Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos. 3399-3400 OF 2015
(Arising out of S.L.P.(C) Nos.12925-12926/2013)

S.J. Coke Industries Pvt. Ltd. Etc. Appellant(s)

VERSUS

Central Coalfields Ltd. Etc.
Respondent(s)

WITH

Civil Appeal No. 3419 of 2015
(Arising out of S.L.P.(C) No.13286/2013)

Civil Appeal No. 3401 of 2015
(Arising out of S.L.P.(C) No.14148/2013)

Civil Appeal No. 3402 of 2015
(Arising out of S.L.P.(C) No.14430/2013)

Civil Appeal No. 3403 of 2015
(Arising out of S.L.P.(C) No.14576/2013)

Civil Appeal No. 3404 of 2015
(Arising out of S.L.P.(C) No.15985/2013)

Civil Appeal No. 3405 of 2015
(Arising out of S.L.P.(C) No.15986/2013)

Civil Appeal No. 3406 of 2015

(Arising out of S.L.P.(C) No.15987/2013)

Civil Appeal No. 3407 of 2015
(Arising out of S.L.P.(C) No.15989/2013)

Civil Appeal No. 3408 of 2015
(Arising out of S.L.P.(C) No.15990/2013)

Civil Appeal No. 3409 of 2015
(Arising out of S.L.P.(C) No.15991/2013)

Civil Appeal No. 3410 of 2015
(Arising out of S.L.P.(C) No.15992/2013)

Civil Appeal No. 3411 of 2015
(Arising out of S.L.P.(C) No.15993/2013)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.

2. These appeals are filed against the common judgment and order dated 14.12.2012 passed by the High Court of Judicature at Patna in L.P.A. Nos. 1574, 1581, 1504, 1571, 1597 and 1591 of 2012 and judgment/order dated 18.01.2013 in L.P.A. No. 85 of 2013 whereby the High Court allowed the appeals filed by the Central Coalfields Ltd.

(hereinafter referred to as “the CCL”) and while setting aside the judgment and order of the Single Judge dismissed the writ petitions filed by the S.J. Coke Industries Pvt. Ltd. Etc.Etc.(hereinafter referred to as “the Companies”).

3. In order to appreciate the issues involved in these appeals, it is necessary to state the background of the facts, which led to filing of the writ petitions by the Companies, which have given rise to these appeals.

4. These Companies are private limited companies registered under the Companies Act, 1956. They are engaged in the business of sale and purchase of various grades of Coal. The CCL is a Public Sector Undertaking of the Government of India engaged in the business of producing various grades of Coal. The CCL sells coal to several bulk coal consumers including the present Companies, who are linked consumer of the Coal. The Coal

being an essential commodity, its prices and mode of disposal are governed by the Acts/Regulations/Control Orders and the Policies made by the Central Government/Coal Companies from time to time.

5. With a view to further streamline the sale and distribution of the Coal to its consumers all over the Country, the Union of India enacted a Scheme in the year 2004-2005 for sale of Coal by electronic auction (e-auction). The Scheme *inter alia* provided the manner and the mode relating to sale, distribution and pricing of various grades of coal. The Coal India Ltd and its several subsidiary companies including the CCL adopted the Scheme for its implementation.

6. The legality and validity of the Scheme was challenged by filing writ petitions in various High Courts by the traders, and several companies dealing with coal. So far as the present Companies

were concerned, they filed writ petitions before the Jharkhand High Court. During the pendency of the writ petitions, different High Courts passed interim orders directing the writ petitioners to furnish indemnity bonds/Bank Guarantees for the amount of difference between the notified price and e-auction weighted average price of the Coal fixed in the Scheme.

7. Some High Courts decided the writ petitions finally on merits and while allowing the writ petitions declared the Scheme as *ultra vires* whereas some High Courts dismissed the writ petitions and upheld the Scheme as being legal and proper. In some High Courts, the writ petitions remained pending. The appeals were filed in this Court arising out of the disposed of matters by both parties. This Court then passed an order directing transfer of all pending writ petitions in various High Courts to this Court and tagged them

with a bunch of the writ petitions/appeals pending in this Court and made **Ashoka Smokeless Coal Industries (P) Ltd. & Ors.** vs. **Union of India & Ors.** as the main matter for disposal.

