



2026:CGHC:11782-DB

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 213 of 2026**

**1** - State Of Chhattisgarh Through- The Secretary, Department Of Energy, Mahanadi Bhawan, Mantralaya, Nava Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh

**2** - Special Secretary Department Of Energy, Mahanadi Bhawan, Mantralaya, Nava Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh.

**3** - Chief Electrical Inspector Government Of Chhattisgarh, B-Block, Second Floor, Indravati Bhawan, Nava Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh.

**... Appellants****versus**

M/s. ACB India Ltd. A Company Incorporated Under Provisions Of The Companies Act Having Registered Office At C-102, L.G.F. Surya Enclave, Multan Nagar, New Delhi 110056 Having Plant At Village Kasaipali, Post Jawali, District Korba, Chhattisgarh, Represented Through Its Authorised Representative, Sh. Arbind Kumar Singh.

**... Respondent**

---

For Appellants	:	Mr.P.K.Bhaduri, Deputy Advocate General
For Respondent	:	Mr.Ravindra Shrivastava, Senior Advocate through video conferencing assisted by Mr.Abhishek Vinod Deshmukh, Advocate

---



**Hon'ble Shri Ramesh Sinha, Chief Justice**  
**Hon'ble Shri Ravindra Kumar Agrawal, Judge**  
**Judgment on Board**

**Per Ramesh Sinha, Chief Justice**

**12.03.2026**

1. Heard Mr.P.K.Bhaduri, learned Deputy Advocate General for the appellants/State as well as Mr.Ravindra Shrivastava, learned Senior Advocate appearing through video conferencing assisted by Mr.Abhishek Vinod Deshmukh, learned counsel appearing for the respondent on IA No.01/2026, which is an application for condonation of delay of 24 days in filing the present writ appeal.
2. On due consideration, IA No.01/2026 is allowed. Delay of 24 days in filing the writ appeal is hereby condoned.
3. With the consent of learned counsel for the parties, the matter is heard finally.
4. The appellants/State have filed this writ appeal against the order dated 09.12.2025 passed by the learned Single Judge in WPC No.3685/2023, whereby the writ petitions preferred by the respondent / writ petitioner have been allowed by setting aside the demand dated 22.05.2023 raised by the appellants/State towards electricity duty.
5. Brief facts necessary for disposal of the case are that the respondent Company had set up a captive power plant of 270 MW



in village Ksaipali which comprises of two units, each of 135 MW. On 5.12.2013 the respondent Company entered into a power purchase agreement with Chhattisgarh State Power Trading Co. Ltd. to meet its power requirement. Appellant No.2 exercising the powers vested in Section 3B and Section 3-C of the Chhattisgarh Electricity Duty Act, 1949 (for short 'the Act of 1949') issued a Notification dated 12.8.2016 granting concession in payment of electricity duty to certain producers including captive power generation plants. Consequently, the respondent Company has also been granted exemption/concession in payment of electricity duty and since then the respondent has been paying electricity duty on concessional rates. As per notification dated 12.8.2016, rate of electricity duty applicable on consumption would be 15% of tariff till 31.3.2016 and thereafter 10% of average cost of supply and such exemption to the respondent Company was to start from 1<sup>st</sup> April 2016 or date of commercial production, whichever is later, till 12 years and thereafter rate of average cost of supply for time being in force. Appellant No.3 issued notice of demand to the respondent demanding arrears of electricity duty mentioned therein for the period from January 2017 to March 2023. The Respondent Company submitted letter dated 17.8.2021 requesting appellant No.3 to recalculate electricity duty and interest amount, but the same failed to evoke any response till date. The State Government vide Notification dated 11.10.2022 revised the electricity duty by making certain changes in slabs. In respect of



category of consumers in which the respondent falls, electricity duty is increased to 21% of average cost of supply till 30.9.2022 and thereafter 14% of rate of average cost of supply in the tariff order from 1.10.2022 till 12 years. The respondent Company addressed a letter to appellant No.3 seeking clarification regarding applicability of aforementioned Notification to the consumers who had already granted concession as per Notification dated 12.8.2013 for a period of 12 years etc. Instead of clarifying position in this regard, appellant No.3 issued demand notice in terms of Notification dated 11.10.2022 directing the respondent Company to deposit difference amount of electricity duty for the period from April, 2017 to March 2023 on the basis of tariff revised vide Notification dated 11.10.2022, as also interest amount payable thereon.

