IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15413 of 2024

a/w CWP Nos.8243, 8559, 8560, 8562, 8673, 8675, 8712, 8713, 8714, 8719, 8745, 8747, 8801, 8802, 8803, 8804, 8818, 8819, 8820, 8821, 8822, 8823, 8942, 8952, 8953, 8954, 8955, 9130, 9141, 9142, 9143, 9326, 9546, 9547, 9873, 10019, 10088, 10255, 10572, 11510, 11848, 11857, 11859, 11860, 11983, 11985, 11986, 13345, 13348, 13363, 13935, 14662, 14663, 14664, 14665, 14666, 15415, 15442 of 2024, CWP Nos.226, 251, 255, 257, 259, 813, 1172, 1173, 1174, 1175, 1866, 1867, 1869, 2506, 2533, 2998, 3001, 3964, 4270, 4496, 5870, 5871, 5882, 6527, 6529, 6530, 6531, 6533, 6536, 6558, 6559, 6618, 6619, 6759, 6819, 7049, 7129, 7165, 7204, 7212, 7243, 7848, 7850, 8732, 8736, 8749, 9032, 9076, 9356, 9516, 9821, 10066, 11191, 11231, 11232, 11821, 12154, 12167, 12266, 12381, 12825, 15637, 16108, 16998, 17257, 17379, 17433, 17435, 17436, 17438, 19919 of 2025 and CWP Nos.679, 761, 2075, 2102, 2361, 2659, 4236, 4373, 5057, 5995, 5996 of 2026

Reserved on : 11.05.2026
Decided on : 11.08.2026
Uploaded on: 11.08.2026

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1. **CWP No.15413 of 2024**

M/s Brajesh Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Anr.

…Respondents.

2. **CWP No.8243 of 2024**

M/s Shiv Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

3. **CWP No.8559 of 2024**
M/s Lakhwinder Singh Stone Crusher Unit 2.
…Petitioner.
Versus
HPSEBL & Ors.
…Respondents.

4. **CWP No.8560 of 2024**
M/s Lakhwinder Singh Stone Crusher Unit 1.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

5. **CWP No.8562 of 2024**
M/s Lakhwinder Singh Stone Crusher Unit 3.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

6. **CWP No.8673 of 2024**
Manjholi Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

7. **CWP No.8675 of 2024**
Om Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

8. **CWP No.8712 of 2024**
Shivalik Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

9. <u>CWP No.8713 of 2024</u>

Doon Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

10. <u>CWP No.8714 of 2024</u>

J. B. B. Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

11. <u>CWP No.8719 of 2024</u>

Thakur Rohani Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

12. <u>CWP No.8745 of 2024</u>

M/s Aar Ess Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

13. <u>CWP No.8747 of 2024</u>

Laxmi Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

14. <u>CWP No.8801 of 2024</u>

Gupta Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

15. <u>CWP No.8802 of 2024</u>

Jai Maa Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

16. <u>CWP No.8803 of 2024</u>

Jai Baba Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

17. <u>CWP No.8804 of 2024</u>

Him Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

18. <u>CWP No.8818 of 2024</u>

Bharat Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

19. <u>CWP No.8819 of 2024</u>

M/s Jagdambay Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

20. <u>CWP No.8820 of 2024</u>

Chander Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

21. <u>CWP No.8821 of 2024</u>
M/s Jai Shanker Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

22. <u>CWP No.8822 of 2024</u>
Thakur Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

23. <u>CWP No.8823 of 2024</u>
Shree Shree Rudra Stone Crusher and Screening Plant.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

24. <u>CWP No.8942 of 2024</u>
M/s Him Flint Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

25. <u>CWP No.8952 of 2024</u>
Shri Krishna Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

26. <u>CWP No.8953 of 2024</u>
M/s Bhakra Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

27. <u>CWP No.8954 of 2024</u>

M/s Mehta Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

28. <u>CWP No.8955 of 2024</u>

M/s Kamaksha Construction Company.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

29. <u>CWP No.9130 of 2024</u>

Naina Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

30. <u>CWP No.9141 of 2024</u>

Lakhvinder Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

31. <u>CWP No.9142 of 2024</u>

Shiva Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

32. <u>CWP No.9143 of 2024</u>

Shree Shree Rudra Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

33. <u>CWP No.9326 of 2024</u>

Thakur Enterprises Unit-II.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

34. <u>CWP No.9546 of 2024</u>

Shiva Stone.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

35. <u>CWP No.9547 of 2024</u>

Luxmi Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

36. <u>CWP No.9873 of 2024</u>

Singh Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

37. <u>CWP No.10019 of 2024</u>

Himachal Crushing Co..

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

38. <u>CWP No.10088 of 2024</u>

Ankur Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

39. CWP No.10255 of 2024
M/s Goldmine Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Ors..
…Respondents.

40. CWP No.10572 of 2024
M/s Saini Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

41. CWP No.11510 of 2024
M/s Mehta Bajri Company.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

42. CWP No.11848 of 2024
M/s Kunal Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Ors..
…Respondents.

43. CWP No.11857 of 2024
Kundlas Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

44. CWP No.11859 of 2024
Bharat Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

45. <u>CWP No.11860 of 2024</u>

Rama Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

46. <u>CWP No.11983 of 2024</u>

M/s A.T. Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

47. <u>CWP No.11985 of 2024</u>

Om Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

48. <u>CWP No.11986 of 2024</u>

M/s New Randhawa Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

49. <u>CWP No.13345 of 2024</u>

M/s Thakur Enterprises Unit-IV.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

50. <u>CWP No.13348 of 2024</u>

M/s Him Anchal Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

51. <u>CWP No.13363 of 2024</u>

M/s Building Stretch Crushing Zone.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

52. <u>CWP No.13935 of 2024</u>

Atharv Stone Crusher.