8. Accordingly, **Ashoka Smokeless Coal India (P) Ltd.** was taken up for consideration along with other connected matters to decide the main question as to whether e-auction Scheme framed by the Union of India was legal or not. In other words, the question was which view of the High Court was correct - the one that held the Scheme as legal or the other that held the Scheme as bad in law?

9. This Court passed one common interim order on 12.12.2005 in **Ashoka Smokeless Coal Industries (P) Ltd. & Ors.** Vs. **Union of India & Ors.** (2006) 9 SCC 228 by modifying several interim orders, directed the writ petitioners to go on paying the price in addition to the notified price

of the coal 33-1/3% of the enhanced price each time they claimed supply of coal and to furnish security for the balance 66-2/3% of the enhanced price of the Coal fixed in the Scheme.

10. This Court by its final decision rendered in **Ashoka Smokeless Coal Industries (P) Ltd. & Ors.** Vs. **Union of India & Ors.** on 01.12.2006, (2007) 2 SCC 640 allowed the writ petitions and held that the e- auction Scheme was violative of Article 14 of the Constitution of India and, therefore, *ultra vires* to the Constitution. The entire e-auction Scheme was accordingly quashed. In the light of this decision, the judgments of the High Courts which had upheld the Scheme were set aside whereas those which had declared the Scheme as *ultra vires* were upheld. As a result, several writ petitions pending in various High Courts were disposed of in the light of this decision. Thereafter by order dated 30.10.2007 in

Transfer Petitions/Contempt Petitions, this Court directed refund of excess amount to the writ petitioners for which the sureties/Bank Guarantees had been furnished. So far as the present companies were concerned, their claim in the writ petitions was for the months of April, July and October, 2005.

11. The decision rendered in ***Ashoka Smokeless Coal India Ltd.*** (supra) gave rise to filing of several writ petitions by similarly situated coal consumers in different High Courts such as Patna, Calcutta, Jharkhand etc. seeking *mandamus* against the Coal Companies to refund the excess amount with interest which was realized by the coal companies pursuant to the Scheme from the writ petitioners.

12. The Single Judge of the Patna High Court by order dated 01.07.2009 passed in **Bhagwati Coke Industries Pvt. Ltd. & Ors. vs. Central**

Coalfields Ltd. & Ors. (CWJC 7753/2008) allowed the writ petition and directed the Central Coalfields Ltd. to refund the entire amount which they had collected from the writ petitioners in excess of the notified price of the coal pursuant to the Scheme along with 12% interest.

13. Feeling aggrieved by this order, the CCL filed L.P.A. No. 1094 of 2009. By order dated 17.02.2010, the Division Bench of the High Court dismissed the appeal but reduced the rate of interest payable on excess refund amount from 12% to 6%. Dissatisfied with the said order, the Central Coalfields Ltd. filed Special Leave Petition (c) No. 17406/2010 before this Court. By order dated 19.07.2010, this Court dismissed the special leave petition *in limine* and confirmed the order passed by the Division Bench.

14. It may be pertinent to mention here that similar writ petition was filed in the Calcutta High

Court by the coal trader (Tetulia Coke Plant (P) Ltd.) seeking refund of excess amount paid by them pursuant to the Scheme to Eastern Coalfields Ltd. with interest. The Division Bench of the said High Court by order dated 04.10.2010 allowed the writ petition and issued a *mandamus* directing the Eastern Coalfields Ltd. to refund the entire amount which they had collected in excess from the writ petitioner pursuant to the Scheme. Felt aggrieved, the Eastern Coalfields Ltd. filed Special Leave Petition before this Court. By reasoned order dated 10.08.2011 in **Eastern Coalfields Ltd. Vs. Tetulia Coke Plant Private Ltd. & Ors.** (2011) 14 SCC 624, this Court dismissed the appeal and affirmed the order of the Calcutta High Court.

