

(1999) 10 SC CK 0117

In the Supreme Court Of India

Case No : Civil Appeal No. 6119 Of 1999

Modern Steel Industries

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 27-10-1999

Acts Referred:

Citation : (2000) 92 ECR 12 : (2000) 119 ELT 272 : (2001) 9 SCC 400

Hon'ble Judges : U. C. Banerjee, J;S. B. Majmudar, J;M. Srinivasan, J

Bench : Full Bench

Final Decision : Allowed

Judgement

S.B. Majmudar,; M. Srinivasan and; U.C. Banerjee, JJ.-Mr R.C. Verma, the learned counsel enters appearance on behalf of the State of U.P. He is permitted to file the vakalatnama within a week from today.

2. Leave granted.

3. We have heard the learned counsel for the parties finally with their consent. The short question is whether the revenue recovery certificate issued by the 1st respondent on behalf of the State of U.P. for recovering the minimum guarantee charges as sought to be recovered by the respondent Electricity Board from the appellant Industry could be legally sustained or not. The said recovery was challenged by the appellant in the writ petition on two grounds: (1) that under the relevant regulations when the connected additional load was reduced the minimum guarantee charges could not have been levied as if the appellant was a new consumer and alternatively, it was submitted that if Regulation 17(ii) is pressed into service for sustaining the recovery, the said regulation was ultra vires Article 14 of the Constitution.

4. The High Court in the impugned judgment without addressing itself to these vital questions has observed that the appellant may seek the remedy by way of arbitration before a person nominated by the Chairman of the Electricity Board. In our view, the main contentions canvassed by the learned counsel for the

appellant before the High Court were required to be examined by the High Court and there was no question of asking the appellant to go for arbitration, especially when the question of vires of Regulation 17(ii) was on the anvil for scrutiny. Only on this short ground and without expressing any opinion on the merits of the controversy this appeal is allowed. The impugned judgment and order passed by the High Court are set aside and Writ Petition No. 24281 of 1998 is restored to the file of the High Court with a request that the Division Bench which may be seized of this matter may make it convenient to dispose of it at the earliest after hearing the parties.

5. Interim stay granted by us by our order dated 26-10-1998 will continue for a period of six months by which time it will be for the High Court to consider the question of deciding the remanded writ petition at the earliest and to decide the question of interim relief if the proceedings are not disposed of within that time. Liberty to both the parties to mention before the Hon''ble Chief Justice for getting an early disposal of the remanded proceedings.

6. We make it clear that continuing of the interim order will not come in the way of the High Court in passing appropriate interim and final orders in the remanded writ petition in accordance with law. Liberty is reserved to the parties to file additional documents and amended pleadings in support of their respective cases in the remanded proceedings within a period of six weeks from the receipt of the copy of this order by the High Court. The writ petition is accordingly restored to the file of the High Court. It will be open to the High Court to extend the time for filing the requisite pleadings and documents if it is so required in the interest of justice. No order as to costs.