…Petitioner.

Versus

Himachal Pradesh State Electricity Board Limited & Ors..

…Respondents.

53. <u>CWP No.14662 of 2024</u>

Omkara Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

54. <u>CWP No.14663 of 2024</u>

Neel Kanth Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

55. <u>CWP No.14664 of 2024</u>

Mohinder Singh and Company.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

56. <u>CWP No.14665 of 2024</u>

Bitta Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

57. **CWP No.14666 of 2024**

Mahadev Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

58. **CWP No.15415 of 2024**

M/s A.C. Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

59. **CWP No.15442 of 2024**

Randeep Singh.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

60. **CWP No.226 of 2025**

Yamuna Mine and Minerals.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

61. **CWP No.251 of 2025**

Devraj Negi Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

62. **CWP No.255 of 2025**

Himalayan Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

63. CWP No.257 of 2025
M/s Devraj Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

64. CWP No.259 of 2025
Shirgul Mines and Minerals.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

65. CWP No.813 of 2025
M/s Ishwar Rohal Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

66. CWP No.1172 of 2025
M/s Goel Crushing Company.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

67. CWP No.1173 of 2025
Rock Lime and Allied Products.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

68. CWP No.1174 of 2025
Balaji Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

69. **CWP No.1175 of 2025**

Meera Mine and Minerals Industry.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

70. **CWP No.1866 of 2025**

M/s Shubhgiri Crushing Company.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

71. **CWP No.1867 of 2025**

M/s Shubhgiri Industries.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

72. **CWP No.1869 of 2025**

M/s Sabgiri Industries.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

73. **CWP No.2506 of 2025**

M/s Nav Durga Crushing Company.

…Petitioner.

Versus

Himachal Pradesh State Electricity Board & Ors..

…Respondents.

74. **CWP No.2533 of 2025**

M/s Jagmohan Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

75. <u>CWP No.2998 of 2025</u>

M/s K.K. Grit Udyog Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

76. <u>CWP No.3001 of 2025</u>

M/s Jai Shankar Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

77. <u>CWP No.3964 of 2025</u>

M/s Neel Kanth Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

78. <u>CWP No.4270 of 2025</u>

Allstone Mines and Minerals Pvt Ltd.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

79. <u>CWP No.4496 of 2025</u>

Bhushan Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

80. <u>CWP No.5870 of 2025</u>

Krishna Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

81. <u>CWP No.5871 of 2025</u>
M/s Shri Shiv Shakti Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

82. <u>CWP No.5882 of 2025</u>
M/s Ashutosh Gupta Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

83. <u>CWP No.6527 of 2025</u>
Dinesh Singh.
…Petitioner.
Versus
HPSEBL & Ors.
…Respondents.

84. <u>CWP No.6529 of 2025</u>
Rahul Pathania.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

85. <u>CWP No.6530 of 2025</u>
Rahul Pathania.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

86. <u>CWP No.6531 of 2025</u>
Pawan Kumar.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

87. CWP No.6533 of 2025

Dharambir Singh.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

88. CWP No.6536 of 2025

Shivam Pathania.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

89. CWP No.6558 of 2025

Sanjay Rana.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

90. CWP No.6559 of 2025

Rajinder Singh.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

91. CWP No.6618 of 2025

M/s Luxmi Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

92. CWP No.6619 of 2025

M/s Jai Shree Hari Gram Udyog Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

93. <u>CWP No.6759 of 2025</u>

Rajat Thakur.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

94. <u>CWP No.6819 of 2025</u>

Ranbir Singh.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

95. <u>CWP No.7049 of 2025</u>

M/s Hari Om Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

96. <u>CWP No.7129 of 2025</u>

M/s Bhatia Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

97. <u>CWP No.7165 of 2025</u>

M/s HSD Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

98. <u>CWP No.7204 of 2025</u>

M/s India Stone Crusher Unit-II.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

99. **<u>CWP No.7212 of 2025</u>**
M/s Krishna Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

100. **<u>CWP No.7243 of 2025</u>**
M/s Shivam Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

101. **<u>CWP No.7848 of 2025</u>**
M/s Diamond Enterprises.
…Petitioner.
Versus
State of Himachal Pradesh & Ors..
…Respondents.

102. **<u>CWP No.7850 of 2025</u>**
M/s Sidhi Vinayak Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Ors..
…Respondents.

103. **<u>CWP No.8732 of 2025</u>**
M/s Vipasha Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

104. **<u>CWP No.8736 of 2025</u>**
M/s Vibhuti Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

105. <u>CWP No.8749 of 2025</u>
M/s Manav Stone Crusher and Screening Unit.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

106. <u>CWP No.9032 of 2025</u>
M/s Sada Shiv Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

107. <u>CWP No.9076 of 2025</u>
M/s Nagni Mata Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

108. <u>CWP No.9356 of 2025</u>
Radha Mines.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

109. <u>CWP No.9516 of 2025</u>
Shiv Shakti Stone Crusher Co-Op Ind Society.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

110. <u>CWP No.9821 of 2025</u>
M/s Hare Krishna Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

111. <u>CWP No.10066 of 2025</u>
M/s Rama Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Ors..
…Respondents.