15. It is with these background facts in relation to the legality of the e-auction Scheme which finally terminated in writ petitioners' (coal consumer/trader/supplier) favour on **1.12.2006**

when this Court struck down the e-auction Scheme in the Case of **Ashoka Smokeless Coal India** (Supra) and on **19.07.2010** when this Court dismissed the SLP filed by Central Coalfields Ltd. and confirmed the order of the Patna High Court which had directed refund of excess amount recovered by the Coal Companies from the writ petitioners with interests at the rate of 6% which had become payable to writ petitioners consequent upon the scheme – being declared bad in law in **Ashoka Smokeless Coal India** (Supra) and lastly again on **10.08.2011** in **Eastern Coalfields Ltd. Vs. Tetulia Coke Plant Private Ltd. & Ors.**(supra) when this Court dismissed the appeal filed by the *Eastern Coalfields Ltd.* which arose out of the order passed by the Calcutta High Court on the similar issue of refund of excess amount which had become payable consequent upon declaration of e-auction Scheme as bad in

law, the present Companies filed writ petitions on 10.08.2010 and 07.09.2010 against the Central Coalfields Ltd. before the High Court of Patna out of which these appeals arise and claimed refund of entire excess amount of the difference paid between the notified prices of the Coal and the one fixed pursuant to the e-auction Scheme with interest .

16. According to the Companies, they were entitled to get refund of excess amount with interest from the CCL consequent upon the e-auction Scheme being declared bad in law by this Court and further in the light of law laid down in two decisions of this Court rendered in the case of **Central Coalfields Ltd.** (supra) and **Eastern Coalfields Ltd.** (supra) because their cases were identical in nature in all respects with the writ petitioners of these two cases decided by this Court. Other traders like the present Companies

also filed writ petitions claiming same reliefs against the respective Coalfield companies.

17. The CCL contested the writ petitions essentially on two grounds. In the first place, it was contented that the writ petition was liable to be dismissed on the ground of delay and laches on the part of the writ petitioners because it was filed to claim refund of excess payment made in April 2005 to October 2005 in the year 2010. In the second place, it was contended that keeping in view the principle of undue enrichment operating against the writ petitioners involving disputed issues of facts, the writ petitioners were not entitled to claim refund of any excess amount in writ jurisdiction.

18. The Single Judge repelled both the contentions of the CCL and while allowing the writ petitions issued a *mandamus* directing the CCL to refund the entire excess amount paid by the writ

petitioners to CCL pursuant to e-auction Scheme to the writ petitioners with interest payable on such amount at the rate of 6%.

19. Felt aggrieved, the CCL filed LPAs before the High Court of Patna out of which these appeals arise**.** By impugned order, the Division Bench allowed the appeals and while setting aside the order of the Single Judge dismissed the writ petitions filed by the Companies on the grounds that firstly, the claim of the writ petitioners was not based on any fundamental or statutory right but was based on contract and hence it was not maintainable and secondly, the claim was not based on any direction issued by this Court or/and the High Court to refund the amount in question and lastly the writ petition was barred by limitation. So far as the contention of the CCL relating to principle of undue enrichment was concerned, the same did not find favour to the

Division Bench and was accordingly decided against CCL holding that since the writ petitioners' claim does not involve any adjudication of disputed facts, therefore, it was capable of being entertained in the writ petitions.

20. It is apposite to reproduce the finding of the Division Bench on the aforementioned issues infra.

> **"We are unable to agree with Mr. Parasharan as to the maintainability of the writ petitions on the ground of disputed questions of fact. The writ petitioners have made categorical statements that prior to 12th December 2005 they did purchase coal from the appellants at the rate determined by e-auction i.e. at the rate higher than the notified rate. The writ petitioners have also brought on record the particulars of the sale orders, the date and quantity of supply, the price paid and the amount liable to be refunded. The said specific statements made in the writ petitions are not categorically denied by the appellants. A bare statement that the writ petitions involved disputed questions of fact will not take the petitions out of the jurisdiction of this Court. In absence of specific denial, the contention ought to be rejected and is rejected. We are also not impressed by the argument that the claim of the writ petitioners requires to be rejected on the principles of unjust enrichment. The matter at hand is a purely commercial transaction between the appellant and the writ petitioners. The principle of unjust enrichment has been developed in respect of the statutory dues payable to the Government by way of a tax/a duty/a fee. The**

principle has not yet been extended to the commercial transactions of the Government which are governed by terms and conditions of the contract. We do not propose to expand the horizons. The contention is rejected.

