

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2632 OF 2005

U.P.STATE INDUSATRIAL DEV. CORPN. & ANR

Appellant (s)

VERSUS

INGERSOLL RAND WADCO TOOLS LTD.

Respondent(s)

(With prayer for interim relief and office report)

WITH Civil Appeal NO. 1310 of 2006
(With appln. for permission to file addl. documents)
SLP(C) NO. 16404 of 2006
(With office report)
Civil Appeal NO. 2731 of 2005
(With office report)
SLP(C) NO. 5838 of 2008
(With office report)

Date: 30/04/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE ARIJIT PASAYAT
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. R.P.Bhatt,Sr.Adv.

Mr. P.N. Gupta,Adv.

Mr. Vaibhav Jain,Adv.

Mr. Ameet Singh,Adv.

Mr. Pramod Swarup,Adv.

Mr. R.P.Bhatt,Sr.Adv.

Mr. Rakesh Uttamchandra Upadhyay,Adv.

For Respondent(s) Mr. Ajay Kr. Mishra,Sr.Adv.

Mr. Vikram,Adv.

Mr. Himanshu Munshi,Adv.

-2-

Mr. Ratnakar Dash,Sr.Adv.

Mr. F.Khan,Adv.

Mr. Anuvrat Sharma ,Adv

Mr. Jayant Nath,Sr.Adv.

Mr. Upender Thakur,Adv.

Mr. S.K.Dubey,Adv.

Mr. K.B.Thakur,Adv.

Mr. K.V.Mohan,Adv.

Mr. Arun Kathpalia,Adv.

Mr. D.Bharat Kumar,Adv.

Ms. M.Indrani,Adv.

Mr. Pradeep Kumar Bakshi,Adv.

Mr. Ajay Veer Singh Jain,Adv.

Mr. Anand Mishra,Adv.

Mr. Nitin Jain,Adv.

Mr. Uday Ram,Adv.

Ms. Priyanka,Adv.

Mr. Aftab Ali Khan,Adv.

UPON hearing counsel the Court made the following
ORDER

In C.A.No. 2632/2005

The appeal is disposed of.

In Rest of the matters

List in July, 2009.

[SUMAN WADHWA]
COURT MASTER

[SHASHI BALA VIJ]
COURT MASTER

Signed Reportable judgment is placed on the file.
REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2632 OF 2005

U.P. STATE INDUSTRIAL
DEVELOPMENT CORPN. AND ANR. . . APPELLANTS

vs.

INGERSOLL RAND WADCO TOOLS LTD... RESPONDENT

JUDGMENT

Dr. ARIJIT PASAYAT, J.

Heard learned counsel for the parties.

In this appeal challenge is to the judgment of Division Bench of Allahabad High Court allowing the writ petition filed by respondent no.1. In the writ petition challenge was to the impugned orders dated 6/1/2000, 15/4/2000 and 16/7/1999 passed by the respondent No.2, Regional Manager, U.P. State Industrial Development Corporation, Ghaziabad (in short 'Corporation'). There was further prayer for writ of mandamus directing the Corporation to approve the building expansion plan submitted by the writ petitioner without insisting upon the payment of transfer charges.

-2-

The High Court was of the view that there was merely change of name and there was no change in the corporate structure and therefore the demand as made has no legal basis. Learned counsel for the appellant submitted that the High Court has proceeded on factually

erroneous premises. It proceeded on the basis as if there was any agreement between the Corporation and the present respondent No.1. It is pointed out that on 20.8.1973 a plot No.37-A was reserved and allotted to in the name of Sh. O.P.Wadhwa. A lease deed was executed on 22/10/1974 between the Corporation as lessor and M/s. Wadco Tools Private Limited. One Kailash C. Wadhwa, Director of Private Limited Company signed the lease deed. Thereafter, 25% of the Paid up Share Capital of Wadco Tools Private Limited was allotted to M/s. Stern Wanner Corporation, U.S.A. and the Private Company Limited was converted in a Public Limited Company , i.e. Wadco Tools Limited.

According to the appellant a closely held private company was changed to a public limited company. Thereafter, on 10/7/1997 74% of share holding of Wadco Tools Limited was

-3-

transferred to the present respondent. The name of Wadco Tools Ltd. was changed into Ingersoll Rand Wadco Tools Ltd. Ingersoll Rand Wadco Tools Ltd. again was reconverted to a private limited company on 10/7/1997.

The controversy is whether there was merely a change of name or there was structural change, bringing into existence different legal entities.

According to the appellant this aspect has been lost sight of by the High court who proceeded on the basis of alleged agreement between the present appellant and the writ petitioner, when actually it is not so.

Learned counsel for the respondent on the other hand submitted that ultimately it was a mere change of name and the application for approval of a plan. That did not authorize the Corporation to levy any transfer charges. It appears that the Corporation was of the view that the lease with Wadco Tools Private Limited was no longer in existence and if the respondent No.1 wanted any change it was required to enter into fresh agreement with the Corporation.

We find that apparently the High Court has confused the factual scenario and has proceeded as if originally there was an agreement between the appellant and the present respondent No.1.

Further the High Court has recorded a finding that as indicated in paragraph 7 of the writ petition, pursuant to the lease deed the writ petitioner company has paid transfer consideration and the possession of the site had been handed over to it and remained as it is. This is not the factual scenario. The approach of the High Court in dealing with the issues raised before it was not correct.

Therefore, without indicating the opinion on the merits of the case we set aside the impugned order and remit the matter to the High Court for fresh consideration. Needless to say that parties shall be permitted to place relevant material in support of their respective stand.

Since the matter is pending since long it would be appropriate if the writ petition is heard afresh and disposed of within a period of six months. We request the learned Chief Justice of High Court to allot the matter to an appropriate Bench so that it can be disposed of within the time indicated above.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
April 30, 2009.