
(2009) 04 SC CK 0048

In the Supreme Court Of India

Case No : Civil Appeal No. 2632 of 2005

U.P. State Industrial Development Corpn. and Another

APPELLANT

Vs

Ingersoll Rand Wadco Tools Ltd.

RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Citation : (2009) 4 AWC 3788 Supp : (2009) 14 JT 486 : (2009) 9 SCALE 4 :
(2009) 14 SCC 404 : (2009) 9 SCR 81

Hon'ble Judges : Asok Kumar Ganguly, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : R.P. Bhatt, P.N. Gupta and Vaibhav Jain, for the Appellant; Ajay Kr. Mishra Vikram and Himanshu Munshi, for the Respondent

Final Decision : Disposed Of

Judgement

Arijit Pasayat, J.—Heard learned Counsel for the parties.

2. In this appeal challenge is to the judgment of Division Bench of Allahabad High Court allowing the writ petition filed by respondent No. 1. In the writ petition challenge was to the impugned orders dated 6/1/2000, 15/4/2000 and 16/7/1999 passed by the respondent No. 2, Regional Manager, U.P. State Industrial Development Corporation, Ghaziabad (in short 'Corporation'). There was further prayer for writ of mandamus directing the Corporation to approve the building expansion plan submitted by the writ petitioner without insisting upon the payment of transfer charges.

3. The High Court was of the view that there was merely change of name and there was no change in the corporate structure and therefore the demand as made has no legal basis. Learned Counsel for the appellant submitted that the High Court has proceeded on factually erroneous premises. It proceeded on the basis as if there was any agreement between the Corporation and the present respondent No. 1. It is pointed out that on 20.8.1973 a plot No. 37-A was reserved and allotted to in the name of Sh. O.P.Wadhwa. A lease deed was

executed on 22/10/1974 between the Corporation as lessor and M/s. Wadco Tools Private Limited. One Kailash C. Wadhwa, Director of Private Limited Company signed the lease deed. Thereafter, 25% of the Paid up Share Capital of Wadco Tools Private Limited was allotted to M/s. Stern Wanner Corporation, U.S.A. and the Private Company Limited was converted in a Public Limited Company , i.e. Wadco Tools Limited.

4. According to the appellant a closely held private company was changed to a public limited company. Thereafter, on 10/7/1997 74% of share holding of Wadco Tools Limited was transferred to the present respondent. The name of Wadco Tools Ltd. was changed into Ingersoll Rand Wadco Tools Ltd. Ingersoll Rand Wadco Tools Ltd. again was reconverted to a private limited company on 10/7/1997.

5. The controversy is whether there was merely a change of name or there was structural change, bringing into existence different legal entities.

6. According to the appellant this aspect has been lost sight of by the High court who proceeded on the basis of alleged agreement between the present appellant and the writ petitioner, when actually it is not so.

7. Learned Counsel for the respondent on the other hand submitted that ultimately it was a mere change of name and the application for approval of a plan. That did not authorize the Corporation to levy any transfer charges. It appears that the Corporation was of the view that the lease with Wadco Tools Private Limited was no longer in existence and if the respondent No. 1 wanted any change it was required to enter into fresh agreement with the Corporation.

8. We find that apparently the High Court has confused the factual scenario and has proceeded as if originally there was an agreement between the appellant and the present respondent No. 1.

9. Further the High Court has recorded a finding that as indicated in paragraph 7 of the writ petition, pursuant to the lease deed the writ petitioner company has paid transfer consideration and the possession of the site had been handed over to it and remained as it is. This is not the factual scenario. The approach of the High Court in dealing with the issues raised before it was not correct.

10. Therefore, without indicating the opinion on the merits of the case we set aside the impugned order and remit the matter to the High Court for fresh consideration. Needless to say that parties shall be permitted to place relevant material in support of their respective stand.

11. Since the matter is pending since long it would be appropriate if the writ petition is heard afresh and disposed of within a period of six months. We request the learned Chief Justice of High Court to allot the matter to an appropriate Bench so that it can be disposed of within the time indicated above.