……

In our opinion, in any view of the matter, the writ petitioners are not entitled to the relief for,

(i) The claim for refund made by the writ petitioners is not based on a fundamental or a statutory right;

(ii) the refund claimed by the writ petitioners arise from a contract of sale and purchase;

(iii) the claim is not supported by any direction of the High Court or the Hon'ble Supreme Court for refund of such amounts; the question of honouring the direction of the Hon'ble Supreme Court or the High Court does not arise, and;

(iv) indisputably, the claim has been made after expiry of period of limitation prescribed for bringing a civil action."

21. Feeling aggrieved, both parties i.e. writ petitioners (companies) and the Central Coalfields Ltd. (CCL) have filed these appeals by way of special leave before this Court.

22. So far as the writ petitioners (companies) are concerned, they have filed appeals against the findings, which resulted in dismissal of their writ

petitions whereas so far as Central Coalfields Ltd (CCL) is concerned, they have challenged the finding of undue enrichment, which was decided by the Division Bench against them.

23. This is how the entire controversy is now under challenge before this Court in these appeals at the instance of both the parties to the original writ petitions.

24. Heard learned counsel for the parties.

25. Mr. S.D. Sanjay, learned Senior Counsel appearing for the Companies(writ petitioners) while assailing the legality and correctness of the impugned judgment of the Division Bench urged five submissions. Firstly, he contended that the Division Bench erred in allowing the appeals filed by the CCL thereby erred in dismissing the writ petitions, which were rightly allowed by the Single Judge (writ court). According to him, the appeals of the CCL should have been dismissed by upholding

the order of the Single Judge.

26. Secondly, learned senior counsel contended that the Division Bench erred in holding that the writ petitions filed by the Companies were not maintainable because the claim for which the writ petitions were filed was not based on any statutory or fundamental rights but was based on the contractual rights of the Companies. According to learned counsel, the finding on this issue is entirely untenable because this issue was already considered and dealt with by this Court in the case of **Eastern Coalfields Ltd.**(supra) and was rejected finding no merit therein. It was, therefore, his submission that the finding of this Court rendered in **Eastern Coalfields Ltd.**(supra) was binding on the High Court, which unfortunately was neither noticed much less given effect to while deciding the issue.

27. Thirdly, learned counsel contended that the

Division Bench erred in holding that the writ petitions filed by the Companies were barred by limitation because they were filed beyond the period of three years from the date of accrual of cause of action. According to learned Counsel, this finding is equally untenable in law for the reason that firstly this issue was considered, dealt with and then rejected by this Court in **Eastern Coalfields Case;** secondly, the cause of action to file writ petition for claiming refund of excess amount arose on **19.07.2010** when the SLP filed by the Central Coalfields (CCL) was dismissed (Annexure-14) by this Court *in limine* thereby finally settling the controversy relating to claim of refund of excess amount; thirdly, though law of limitation did not apply to the writ petitions yet the Companies filed the writ petitions within one month (10.08.2010) from the date of dismissal of SLP by this Court (19.07.2010) in the case of CCL

and hence the writ petitions should have been held to have been filed within reasonable time from the date of accrual of cause of action. In other words, it should not have been dismissed on the ground of delay and laches.

28. Fourthly, learned Counsel contended that once the issues in question at the instance of similarly situated person were settled by this Court then every one alike was entitled to get the benefit of such decision against the State or/and its instrumentality on the principle of equality enshrined under Article 14. Since the cases of the Companies (writ petitioners) were identical to the case of writ petitioners who were parties to the case of Central Coalfields Ltd. and Eastern Coalfields Ltd. wherein all the issues raised by the CCL were discussed thread bear and eventually rejected by this Court, the CCL was not entitled to raise the same pleas again in these appeals to

persuade this Court to take a contrary view to the one taken in **Eastern Coalfields Ltd.** (supra) case except to accept the verdict of this Court rendered in **Eastern Coalfields Ltd.** (supra) case for grant of same benefit to all similarly situated persons such as the appellants herein.

29. Fifthly, learned counsel contended that the Division Bench rightly decided the issue of undue enrichment against the CCL because this Court in **Eastern Coalfields Ltd.**(supra) has already rejected the said plea finding no merit therein. In other words, the submission was that the finding of the Division Bench on the issue of undue enrichment was in conformity with the law laid down by this Court in **Eastern Coalfields Ltd.** and hence it should be upheld by this Court by dismissing the appeals filed by the CCL. In the alternative, it was also urged that the appeals filed by the CCL were not maintainable because when

the entire impugned judgment was in their favour which resulted in allowing their appeal, then in such event no appeal would lie against the finding only.