112. <u>CWP No.11191 of 2025</u>
M/s Mankotia Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

113. <u>CWP No.11231 of 2025</u>
M/s Nandi Stone Crushing Company.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

114. <u>CWP No.11232 of 2025</u>
M/s New Nurpur Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

115. <u>CWP No.11821 of 2025</u>
M/s Vee Kay Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

116. <u>CWP No.12154 of 2025</u>
M/s Shiv Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

117. <u>CWP No.12167 of 2025</u>
M/s Luxmi Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

118. <u>CWP No.12266 of 2025</u>
M/s Ashapuri Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

119. <u>CWP No.12381 of 2025</u>
M/s M.G. Mehta Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

120. <u>CWP No.12825 of 2025</u>
M/s Sharma Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

121. <u>CWP No.15637 of 2025</u>
M/s Malhotra Stone Crusher.
…Petitioner.
Versus
HPSEBL & Ors..
…Respondents.

122. <u>CWP No.16108 of 2025</u>
M/s Murari Mata Stone Crusher.
…Petitioner.
Versus
State of Himachal Pradesh & Anr..
…Respondents.

123. <u>CWP No.16998 of 2025</u>
M/s Maheshwar Stone Washing and Crushing Industries.
…Petitioner.

Versus

State of Himachal Pradesh & Ors..
…Respondents.

124. <u>CWP No.17257 of 2025</u>
Pammu Stone Crusher.
…Petitioner.

Versus

State of Himachal Pradesh & Ors..
…Respondents.

125. <u>CWP No.17379 of 2025</u>
M/s Himachal Stone Crushing Company.
…Petitioner.

Versus

State of Himachal Pradesh & Anr..
…Respondents.

126. <u>CWP No.17433 of 2025</u>
M/s Himachal Chemicals and Silicate Works (Unit-II).
…Petitioner.

Versus

State of Himachal Pradesh & Anr..
…Respondents.

127. <u>CWP No.17435 of 2025</u>
M/s Himachal Chemicals and Silicate Works (Unit-I).
…Petitioner.

Versus

State of Himachal Pradesh & Anr..
…Respondents.

128. <u>CWP No.17436 of 2025</u>
M/s Krishna Stone Crusher.
…Petitioner.

Versus

State of Himachal Pradesh & Anr..
…Respondents.

129. <u>CWP No.17438 of 2025</u>

M/s Him Chemicals and Allied Industries.

…Petitioner.

Versus

State of Himachal Pradesh & Anr..

…Respondents.

130. <u>CWP No.19919 of 2025</u>

Khatri Singh.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

131. <u>CWP No.679 of 2026</u>

M/s Bhandral Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

132. <u>CWP No.761 of 2026</u>

M/s Chamunda Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

133. <u>CWP No.2075 of 2026</u>

M/s Akhilesh Enterprises.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

134. <u>CWP No.2102 of 2026</u>

M/s Verma Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

135. <u>CWP No.2361 of 2026</u>
M/s Gargacharya Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

136. <u>CWP No.2659 of 2026</u>
Mata Baglamukhi Stone Crusher.

…Petitioner.

Versus

State of Himachal Pradesh & Ors..

…Respondents.

137. <u>CWP No.4236 of 2026</u>
Bahadur Singh Bhalru.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

138. <u>CWP No.4373 of 2026</u>
Harbhajan Singh.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

139. <u>CWP No.5057 of 2026</u>
Gopal Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

140. <u>CWP No.5995 of 2026</u>
M/s Shubh Stone Crusher.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

141. <u>CWP No.5996 of 2026</u>
M/s Saini Grit Udyog.

…Petitioner.

Versus

HPSEBL & Ors..

…Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.
Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting? [1] *Yes.*

For the Petitioner(s).	*Mr. Deepak Kaushal, Senior Advocate with Mr. Aditya Chauhan & Mr. Abhishek Verma, Advocates, Mr. Rishi Tandon, Mr. Shriyek Sharda, Mr. Ankit Dhiman, Mr. Bhim Raj Sharma, Advocate, vice Mr. Lokender Paul Thakur, Mr. Vinod Chauhan, Mr. Rajat Thakur, Mr. Goverdhan Lal Sharma, Dr. Lalit Kumar Sharma, Mr. Nitin Thakur, Mr. Ashok Kumar Tyagi & Mr. Umesh Kanwar, Advocates for the petitioner(s) in respective petitions.*
For the Respondents:	*Mr. Anup Rattan, Advocate General, with Mr. Yashwardhan Singh Chauhan, Senior Additional Advocate General, Mr. Sushant Keprate, Additional Advocate General, for the respondents-State, in all respective petitions.*
	Ms. Sunita Sharma, Senior Advocate with Mr. Dhananjay Sharma, Mr. Saurav Upadhyay, Mr. Mohit Sankhyan and Mr. Jia Negi, Advocates, for the respondent-HPSEBL in respective petitions.

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[1] *Whether the reporters of the local papers may be allowed to see the judgment?*

Vivek Singh Thakur, Judge

For involvement of common question of law and fact in these petitions, as agreed, are being decided by this common judgment.

