the definition of ''mine'' under explanation (b) of Part B of Section 3 of the M.P. Electricity Duty Act, 1949 and to declare the classification of the petitioner company under deemed ''mine'' as ultra vires to Section 3 of the M.P. Electricity Duty (Amendment) Act, 1995.

2. Learned senior counsel for the petitioner submitted that the petitioner is paying electricity duty at the rate of 40% when it uses the electricity for extraction of manganese ore. Thereafter the manganese ore is subjected to processing as a result of which an alloy, namely, ferro-manganese comes into existence. For the purpose of demonstrating the process of manufacturing of ferro alloy, reference has been made to annexure P-3. It has further been submitted that MPSEB vide order dated 21.11.1996 has classified the petitioner as alloy industry. While inviting our attention to communications contained in Annexure P-10 and P-11 it was submitted that place where the processing of manganese takes places does not fall under the mining area therefore action of the respondents in levying higher electricity duty for manufacturing ferro alloy is arbitrary.

3. It is not in dispute that manganese which is a mineral is processed and after processing the mineral, namely manganese, the alloy, namely ferro-manganese, comes into existence. The activity of processing of manganese is subjected to levy duty under the Act and is covered by explanation (b) appended to Part B of Section 3 of the Act.

4. For the aforementioned reasons as well as reasons assigned by us in the order dated 1.12.2011 passed in MP No. 2821/1988, this writ petition fails and is hereby dismissed.

