

ITEM NO.103

COURT NO.5

SECTION XIV

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

CIVIL APPEAL NO. 5258/2007

STATE OF ARUNACHAL PRADESH & ORS.

APPELLANT(S)

VERSUS

M/S NEFA UDYOG & ORS.

RESPONDENT(S)

(WITH APPLN. (S) FOR SEEKING PERMISSION TO PLACE ON RECORD
REJOINER AFFIDAVIT)

Date : 07/12/2016 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s)

Mr. Rajiv Dutta, Sr. Adv.
Mr. Anil Shrivastav, Adv.
Mr. Ritu Raj, Adv.

For Respondent(s)

Mr. Basava Prabhu S. Patil, Sr. Adv.
Mr. Annam D. N. Rao, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Sudipto Sircar, Adv.
Mr. Rahul Mishra, Adv.
Mr. Abhinav Goyal, Adv.
Mr. Kushank Sindhu, Adv.
Mr. Amjid Maqbool, Adv.

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

Permission to place on record rejoinder affidavit is granted.

The appeal(s) is disposed of in terms of the signed order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.5258 OF 2007

STATE OF ARUNACHAL PRADESH
& ORS. . . . APPELLANTS

VERSUS

M/S NEFA UDYOG & ORS. . . . RESPONDENTS

ORDER

1. We have heard the learned counsels for the parties.

2. The short and only point that would require an answer from the Court in the present appeal(s) is whether in respect of contracts entered into and fully executed prior to 23rd September, 1992, which is the date of coming into force of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 (hereinafter referred to as "the Act of

1993") the provisions of interest as contained in Sections 4 and 5 of the Act of 1993 would have any application.

3. The High Court held that the provisions of the Act of 1993 would apply to such situations and accordingly held the writ petitioners - respondents herein to be entitled to receive payments of interest under the Act of 1993. Aggrieved, the State of Arunachal Pradesh is in appeal.

4. Though a number of questions has been raised before the Court, including the correctness of the exercise of power under Article 226 of the Constitution of India to decree the claims of money for contracts executed, we are of the view that on account of long efflux of time that has taken place we should not deal with any of the said issues and primarily focus on what has been indicated above.

5. The applicability of the Act of 1993 in respect of agreements executed and supplies effected prior to the coming into force of the Act of 1993 is no longer *res integra*. The question has been answered by this Court in Assam Small Scale Industries Development Corpn. Ltd. and others versus J.D. Pharmaceuticals and another¹ (Para 37] and M/s Purbanchal Cables & Conductors Pvt. Ltd. versus Assam State Electricity Board & another² [Para 39 and 40].

6. On the same question there has been a subsequent conflict of views between the two learned judges of this Court in the decision in M/s Shanti Conductors (P) Ltd. & Anr. Versus Assam State Electricity Board & Ors.³. Having gone through the judgment in M/s Shanti Conductors (P) Ltd. (supra) we find that the difference between the two

1 [(2005) 13 SCC 19]

2 [2012 (6) SCALE 314]

3 [2016 SCC OnLine SC 893]

learned judges and the consequential reference made in terms thereof would have no application to the facts of the present case when not only the date(s) of the agreement but even the date of supplies are admittedly prior to the coming into force of the Act of 1993. The only area of disagreement between the two learned judges in M/s Shanti Conductors (P) Ltd. (supra) is on the question as to whether for supplies that are effected subsequent to the coming into force of the Act of 1993, the same will have any application.

7. In view of the above, we take the view that the High Court had erred in granting interest under the provisions of the Act of 1993 to the writ petitioners before it i.e. respondents in the present appeal.

8. We accordingly set aside the aforesaid part of the order of the High Court. However, the order so far as the principal amount along with interest as applicable under the contract is maintained and the same, if not paid, shall be tendered to the respondents by the appellants forthwith and in any case within three months from today.

9. The appeal(s) is disposed of in the above terms.

.....,J.
(RANJAN GOGOI)

.....,J.
(N.V. RAMANA)

NEW DELHI
DECEMBER 07, 2016