(2008) 01 SC CK 0053

Supreme Court of India

Case No: I.A. No. 91 in Civil Appeal No. 2335 of 2006

Oswal Woolen Mills Ltd.		APPELLANT
	Vs	
Punjab State Electricity Board and Another		RESPONDENT

Date of Decision: Jan. 11, 2008

Citation: AIR 2008 SC 2688 : (2008) AIRSCW 4492 : (2008) 2 CHN 45 Supp : (2008) 2 CLT 729 : (2008) 1 SCALE 351 : (2008) 2 SCC 587 : (2008) 1 Supreme 408

Hon'ble Judges: S. B. Sinha, J; H. S. Bedi, J

Bench: Division Bench

Advocate: Mahindera Anand, Neeraj Kumar Jain, Bharat Singh, Sanjay Singh, Sandeep Chaturvedi and Ugra Shankar Prasad, for the Appellant; Ruchi Gour Narula, Ruchi Kohli and Rajiv Nanda, for the Respondent

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

1. This application has been filed for clarification of a judgment and order dated 28.04.2006 passed by a Division Bench of this Court in Civil Appeal No. 2335 of 2006.

2. The clarification has been sought for on the issue as to whether 13.05.1992 was the cut-off date for commencement of the period of one year for converting supply from 11 KV to 33 KV or higher voltage or the surcharge was actually payable with effect from the said date.

3. Having heard the learned Counsel for the parties, we are of the opinion that the Company is liable to pay the surcharge with effect from the date of expiry of one year from 13.05.1992 and not from 13.05.1992 itself. The relevant paragraph of the judgment of this Court, accordingly, may be substituted by the following:

For the reasons aforementioned, although Mr. R.K. Jain, the learned Senior Counsel appearing for the company, may be right in his submission that the Board has no jurisdiction to levy surcharge after 29.01.1992, but as the said contention had not been raised and furthermore as notice was issued by the court on a limited question, we are of the opinion that the company is liable to pay the surcharge with effect from the date of expiry of one year from 13.05.1992. We may furthermore notice that the actual amount of surcharge payable from that date has already been paid by the company to the Board. However, in view of our findings aforementioned, there cannot be any doubt that the surcharge @ 17 1/2% was not required to be paid in terms of the tariff notification dated 01.02.1994.

4. The I.A. is disposed of accordingly.