30. Mr. Gaurav Agrawal, learned counsel appearing for some of the companies while pointing out some factual distinguishable features in his appeals, adopted the aforesaid arguments of Mr. S.D. Sanjay, learned senior counsel appearing for other Companies.

31. In contra, learned counsel appearing for the CCL supported the impugned judgment on the reasoning and the eventual conclusion reached by the Division Bench and contended that both deserves to be upheld. Learned counsel further urged in support of their appeals that the Division Bench erred in deciding the issue of undue enrichment against the CCL. According to learned counsel, it should have been decided in their

favour for dismissal of the writ petitions.

32. Having heard the learned Counsel the parties and on perusal of the record of the case, we find force in the submissions of learned counsel for the Companies (writ petitioners) and hence are inclined to allow the appeals filed by the writ petitioners (companies).

33. In our considered view, all the issues arising in these cases including the submissions urged by the learned counsel for the parties as mentioned above were already decided by this Court in the case of **Eastern Coalfields Ltd.** (supra) and hence the writ petitions and the appeals arising therefrom should have been decided by the writ court and the appellate court (Division Bench) in the light of the law laid down in the said decision.

34. It is really unfortunate that though the decision of this Court in the **Eastern Coalfields Ltd.**(supra) was holding the field having been

rendered during the pendency of the writ petition on 10.08.2011 yet neither the Single Judge who decided the writ petition on 02.04.2012 and nor the Division Bench who decided the appeal on 14.12.2012 took note of the decision much less referred to it in their respective judgments. We cannot, therefore, countenance the approach of the two courts below in deciding the issue though it was of reversal.

35. Article 141 of the Constitution provides that the law declared by this Court shall be binding on all Courts within the territory of India. Therefore, once this Court decided the issue in the case of **Eastern Coalfields Ltd.**(supra) on 10.08.2011 by passing a reasoned order, a *fortiori*, the ratio decidendi declared in the said decision was binding on all the Courts in the country for giving effect to it while deciding the *lis* of the same nature. Both the Courts below were, therefore,

under legal obligation to have taken note of the said decision and then should have decided the writ petition/appeal in conformity with the law laid down therein. It was more so because controversy involved in both the cases was similar in nature.

36. As observed supra, both the Courts failed to do so thereby rendering the impugned decision bad in law.

37. When we peruse the decision of **Eastern Coalfields Ltd.,** we find no factual distinction between the facts of the case in hand and the one involved in Eastern Coal Fields Ltd.. It is apposite to quote paragraphs 9, 10 and 11 of the judgment in **Eastern Coalfields** (supra) which will show the similarity in these two cases :

> **"9. There is no dispute with regard to the fact that the legality of the scheme of e-auction was challenged by filing writ petitions in various High Courts by the traders and companies dealing with coal. Some of those petitions were transferred to this Court pursuant to the orders of this Court, the leading case being *Ashoka Smokeless Coal India (P) Ltd.(2007) 2 SCC 640* which was taken up for consideration along with connected**

matters and the same were disposed of by this Court and the said decision is now reported in *Ashoka Smokeless*. By the aforesaid judgment, this Court has upheld the challenge of the writ petitioners to the legality of the scheme of e-auction. The aforesaid prayer of the writ petitioners was accepted and this Court held that the scheme of e-auction was invalid and violative of Article 14 of the Constitution of India and, therefore, it was declared to be ultra vires to the Constitution and this Court quashed the e-auction scheme.

10. It must be indicated herein that the present respondent also filed the writ petition in question in the Calcutta High Court before the aforesaid decision was rendered and in his case also an interim order was passed by the Calcutta High Court. After the disposal of Ashoka Smokeless Coal India (P) Ltd., the writ petition filed by the respondent herein which was pending was also considered and the same was allowed following the decision of this Court in Ashoka Smokeless Coal India (P) Ltd. as by that decision, this Court has declared the entire scheme to be invalid and ultra vires to the Constitution. Therefore, any action taken pursuant to the said scheme is also illegal and null and void. Following the ratio of the said decision this Court directed the coal companies to refund the price of the coal paid in excess of the notified price under the e-auction scheme. Certain guidelines were also laid down as to how such payments are to be made. The said decision of the learned Single Judge was upheld by the Division Bench of the High Court by affirming the conclusions and analysing all the issues that were raised before it.