6. Being aggrieved by the same, the respondent Company filed writ petitions, which were allowed by learned Single Judge by the impugned order. Hence, this writ appeal.
7. Learned Deputy Advocate General for the appellants/State submits that learned Single Judge has failed to appreciate the scope and ambit of Section 3-B of the Chhattisgarh Electricity Duty Act, 1949 (hereinafter called as “the Act of 1949”). In exercise of powers under Section 3-B of the Act, the State Government had issued a notification dated 12.08.2016, whereby exemption from payment of electricity duty was granted in public interest. Section



3-B(a) clearly provides that if the State Government is of the opinion that it is necessary or expedient in the public interest, it may, by notification, exempt any person or class of persons from payment of electricity duty. It is submitted that the very same provision also empowers the State Government to cancel or withdraw such exemption. In terms of Section 3-B(b), if the State Government subsequently forms an opinion that such exemption is no longer required in public interest, the Government is competent to cancel or supersede the earlier notification by issuing a like notification. Further, Section 3-C of the Act of 1949, read with the amendment introduced in the year 2013, empowers the State Government to amend the Schedule appended to Section 3 of the Act whenever it considers it necessary or expedient in public interest. In exercise of the aforesaid statutory powers, the State Government issued a subsequent notification dated 11.10.2022, which superseded the earlier notification dated 12.08.2016. While issuing the said notification, the State Government formed a considered opinion that continuation of the earlier exemption was resulting in substantial loss of revenue to the State, amounting to approximately Rs. 667 Crores. It was further assessed that the amendment in the Schedule would significantly increase the revenue collection of the State from about Rs. 500 Crores to approximately Rs. 1009 Crores in future. Thus, the decision was taken strictly in larger public interest and fiscal considerations. It is well settled that policy decisions of the Government taken in public



interest, particularly in matters relating to economic or fiscal policy, are entitled to considerable judicial deference. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court in Yamuna **Expressway Industrial Development Authority Etc. v. Shakuntla Education and Welfare Society & Others, 2022 LiveLaw (SC) 536** wherein the Hon'ble Court, while referring to **APM Terminals B.V. v. Union of India and another, (2011) 6 SCC 756** has held that a change in Government policy can override private arrangements if such change is made in the larger public interest and is guided by reason. The Hon'ble Supreme Court has clearly observed that in case of conflict between public interest and private interest, public interest must prevail.

8. He further submits that learned Single Judge has also failed to consider the settled principle laid down by the Hon'ble Supreme Court in **Subhash Photographics v. Union of India, 1993 Supp 3 SCC 323** wherein it has been held that economic and fiscal legislation must necessarily retain flexibility, and the Government must be allowed sufficient discretion to adjust policies according to changing economic circumstances. The Electricity Duty Act, 1949 is essentially a fiscal statute, forming part of the economic policy of the State. Therefore, the power to grant exemptions as well as to withdraw or modify such exemptions cannot be interpreted in a narrow or restrictive manner. He also submits that learned Single Judge has also not taken into consideration Section 21 of the General Clauses Act, 1897, which clearly provides that the power



to issue a notification includes the power to add to, amend, vary, or rescind the same. Therefore, once the State Government had the power to issue the notification granting exemption, it necessarily follows that the State Government also possesses the power to withdraw or modify the same by issuing a subsequent notification. In view of the aforesaid statutory provisions and settled legal principles, it is respectfully submitted that the State Government was fully competent to issue the notification dated 11.10.2022, superseding the earlier notification. He contended that the impugned judgment passed by the learned Single Judge, therefore, fails to consider the statutory scheme, the scope of governmental policy in fiscal matters, and the binding precedents of the Hon'ble Supreme Court, and hence deserves to be set aside.

