

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WP Nos. 6095 of 2004 and batch

Between:

Rane Engineering Valves Ltd,
Rep by its Vice President
Ranga Reddy district

.....Petitioner

and

State of Andhra Pradesh
Rep by its Principal Secretary,
Hyderabad and others

.....Respondents

DATE OF JUDGMENT PRONOUNCED: 19.05.2016

SUBMITTED FOR APPROVAL:

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE

AND

HON'BLE SRI JUSTICE P.NAVEEN RAO

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | Yes/No |

*** HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE**
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO
+ WP Nos. 6095 of 2004 and batch

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Rane Engineering Valves Ltd,
Rep by its Vice President
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petitioner

AND

\$ State of Andhra Pradesh
Rep by its Principal Secretary,
Hyderabad and others

respondents

**! Counsel for Appellant : Mr. E Manohar, Senior counsel
for Mr Challa Gunaranjan.
Sri K Gopal Chowdary
Sri Vedula Srinivas**

**^Counsel for Respondents : The Advocate General (AP)
The Addl Advocate General (TS)**

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>HEAD NOTE :

? Cases referred :

(1985) SUPPLEMENT SCC 205
1993 (49) DLT 83 (DB)
2016(2) Supreme 103
(2004) 2 SCC 249
AIR 1953 SC 375(1)
[Privy Council – (1939) AC 117]
AIR 1959 SC 1124
(2002) 5 SCC 203
(2004) 10 SCC 201
AIR 1963 SC 414
2010 SCC Online Ori 96 : (2011) 111 CLT 16
AIR 1962 SC 1562
(1996) 3 SCC 15
AIR 1964 SC 1284
(1991) 2 SCC 154
(1996)4 SCC 596
(2000) 5 SCC 488

AIR 1960 SC 1080(1)
1980 (4) SCC 697
AIR 1955 SC 540

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

Writ Petition Nos. 6095, 5358, 5916, 5917, 5927, 6083, 6220, 6340, 6544, 6545, 6769, 6786, 6789, 6792, 6797, 6810, 6991, 7027, 7037, 7049, 7143, 7144, 7145, 7198, 7230, 7256, 7276, 7340, 7358, 7364, 7374, 7448, 7467, 7475, 7551, 7552, 7798, 7829, 7835, 7836, 7856, 7901, 7916, 8031, 8038, 8102, 8215, 8285, 8300, 8479, 8562, 8659, 9626, 9639, 10283, 10398, 12072, 12429, 12544, 14570, 17805, 18575, 19038, 20342, 21444, 21612, 21950, 23018 **of 2004**, 2415, 4268, 5186, 6090, 7668, 8090, 8226, 10762, 22599 **of 2005**, 16934, 17068, 17069, 17637, 17643, 17859, 18036, 18254, 18517, 18518, 18519, 19304, 20138, 24349, 24350, 24364 **of 2006**, 6634, 7979, 9411, 9446, 13540, 15786, 18247, 18598, 19629, 19891, 21332, 21333, 21334 **of 2007**, 8100, 8101, 10268, 14798 **of 2008**, 3539, 6980, 9262, 11557, 13154, 13576, 13844, 25316, 15235, 15250, 19285, 19846, 20480, 20536 **of 2009**, 1782, 13728, 13729, 18577, 19560, 21734, 23897, 28810, 28981, 29717 **of 2010**, 520, 1950, 7561, 18953, 20181, 25920, 27845, 28063, 28867, 28875 **of 2011**, 13002, 16645, 18090, 18241, 22182, 22187, 22189, 24651, 25990 **of 2012**, 6466, 6471, 7733, 9072, 9797, 15771, 18164 and 28910 **of 2013**

Date:19-05- 2016

WP 6095 of 2004

Between:

Rane Engineering Valves Ltd,

Rep by its Vice President
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.....Appellant/
Petitioner

And

State of Andhra Pradesh
Rep by its Principal Secretary,
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.....Respondents

The Court made the following:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE P. NAVEEN RAO

