

ITEM NO.13

COURT NO.4

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.9246/2012

(Arising out of impugned final judgment and order dated 01/12/2011
in WP No. 9017/2010 passed by the High Court of M.P. at Jabalpur)

MANGANESE ORE INDIA LTD.

Petitioner(s)

VERSUS

STATE OF M.P. & ORS.

Respondent(s)

(With interim relief and office report)

WITH S.L.P. (C) Nos.10643-10645/2012

(With appln.(s) for permission to file counter affidavit and
appln.(s) for permission to file counter affidavit and interim
relief and office report)

Date: 12/01/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Mr. Mukul Rohatgi, A.G.
Mr. T. G. Narayanan Nair, AOR
Mr. Devashish Bharuka, Adv.
Mr. Ravi Bharuka, Adv.
Mr. K.N. Madhusoodhanan, Adv.

SLP 10643-45/12 Mr. P.P. Rao, Sr. Adv.
Mr. R.K. Sanghi, Adv.
Ms. Nandini Sen, Adv.
Mr. Deba Prasad Mukherjee, AOR
Mr. Swarnendu Chatterjee, Adv.

For Respondent(s) Mr. Akashat Srivastava, Adv.
Mr. Amalpushp Shroti, AOR
Ms. Jennifer Jhon, Adv.

Mr. B. S. Banthia, AOR

Mr. Mishra Saurabh, AOR

Mr. Ankit Kr. Lal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Application for permission to file counter affidavit
is allowed.

It is submitted by Mr. Mukul Rohatgi, learned Attorney General appearing for the petitioner in S.L.P.(C) No.9246 of 2012 and Mr. P.P. Rao, learned senior counsel in S.L.P.(C) Nos.10643-10645 of 2012, that the High Court has fallen into error by imposing the electricity duty on the basis of definition engrafted under Section 3(b) of the Madhya Pradesh Electricity Duty Act, 1949. Section 3(b) reads as follows:

"mine" means a mine to which the Mines Act, 1952 (No.35 of 1952) applies and includes the premises or machinery situated in or adjacent to a mine and used for crushing, processing, treating or transporting the mineral."

It is submitted by Mr. Rohatgi and Mr. Rao that there is no cavil over the fact that the Manganese ore is a mineral under the Mines Act, 1952, but it is not Ferro-Manganese ore which is a mineral and excisable to duty at the rate of 40%. However, submits Mr. Rohatgi and Mr. Rao that when the said mineral is converted into alloys as in the case of Manganese Ore India Limited and copper concentrate in the case of Hindustan Copper Limited, they do not retain the character of a mineral and, therefore, the duty has to be at the rate of 8% not 40%.

Controverting the said submission, it is contended by Mr. Saurabh Mishra, learned counsel for the respondent-State that the definition is an inclusive one and, hence, when the mineral is processed for the purpose of conversion to alloy, duty at the rate of 40% is leviable. This is the thrust of the controversy, for learned counsel appearing for the petitioners would seriously contend that there is no processing, but an activity of manufacturing and, therefore, the definition in the 1949 Act, would not apply.

Learned counsel for the parties are at liberty to file additional affidavits explaining two concepts, namely, processing and the manufacturing, especially regard being had to the case at hand.

Let the matter be listed for further hearing on 23rd February, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master