2. Petitioner(s) herein are industrial units, registered with Industries Department, carrying out business of stone crusher, having been granted/renewed mining lease for industrial unit for extraction of mines and minerals like stone, boulder, *bajri*, and sand, etc., in order to run the stone crusher unit.

3. Petitioners are mainly aggrieved by notification dated 01.09.2023 (Annexure P-4) issued by Department of MPP & Power, Government of Himachal Pradesh, under Section 11(2) of Himachal Pradesh Electricity (Duty) Act 2009 **(hereinafter to be referred to as 'Act 2009')** by revising rates of electricity Duty, whereby rates of electricity Duty levied under Section 3 of Act 2009 for different categories of consumers have been revised with immediate effect, wherein stone crushers and mines along with cement industry have been levied electricity Duty at a revised rate of 25% by increasing previous rate of Duty of 11%, which was notified as revised rate by the Government of Himachal Pradesh, circulated vide communication dated 20.07.2017 (Annexure P-3), issued by HP State Electricity Board.

4. Petitioners are also aggrieved by Notification dated 18.01.2024 (Annexure P-5), issued by Department of MPP & Power, Government of Himachal Pradesh, whereby exercising the power conferred under Section 11(2) of Act 2009, rate of electricity Duty with respect to stone crushers has been revised under Section 3 of 2009 Act at the rate of 37.50%.

5. Sections 3 and 11 of Act, 2009 read as under:-

> **"3. Levy of electricity duty on consumption or supply of energy.-** (1) There shall be levied and paid to the State Government on the energy, generated from any source, consumed by the Board, any licensee, electricity trader or generating company or supplied by the Board, such licensee, trader or company to the consumer, a duty to be called the electricity duty, in the following manner, namely:-

(i)	domestic consumers	-@ 3%,
(ii)	Non domestic non-commercial consumers	-@ 3%,
(iii)	agricultural/irrigation or allied activities supply consumers	-@ 10%,
(iv)	Commercial consumers	-@ 8%
(v)	Industrial consumers	
	(a) small industrial consumers	-@ 9%,
	[(b) medium industrial consumers	-@ 15%
	(c) large industrial consumers (above 100 KW connected load)	-@ 20%]
(vi)	water pumping supply consumers	-@ 10%
(vii)	bulk supply consumers	-@ 10%,
(viii)	street lighting supply consumers	-@ 10%,
(ix)	temporary metered supply consumers	-@ 4%,

(x)	other category of consumers not covered under clauses (i) to (ix) above	-@ 10% and ,
(xi)	In case of electrical energy generated by diesel generating sets (or by what so ever mode) for use of construction of power projects or captive/ standby for own consumption by the licensee or consumer, electricity duty per unit :	-@ 30 paise:

Provided that the percentage mentioned against each categories shall be applicable on energy charges only (excluding meter rent, service charges etc.).

(2) Nothing in section 3 shall apply to the consumption or sale of electricity which is-

(a) consumed by the Government of India, State Government or sold to the Government of India or other Government(s) within the territories of Indian Union for consumption or sale by that Government or other utilities engaged in power sector; or

(b) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway; or

(c) consumed by a licensee or by consumer generating energy for their own consumption; provided the capacity of generator does not exceed 10 KW.

(3) For the purpose of computing the electricity duty, the consumption shown by the meter, starting after the first meter reading date, after the issuance of the notification under sub-section (1) of section 3 shall be taken into account.

….. ….. ….. ….. …..

11. Power to exempt from payment of electricity duty.- (1) The State Government may, in public interest, by notification in the Official Gazette, exempt any licensee, consumer or person from the payment of the whole or part of the electricity duty for such period and subject to such conditions as may be specified in such notification.

(2) The State Government may, by notification, revise the rates of electricity duty not exceeding 50% at any one time, of the rates specified under section 3."

6. Petitioners are also aggrieved for not including them in notifications dated 18.09.2024 (Annexure P-7 & Annexure P-8), issued by Department of MPP & Power, Government of H.P., whereby rate of electricity Duty with respect to certain categories including large industrial consumers above 100 KVA have been reduced from 19 to 16.5% and 19 to 10%, excluding the stone crushers, with clarification that electricity Duty rate with respect to stone crushers will be as notified vide Notifications dated 01.09.2023 and 18.01.2024.

7. It is argued on behalf of petitioners that Section 11(2) of Act 2009 provides that State Government can revise the rate of electricity Duty not exceeding 50% at any one time of rate specified under Section 3 of the Act, but vide notification dated 01.09.2023 and subsequent notification dated 18.01.2024 (Annexure P4 & Annexure P5), respondents have increased electricity Duty more than 50% as it has been increased, within a short period of less than five months from 11% to 37.50%.

8. It has been contended that electricity Duty rate notified vide communication dated 20.07.2017 at 11% could have only been revised up to 16.5%, i.e., (11% + 5.5%), as per power conferred upon the State under Section 11(2) of the Act and therefore, being arbitrary and violative

of the power conferred upon the State, these Notifications deserve to be quashed.