Writ Petition Nos. 6095, 5358, 5916, 5917, 5927, 6083, 6220, 6340, 6544, 6545, 6769, 6786, 6789, 6792, 6797, 6810, 6991, 7027, 7037, 7049, 7143, 7144, 7145, 7198, 7230, 7256, 7276, 7340, 7358, 7364, 7374, 7448, 7467, 7475, 7551, 7552, 7798, 7829, 7835, 7836, 7856, 7901, 7916, 8031, 8038, 8102, 8215, 8285, 8300, 8479, 8562, 8659, 9626, 9639, 10283, 10398, 12072, 12429, 12544, 14570, 17805, 18575, 19038, 20342, 21444, 21612, 21950, 23018 **of 2004**, 2415, 4268, 5186, 6090, 7668, 8090, 8226, 10762, 22599 **of 2005**, 16934, 17068, 17069, 17637, 17643, 17859, 18036, 18254, 18517, 18518, 18519, 19304, 20138, 24349, 24350, 24364 **of 2006**, 6634, 7979, 9411, 9446, 13540, 15786, 18247, 18598, 19629, 19891, 21332, 21333, 21334 **of 2007**, 8100, 8101, 10268, 14798 **of 2008**, 3539, 6980, 9262, 11557, 13154, 13576, 13844, 25316, 15235, 15250, 19285, 19846, 20480, 20536 **of 2009**, 1782, 13728, 13729, 18577, 19560, 21734, 23897, 28810, 28981, 29717 **of 2010**, 520, 1950, 7561, 18953, 20181, 25920, 27845, 28063, 28867, 28875 **of 2011**, 13002, 16645, 18090, 18241, 22182, 22187, 22189, 24651, 25990 **of 2012**, 6466, 6471, 7733, 9072, 9797, 15771, 18164 and 28910 **of 2013**

COMMON ORDER: (Per Hon'ble Sri Justice P Naveen Rao)

In all the writ petitions disposed of by this common order, petitioners own captive power generating plants. Petitioners challenge constitutional validity of Section 3-B of Andhra Pradesh Electricity Duty Act, 1939 (for short Act, 1939) as introduced vide amendment Act No. 14 of 2003. This provision vests power in the Government to impose duty at the rate of 0.25 paise per unit on consumption of electric energy by captive generating units.

W.P.No.6769 of 2004, extracted above.

8. Before delineating the respective submissions of learned counsel, it is necessary to clear two aspects:

i) Though Section 3-B(1) vests power in the State to levy duty on electricity consumed for its own purpose by the Captive Generating unit, Section 3-A and Section 3B(3) of the Act, 1939 enables the Government to exempt any such unit permanently or for a specified period from levying of duty. In exercise of said power, G.O.Ms.No.25 dt.23.5.2013 was issued granting exemption from levying of duty on electricity consumed by captive generating units if they consume entire power generated by them for own purpose. Such of the units covered by said exemption raise limited grievance against granting exemption prospectively from the date of G.O., i.e., 23.05.2013 is not extended and they seek extension of such exemption retrospectively from 16.07.2003.

i i) Though petitioners have also challenged the legality of Rules, 1939, they have given up their challenge to the validity of said rules and made submissions only against constitutional validity of Section 3-B.

9. Heard Sri E.manohar, learned senior counsel for Sri Challa Gunaranjan, Sri K Gopal Chowdary and Sri Vedula Srinivas appearing for respective petitioners and Sri P Venugopal, learned Advocate General (AP) and Sri J Ramchander Rao, learned Additional Advocate General(TS).

10.1. Leading the arguments in the batch of writ petitions, Sri Gopal Choudary took us through the various stages of promulgation of Central and State enactments and various incentives introduced to encourage captive power generation.

10.2. Learned counsel would contend that in exercise of power vested in the Union of India under entry 38 of list-III of the VII schedule to the Constitution, Electricity Act 2003 was enacted and this act occupies the field. With reference to all the provisions covered by the said enactment, States are denuded of their power to bring out any legislation which is contrary to the