11. We are unable to accept the contention of the learned Additional Solicitor General that whatever is challenged in the present petition is only an interim order. It is not so because the respondents herein also challenged the legality of the e-auction scheme in the writ petition. The High Court has not disposed of only an interim prayer but has disposed of the

entire writ petition by its judgment and order dated 25-3-2010. Consequently, it must also be held that when the entire scheme is set at naught by this Court, whatever action has been taken following the said e-auction by the Coal Company has also been declared to be illegal and, therefore, the Coal Company has become liable to refund the entire money which was collected in excess of the notified price. That is the consequence of quashing of the scheme and the same came to be reiterated by this Court while contempt petitions were filed and were disposed of. Therefore, it cannot be said that the effect of the decision of Ashoka Smokeless Coal India (P) Ltd. would be restricted only to those cases which were before this Court and not for all cases which were pending in different High Courts at that stage, at least to the issues which are common in nature."

Perusal of the aforequoted paragraphs would go to show that this Court in no uncertain terms held in **Eastern Coalfields case** (supra) that benefit of decision rendered in the **Ashoka Smokeless Coal India (supra)** is not confined to those who were parties to those cases but it would be to all regardless of the fact whether they were party to the case or not.(see Para 11 of the extracted portion above). This Court, therefore, upheld the relief of refund of excess amount, which was

granted to the writ petitioner by the High Court of Calcutta and accordingly dismissed the appeal filed by the Eastern Coalfields Ltd.

38. Like wise, this Court while expressly dealing with the question of undue enrichment raised by the Eastern Coalfields repelled the said submission finding no merit therein in paragraph 12 in following words:

> **"12. The learned Additional Solicitor General has also submitted before us that the respondents are not entitled to the benefit, if they are otherwise entitled to on the principles of unjust enrichment. We specifically asked the learned Additional Solicitor General during the course of the arguments to show us whether any such plea was taken in the writ petition which was filed before the learned Single Judge. The learned Additional Solicitor General was unable to show that any such defence or plea was taken about unjust enrichment in the pleadings filed before the learned Single Judge. Such an issue was also not argued before the learned Single Judge as no such reference is there in the order of the learned Single Judge. It is, however, stated by the learned Additional Solicitor General that such an issue was raised before the Division Bench. But we could not find the same raised in the pleadings nor was it considered. But a mention is made in the judgment that such a plea was argued. However, on going through**

the records, we find that no such ground has also been taken even in the memorandum of appeal filed in the present appeal. Therefore, without taking a plea of unjust enrichment either in the writ petition or before this Court, we are not inclined to allow him to argue the plea at the time of argument and entertain such a plea, particularly, in view of the fact that the respondents did not have any notice of such a plea taken for the first time at argument stage."

39. It is, therefore, clear that the express challenge laid before this Court at the instance of Eastern Coalfields on the issue of undue enrichment was repelled. In this view of the matter, we fail to appreciate as to on what basis, the another Coal Company alike Eastern Coal Company can now be allowed to raise the same plea again in these proceedings only because this matter arise from another High Court. In other words, we are of the considered opinion that this Court having rejected the issue of undue enrichment in the case of **Eastern Coalfields** (supra) while dealing with the similar controversy,

the same issue is no longer available to any other Coal Company to raise in similar pending proceedings. It is more so when no distinguishing feature in both the cases were brought to our notice.

40. Coming now to the issue of refund of excess amount payable to the writ petitioners, we find that this Court has examined the said issue in para 13 and decided in favour of the writ petitioners in following words.

> **"13. In the present case, it is a case of refund of price recovered by the appellant in excess and not of any kind of payment of tax or duty. Besides, the appellant has already refunded such excess amount realised to many other parties without raising any such plea. If anything is done by a party in violation of the law, consequence has to follow and they are bound to return the money to the parties from whom excess amount has been realised. There is also no document placed on record in support of any such plea. Bald allegation of this nature cannot be accepted particularly when no such plea has been raised in this Court."**

41. In the light of aforesaid law laid down, we find

no justification to deny the benefit of such law to the present Companies(writ petitioners) on the ground of parity with the writ petitioner of Central Coalfields Ltd. and Eastern Coalfields Ltd case.

