

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO(s). 537 OF 2000

M/S. SHREE SIDHBALI STEELS LTD. & ORS. Petitioner(s)

VERSUS

STATE OF U.P. & ORS. Respondent(s)

(With appln(s) for stay and office report)

Date: 20/01/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s) Mr. Shanti Bhushan, Sr. Adv.

Mr. M.L. Lahoti, Sr. Adv.

Mr. Pawan Kr. Sharma, Adv.

Mr. Sudhir Kumar Gupta, Adv.

For Respondent(s) Mr. Shail Kumar Dwivedi, AAG

Mr. Pradeep Misra ,Adv

Mr. Anuvrat Sharma ,Adv

Mrs. Vibha Dwivedi, Adv.

Ms. Vandana Mishra, Adv.

UPON hearing counsel the Court made the following
ORDER

This writ petition has been filed under Article 32 of the Constitution of India.

Heard Shri Shanti Bhushan, learned senior counsel for the writ petitioner, Shri Pradeep Mishra, learned counsel for the UP Power Corp. Ltd. and Shri Shail Kumar Dwivedi for the State of Uttar Pradesh.

It appears that the petitioner had been granted the development rebate of 33.33% by the UP State Electricity Board and it is alleged that this was in view of the policy of the State Government to encourage industrialization of the hill areas.

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Subsequently, the UP State Electricity Reforms Act, 1999 came into force with effect from 14.01.2000.

This Court by its judgment in Civil Appeal No. 1215-1216/2001 UP Power Corporation Ltd. & Anr. v. Sant Steels & Alloys (P) Ltd & Ors. decided on 10.12.2007, held that the rebate concession would be valid till the Act of 1999 came into force [vide para 34, 2008 (2) SCC 777].

Shri Shanti Bhushan, learned senior counsel submits that the observation in the aforesaid para 34 that the writ petitioner is not entitled to the rebate concession after 14.01.2000 is legally not correct because under Section 12 of the UP State Electricity Reforms Act, 1999, the State Government is entitled to issue policy directions to the Regulatory Commission, just as it earlier had power to issue policy direction to the UP State Electricity Board under Section 78A of the Electricity Supply Act, 1948.

We are of the opinion that this argument of Shri Shanti Bhushan requires consideration by a larger Bench since it is an important question as there can be no doubt that industrialization of hill areas in the State of Uttaranchal is in the public interest.

In view of this we are of the opinion that this question, as to whether the rebate concession granted to the writ petitioner from 1997 to 2002 should continue till 2002 or will cease to have effect after 14.01.2000 and thereafter, deserves consideration by a larger Bench being an important question of law.

Let the papers of this case be put before the Hon'ble the Chief Justice of India for deciding the aforesaid question.

(Asha Kukrety)
Sr. P.A.

(Indu Satiya)
Court Master