9. It has been further contended that the State cannot enhance the electricity Duty within a short span of period about 5-6 months to justify its increase in electricity Duty by adding 50% every time. In alternative, it has been contended that even if presumed that respondents had power to enhance electricity Duty within a short interval of time, then also, vide notification dated 01.09.2023, it could have been only 11 to 16.5% and ,thereafter, further enhancement of 50% of 16.5% and in this manner, it would have been 16.5%+8.25% = 24.75% and on this count also, it has been contended that impugned Notifications deserve to be quashed.

10. It has been also contended that Section 11(2) is a perfect example of vague, unbridled, and unguided power conferred upon the department to enhance the electricity rate without specifying the period of interval.

11. It has been further canvassed that petitioners' industrial units fall in category of large industrial consumers above 100 KW, and in original notification of rate of Duty in Section 3, they were kept in one category in Section 3(1)(v)(c) and the electricity Duty on all large industrial consumers, (above 100 KW connected load) was fixed at

uniform electricity Duty @ 20% in the year 2009 and in communication dated 20.07.2017 also, petitioners' stone crusher industrial units were included in large industrial consumers above 100 KW connected load and supply voltage not exceeding 33 KV and uniform rate of electricity duty was fixed at the rate of 11%. However, in notification dated 01.09.2023, large industries have been again bifurcated in sub-categories and cement, stone crusher and industrial units carrying business of cement, stone crusher, and mining query were excluded from large industries and different rate of electricity Duty was notified chargeable to large industries, except cement, stone crusher, mines, query, at the rate of 19%, and in case of cement industries, stone crusher, and mines at the rate of 25%, which is evident from Notification 01.09.2023 (Annexure P-4), at serial (v)(ii)(iii).

12. It is argued on behalf of petitioners that Section 3 or Section 11 of the Act 2009 does not confer any power on the State to sub-categorize the categories originally notified under Section 3 of the Act, and, therefore, segregation of stone crushers from large industries of the same category is also impermissible under law, being an act done exceeding the jurisdiction/power conferred upon the State Government by the Act.

13. Further grievance raised on behalf of petitioners is that though vide notification dated 18.09.2024 (Annexure P7 and P8), rates of electricity duty with respect to large industrial consumers were reduced from 19 to 16.5% and 19 to 10%, but again, industrial units running business of stone crusher above 100 KW, availing powers at 11 KW and 22 KW, were excluded by segregating similar large industrial consumers with 100 KW availing power at 11 KW and 12 KW in different categories. According to learned counsel, aforesaid omission and commission on the part of respondents are arbitrary, unconstitutional, and violative of Article 14 of the Constitution of India and prayer has been made to quash the impugned notifications, directing respondent No. 1 to grant the benefit of reduction of electricity duty like other large industrial power consumers in the State of Himachal Pradesh with further direction to respondents to refund or adjust the excess electricity duty charged or collected from the petitioners industrial units, which has been deposited by them under compulsion, but with protest.

14. It has been contended on behalf of petitioners that stone crusher units have not been specifically categorized a separate industry unit by HP Electricity Regulatory Commission for the purpose of levying duty, nor there was any special category assigned to stone crusher units and as such, electricity Duty as was levievable to other large industry

consumers shall be levievable to stone crusher industry also and sub-categorization of stone crushers is not permissible for the State, particularly when power for classification of consumers vests with HP Electricity Regulatory Commission under Clause 2.3 in Chapter-II in H.P. Electricity Supply Code, 2009.

15. It has been submitted by learned counsel for the petitioners that under Section 50 of Electricity Act, 2003, State Commission has been authorized to specify an Electricity Supply Code for recovery of charges, intervals for billing of electricity charges etc. and as in consonance to Section 50 and Section 181(2)(x) of Electricity Act, 2003, the Himachal Pradesh Electricity Regulatory Commission has notified HP Electricity Supply Code, 2009, on 26.05.2009 and as per Chapter II, Rule 2.3, "Classification, tariff and other conditions of supply applicable to each consumer category shall be fixed by the Commission from time to time under tariff order" and, therefore, it has been contended that separation of category of stone crushers from Large Power Industrial Consumers is beyond the competency of the respondents.

16. Clause 2.3 of H.P. Electricity Code, 2009 referred by counsel for petitioners provides classification of consumers, which reads as under.

> "**2.3 Classification of Consumer**
> The classification, tarrif and other conditions of supply applicable to each consumer category shall be as fixed by the Commission from time to time in the Tarrif Order"

17. Clause 1.2.46 of Chapter-I of Himachal Pradesh Electricity Code, 2009 defines Tariff Order as under:-

> "1.2.46 **"Tarrif Order"** means the order issued from time to time by the Commission on annual aggregate revenue requirement and retail tariff for the licensee and consumers respectively."

18. Section 50 of Electricity Act, 2003 reads as under:-

> "**50. The Electricity Supply Code**.-The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters."

19. Almost identical stand has been taken by both respondents, i.e., respondent No. 1-State of HP as well as respondent No. 2, H.P. State Electricity Board (in short 'Board).

20. It has been stated that petitions are liable to be dismissed, as challenge has been laid to the fiscal and legislative policy decision of the State, which is beyond the scope of judicial review, except in cases where Fundamental Constitutional Rights are violated or gross arbitrariness is demonstrated for well-established principle of law that Courts should not

interfere in matters relating to economic and fiscal policy unless there is apparent violation of fundamental rights or constitutional provisions.