9. Per contra, learned Senior Advocate appearing for the respondent opposes the submissions made by learned Deputy Advocate General for the appellants/State and submits that the learned Single Judge after considering all the aspects of the matter has rightly allowed the writ petitions filed by the writ petitioner/respondent herein, in which no interference is called for.
10. We have learned counsel for the parties and perused the impugned order and other documents appended with writ appeal.
11. From perusal of the impugned order, it transpires that learned Single Judge has observed that power to amend the schedule



and power to grant exemption / relaxation from payment of duty in whole or part, are two different powers under Statute. Here in this case grievance raised by the writ petitioner is with regard to computation of arrears of duty to be paid by the writ petitioner based on the amended rates as mentioned in the schedule came to be amended vide Chhattisgarh Electricity Duty (Amendment) Act 2022, on the ground that relaxation/exemption granted by the State Government by Notification, Annexure P-3, is still in force and that has not been withdrawn/cancelled and therefore, writ petitioner is entitled to exemption as granted by the State Government vide Notification, Annexure P-3, which was for 12 years and will come to an end in August 2028. Learned Single Judge further observed that Section 3B (b) of the Act of 1949 further grants power to the State Government to cancel any such notification and again subject, by a like notification, the distributor of electrical energy or producer or class of such producers to the payment of such duty in respect of such sale, supply or consumption of electrical energy. The State submitted reply to writ petition mentioning that Section 3B of the Act of 1949 gives power to the State Government to notify exemptions and if there is a public interest which requires cancellation of such notification and supercession by a like notification. It is also submitted that the State Government can withdraw such notification exercising powers under Section 3B(b) of the Act of 1949. True it is that under the Act of 1949 the power is vested in the State Government to grant exemption from payment



of electricity duty in whole or in part and also to cancel any such notification and again subject, by a like notification, the distributor or producer of electrical energy to payment of such duty. However, along with reply, the State has not placed on record anything to show that exemption granted to writ petitioner and other like producers/distributors of electrical energy has been cancelled/withdrawn by notification issued by the Competent Authority. Learned Single Judge also observed that powers to the authority under the Act of 1949 is not questionable in view of specific provision under Section 3B(iii) (b) of the Act of 1979. Consideration before this Court is whether the authority has exercised that power, in the manner as provided under the Act of 1949. Provisions under Section 3 (B) (iii)(b) of the Act of 1949 in clear terms provides 'cancel any such notification'. If grant of exemption is by notification, then the cancellation of earlier notification should also be by issuing notification clearly mentioning that earlier notification is withdrawn/cancelled. Intention of the authority of withdrawing/cancelling notification should be clearly worded. In the case at hand, before this Court no document is placed to show that the authority under Section 3(B) of the Act of 1949 has issued any notification withdrawing/cancelling earlier notification dated 12.08.2016 (Annexure P-3), as such the Notification, Annexure P-3, is still in force and allowed the writ petitions filed by the writ petitioner / respondent herein and quashed the demand raised by the State vide Annexure P-1



towards electricity duty. However, liberty is granted to the State to recalculate the outstanding, if any, against the writ petitioner towards electricity duty and can raise fresh demand, in the light of discussion and observation as made above.

12. Considering the submissions advanced by the learned counsel for the parties, perusing the documents appended with writ petition as also with writ appeal and also considering the finding recorded by the learned Single Judge while allowing the writ petitions filed by the writ petitioner / respondent herein, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error in the impugned order warranting interference by this Court.

13. Accordingly, the writ appeal deserves to be and is hereby **dismissed**. No cost(s).

Sd/-

**(Ravindra Kumar Agrawal)**  
**Judge**

Sd/-

**(Ramesh Sinha)**  
**Chief Justice**