42. As taken note of supra, in our opinion having regard to the background facts of this case, the right to file writ petition to claim refund of excess amount arose after the issue was decided by this Court firstly on 19.07.2010 when this Court dismissed the SLP filed by Central Coalfield Ltd. *in limine* and upheld the reasoned order of the Patna High Court on this very issue. It is not in dispute that the Companies filed the writ petitions on 10.08.2010 (within one month from the date of the decision of this Court in Central Coalfields Ltd. case). Indeed, the Companies could have filed the writ petitions even subsequent to the decision rendered in the case of Eastern Coalfield Ltd. (10.08.2011) because it is in this case, this Court

rendered a reasoned judgment finally repelling all the objections of Coal Companies on merits and upheld the right of the writ petitioners to claim refund of excess amount which they had paid to CCL and other coal fields pursuant to the Scheme.

43. We cannot, therefore, concur with the view taken by the Division Bench when it proceeded to dismiss the writ petitions on the ground of delay and laches. The Single Judge, in our view, rightly entertained the writ petitions on merits and proceeded to grant relief as claimed by the companies in the writ petition and the Division Bench, in our opinion, should have upheld the view of the Single Judge.

44. In the light of foregoing discussion, we find that all the five submissions urged by the learned counsel for the Companies (writ petitioners) found acceptance to this court in the case of **Eastern Coalfields Ltd.,** and hence the same deserves to

be accepted while deciding these appeals by placing reliance on the law laid down in **Eastern Coalfields Ltd.** We, therefore, do not consider necessary to deal with these submissions again on their respective merits elaborately by taking note of various case law cited by learned counsel for the appellant.

45. Since we have rejected the ground taken by the Central Coalfields India Ltd. (CCL) in relation to undue enrichment on merits, and hence we express no opinion as to whether the appeals filed by them only against the finding is maintainable or not. We also find that no prayer was made by learned counsel for the CCL to treat or convert the appeals filed by CCL as memorandum of cross objection under Order 41 Rule 22 of the Code of Civil Procedure, 1908, in appeals filed by companies so as to enable them to challenge the impugned finding under order 41 Rule 22. We also

do not wish to examine the question as to whether cross objection is permissible on behalf of respondent in an appeal arising out of SLP filed under Article 136 and leave all these questions open to be decided in an appropriate case as and when occasion arises in future.

46. Before parting with the case, we consider it opposite to state that this case reminds us of the subtle observations made by Justice M.C. Chagla, Chief Justice of Bombay High Court in **Firm Kaluram Sitaram Vs. The Dominion of India,** AIR 1954 Bombay 50. The learned Chief Justice in his distinctive style of writing held as under:

> **"….we have often had occasion to say that when the State deals with a citizen it should not ordinarily rely on technicalities, and if the State is satisfied that the case of the citizen is a just one, even though legal defences may be open to it, it must act, as has been said by eminent judges, as an honest person……."**

47. Keeping in view the stand taken by the CCL and the manner in which they contested the cases

at all stages in different High Courts and in this Court by raising same pleas despite their adjudication by this Court lead us to draw a conclusion that untenable pleas were being raised by CCL just to defeat the legitimate claim of the citizens determined in their favour by this Court in earlier litigations and which was known to CCL.

48. In view of foregoing discussion, the appeals filed by the writ petitioners i.e. appeals arising out of S.L.P.(c) Nos. 12925-12926, 13286, 14148, 14576, 15992 & 15993 of 2013 deserve to be allowed and are accordingly allowed though on different reasons which we have given above. As a consequence, the impugned judgments/orders are set aside and that of the Single Judge restored.

49. As a consequence, the appeals filed by the Central Coalfields Ltd. – C.A. arising out of S.L.P.(c) Nos. 14430, 15985, 15986, 15987, 15989, 15990 and 15991 of 2013 stand dismissed.

50. The CCL is directed to verify the claim of each of the writ petitioners and then after giving adjustment of any amount if already found paid to the writ petitioners against their claim in question, refund the balance amount along with interests at the rate of 6% to the respective writ petitioners (companies). Let this be done within three months.

.....J.
[VIKRAMAJIT SEN]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
April 08, 2015.