21. It has been contended by learned Advocate General that impugned notification, increasing the electricity duty from 25% up to 37.50% for stone crusher is a valid exercise of State's power under Act 2009, as it has been levied with objective of generating necessary revenue for infrastructure development, which is a lawful exercise of power, squarely within the scope of authority vested in the State by the legislature, as the amount recovered by way of revised electricity duty will be used for funding Government initiatives for generating necessary revenue for infrastructure development in the State and the rates of electricity duty have been revised in consonance with fundamental rights and to fulfill the objective enshrined under Articles 47 and 48 of the Constitution.

22. It has been contended by learned Advocate General that authority to impose and revise electricity duty, in terms of provisions of Act 2009, clearly vests in the Government of Himachal Pradesh and power to levy such duty is within legislative competence of the State and the subject of electricity falls under Entry 38 in Concurrent List-III of VII Schedule of Constitution of India and, therefore, challenge laid to impugned Notifications is completely misplaced and misrepresented.

23. It has been contended that levy of electricity Duty does not amount to an unconstitutional interference with the right of business or livelihood of the petitioners. It has been submitted that there is a rational and well-founded classification for segregating stone crushers from the other large industrial consumers, because stone crushers are heavy electricity consuming entities and their operations have a significant impact on both power consumption and environment and, therefore, for high consumption level of energy and environmental cost associated with their operation, decision to impose a higher duty on stone crushers is justified.

24. It has been further submitted by learned Advocate General that fiscal policy decisions often involve differentiated treatment of industries based on their consumption pattern, environmental impact, or public resources they utilize, and therefore, such classification is valid as it is based on intelligible *differentia*, having reasonable nexus to the object sought to be achieved, which in this case is equitable revenue generation and sustainable power infrastructure development.

25. Learned Advocate General has submitted that fiscal measures are presumed to be in public interest and constitutional, and petitioners have failed to discharge burden to demonstrate otherwise and, therefore, impugned notifications cannot be held arbitrary or violative of

constitutional provisions, particularly keeping in view the consistent stand of the Courts that economic and fiscal policy should not be interfered with unless there is a clear violation of constitutional mandate.

26. It has also been canvassed by learned Advocate General that creation of sub-category of stone crusher, vide Notification dated 01.09.2023 is a policy decision of the State, which is within the scope of Electricity Duty Act, 2009 and it does not violate or conflict with earlier order as it applies to a different classification made under different factual and policy considerations.

27. It has been further submitted by learned Advocate General that before sub-categorization, stone crushers were levied with electricity duty as per their categorization under medium and large industrial consumers, based on the requirement of supply of electricity. However, keeping in view the nature of business, high consumption of electricity duty and impact on the environment, all stone crushers have been put in one and the same category, so as to treat all stone crushers and mines as a one and same category and it is a intelligible *differentia* for sub-classification of stone crushers by excluding them from the other industries.

28. It has been submitted by learned Advocate General that in absence of express power to create sub-category or revise the categories

in various consumers including industrial units, such power can be considered to have been vested in the State in view of Section 21 of General Clauses Act, and in terms of the provisions of the said Section of General Clauses Act, respondent-State is competent to revise, redefine or redetermine the categories provided under Section 3(1) for the purpose of determining the electricity Duty to be levied upon them, depending upon the nature, class and category of the consumer and it also includes to further bifurcate industrial units into large, medium, or small industries as well as to segregate stone crushers from other industries for the purpose of determining the rate of Duty to be levied upon them.

29. Learned counsel for the petitioners to substantiate their plea that in absence of express power for sub-categorization, segregation of stone crusher for determining electricity Duty under Section 3 of Act, 2009, from other industrial units is not permissible, have placed reliance upon pronouncement of the Apex Court in ***State of Madhya Pradesh vs. Ajay Singh and Others,*** reported in (***1993) 1 SCC 302***, by referring following paragraph.

> "26. It is common ground before us that Section 21 of the General Clauses Act can be invoked only if, and to the extent, if any, the context and the scheme of the Commissions of Inquiry Act so permits. The general power in Section 21 of the General Clauses Act is "to add to, amend, vary or rescind any notification" etc. In the context of reconstitution of the Commission, the power to fill any vacancy in the office of a member of the

Commission is expressly provided in sub-section (3) of Section 3 of the Commission of Inquiry Act. Similarly, the power to discontinue the existence of the Commission when it becomes unnecessary can be exercised by issue of a notification in accordance with Section 7 of the Act which results in rescinding the notification issued under Section 3 constituting the Commission. Thus, the power to rescind any notification conferred generally in Section 21 of the General Clauses Act is clearly inapplicable in the scheme to the Commissions of Inquiry Act which expressly provides for the exercise of this power in relation to a Commission constituted under Section of the Act. The only material remaining general powers in Section 21 of the General Clauses Act are the power to "amend" or "vary" any notification. The extent to which the constitution of the Commission can be amended or varied by filling any vacancy in the office of a member as provided in the Commissions of Inquiry Act is also obviously excluded from the purview of Section 21 of the General Clauses Act which cannot be invoked for this purpose.

27. The surviving question, therefore, is: Whether there is power to reconstitute the Commission by replacement or substitution of the existing member, though not provided in the Commissions of Inquiry Act by invoking the residuary power to amend or vary any notification under Section 21 of the General Clauses Act? In the first place, in a case like the present where the scheme of the Commissions of Inquiry Act does provide for amendment and variation of the notification issued under Section 3 for the purpose of reconstitution of the Commission in the manner indicated, even that power to amend or vary any notification by virtue of Section 21 of the General Clauses Act must be taken as excluded by clear implication in the sphere of reconstitution of the Commission. Moreover, the power to amend or vary cannot include the power to replace or substitute the existing composition of the Commission with an entirely new composition. Shri Shanti Bhushan submitted that the time specified in the initial notification for completing the task of the Commission is enlarged by subsequent notification and this is done in exercise of the general power available under the General Clauses Act to extend time. This submission does not support the argument of learned counsel that the general power under Section 21 of the General Clauses Act is also available to reconstitute the Commission by replacement or

substitution of its sole member. The aid of Section 21 of the general Clauses Act for enlargement of time does not conflict with the context or scheme of the Commissions of Inquiry Act.

28. The context as well as the scheme of the Commissions of Inquiry Act, 1952 clearly indicate that Section 21 of the General Clauses Act, 1897 cannot be invoked to enlarge the Government's power to reconstitute the Commission constituted under Section 3 of the Act in a manner other than that expressly provided in the Commissions of Inquiry Act. There being no express power given by the Commissions of Inquiry Act to the appropriate Government to reconstitute the Commission of Inquiry constituted under Section 3 of the Act by replacement or substitution of its sole member and the existence of any such power being negatived by clear implication, no such power can be exercised by the appropriate Government. The scheme of the enactment is that the appropriate Government should have no control over the Commission after its constitution under Section 3 of the Act except for the purpose of filling any vacancy which may have arisen in the office of a member of the Commission apart from winding up the Commission by issuance of a notification under Section 7 of the Act if the continued existence of the Commission is considered unnecessary. The vacancy in the office of a member of the Commission may arise for several reasons, including resignation by the member, when the Government's power to fill the vacancy under Section 3(3) of the Act can be exercised. Even though a case of implied resignation creating an implied vacancy was set up by the State of Madhya Pradesh before the High Court, that stand was rightly abandoned before us by Shri Shanti Bhushan."

30. Learned counsel for the petitioners have submitted that basic rule of literal and strict construction of the Act is also applicable in present case and the power, which has not been conferred under Section 3 of the Act or any other provision of the Act, cannot be construed to have been vested in the State by referring Section 21 of the General Clauses Act.

31. In this regard, reliance has been placed on the judgment of the Apex Court in ***B. Premanand and Others vs. Mohan Koikal and Others,*** reported in ***(2011) 4 SCC 266***, by referring following paragraphs:-

> "24. The literal rule of interpretation really means that there should be no interpretation. In other words, we should read the statute as it is, without distorting or twisting its language. We may mention here that the literal rule of interpretation is not only followed by Judges and lawyers, but it is also followed by the lay man in his ordinary life. To give an illustration, if a person says "this is a pencil", then he means that it is a pencil; and it is not that when he says that the object is a pencil, he means that it is a horse, donkey or an elephant. In other words, the literal rule of interpretation simply means that we mean what we say and we say what we mean. If we do not follow the literal rule of interpretation, social life will become impossible, and we will not understand each other. If we say that a certain object is a book, then we mean it is a book. If we say it is a book, but we mean it is a horse, table or an elephant, then we will not be able to communicate with each other. Life will become impossible. Hence, the meaning of the literal rule of interpretation is simply that we mean what we say and we say what we mean.
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> 25. In this connection, we may also refer to the Mimansa Rules of Interpretation which were our traditional principles of interpretation used for thousand of years by our jurists. It is deeply regrettable that in our law courts today these principles are not cited. Today, our so called educated people are largely ignorant about the great intellectual achievements of our ancestors, and the intellectual treasury which they have bequeathed to us. The Mimansa Rules of Interpretation are one of these great achievements, but regrettably they are hardly ever used in our law courts.
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> 26. It may be mentioned that it is not stated anywhere in the Constitution of India that only Maxwell's Principles of Interpretation can be utilised. We can utilise any system of interpretation which can help to resolve a difficulty. Principles of interpretation are not principles of law but are only a methodology for explaining the meaning of words used in a text. There is

no reason why we should not use Mimansa Principles of Interpretation in appropriate occasions.

27. In Mimansa, the literal rule of interpretation is known as the “Shruti” or “Abhida” principle. This is illustrated by the Garhapatya nyaya (in Mimansa Maxims are known as “nyayas”). There is the vedic verse: "Aindrya garhapatyam upatishthate", which means "by the Mantra addressed to Indra establish the household fire”. This verse can possibly have several meanings viz. (1) worship Indra (2) worship Garhapatya (the household fire), (3) worship both, or (4) worship either. However, since the word “garhapatyam” is in the objective case, the verse has only one meaning, that is, “worship garhapatya”. The word “aindrya” means “by Indra”, and hence the verse means that by verses dedicated to Indra one should worship garhapatya. The word “aindrya” in this verse is a Linga, (in Mimansa Linga means the suggestive power of a word), while the words “garhapatyam ppatishthate” are the shruti. According to the Mimansa principles, the shruti (literal meaning) will prevail over the linga (suggestive power).

28. It is not necessary to go into details, but reference can be made to the Book *Mimansa Rules of Interpretation* by K.L.Sarkar which is a collection of Tagore Law Lectures delivered by him in 1909. According to the Mimansa Principles, the Shruti Principle or literal rule of interpretation will prevail over all other principles, e.g., Linga, Vakya, Prakarana, Sthana, Samakhya etc.”

32. Reliance has also been placed on behalf of petitioners on judgment of the Apex Court in ***Industrial Infrastructure Development Corporation (Gwalior) Madhya Pradesh Limited vs. Commissioner of Income Tax, Gwalior, Madhya Pradesh,*** reported in ***(2018) 4 SCC 494***, to substantiate the plea that general power under Section 21 of General Clauses Act has to be understood in the light of subject matter, context and the effect of relevant provisions of the statute under which

Notification or order is issued and the power is not available after an enforceable right has accrued under Notification or order with further submissions that in present case once the stone crushers have been treated like other industrial units, cannot be sub-categorized in absence of any express power vested in the State to sub-categorize or redefine the categories of industrial units.

33. To substantiate the plea that in absence of power to enhance more than 50% of electricity duty, the respondents have no authority to impose/levy electricity duty, as has been imposed under impugned Notifications dated 01.09.2023 and 18.01.2024 (Annexures P-4 and Annexure P-5), reliance has been placed by learned counsel for the petitioners on judgment of the Apex Court in ***Bimal Chandra Banerjee vs. State of Madhya Pradesh etc.,*** reported in ***1970 (2) SCC 467***, by referring following paragraph…

> "13. No tax can be imposed by any bye-law or rule or regulation unless the statute under which the subordinate legislation is made specially authorises the imposition even if it is assumed that the power to tax can be delegated to the executive. The basis of the statutory power conferred by the statute cannot be transgressed by the rule making authority. A rule making authority has no plenary power. It has to act within the limits of the power granted to it."

34. It has been submitted on behalf petitioners that where there is no express power for imposition of fee or tax more than 50%, the

respondents could not have done so. Reliance has been placed on paras 6 and 7 of the judgment of the Apex Court in ***Ahmedabad Urban Development Authority vs. Sharadkumar Jayantikumar Pasawalla and others*** reported in ***AIR 1992 SC 2038***, which read as under:-

> "6. After giving our anxious consideration to the contentions raised by Mr. Goswami, it appears to us that in a fiscal matter it will not be proper to hold that even in the absence of express provision, a delegated authority can impose tax or fee. In our view, such power of imposition of tax and/or fee by delegated authority must be very specific and there is no scope of implied authority for imposition of such tax or fee. It appears to us that the delegated authority must act strictly within the parameters of the authority delegated to it under Act and it will not be proper to bring the theory of implied intent or the concept of incidental and ancillary power in the matter of exercise of fiscal power. The facts and circumstances in the case of District Council of Jowai, (AIR 1986 SC 1930) are entirely different. The exercise of powers by the Autonomous Jaintia Hills Districts are controlled by the constitutional provisions and in the special facts of the case, this Court has indicated that the realisation of just fee for the a specific purpose by the autonomous District was justified and such power was implied. The said decision cannot be made applicable in the facts of this case or the same should not be held to have laid down any legal proposition that in matters of imposition of tax or fees, the question of necessary intendment may be looked into when there is no express provision for imposition of fee or tax. The other decision in Khargram Panchayat Samiti's case, (1987 (3) SCC 82) also deal with the exercise of incidental and consequential power in the field of administrative law and the same does not deal with the power of imposing tax and fee.
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> 7. The High Court has referred to the decisions of this Court in Hingir's case, (AIR 1961 SC 459) and Jagannath Ramanuj's case (AIR 1954 SC 400) and Delhi Municipal Corporation's case (AIR 1983 SC 617) (supra). It has been consistently held by this Court that whenever there is

compulsory exaction of any money, there should be specific provision for the same and there is no room for intendment. Nothing is to be read and nothing is to be implied and one should look fairly to the language used. We are, therefore, unable to accept the contention of Mr. Goswami. Accordingly, there is no occasion to interfere with the impugned decision of the High Court. The appeal, therefore, fails and is dismissed with no order as to costs."

35. Learned counsel for the petitioners have also placed reliance on paras 12 and 13 of judgment passed by the Apex Court in ***Kunj Behari Lal Butail and Others vs. State of H.P. and Others,*** reported in ***(2000) 3 SCC 40***, relevant portion whereof is as under:-

"12. The Government while framing rules under the Bihar Money Lenders Act, 1938 fixed the upper limit for the loans which the money lenders could lend though the Act nowhere provided for the fixing of such upper limit. In *Sant Saran Lal v. Parsuram Soha*, AIR (1966) SC 1852 it was held that the rule making power of the Government does not extend to the fixing of such a limit as it was not empowered by the Act.

13. It is very common for the legislature to provide for a general rule making power to carry out the purpose of the Act. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the test of having been so framed as to fall within the scope of such general power confirmed. If the rule making power is not expressed in such a usual general form then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act, (See : Sant Saran Lal & Anr. v. Parsuram Sahu AIR 1966 SC 1852. From the provisions of the Act we cannot spell out any legislative intent delegating expressly, or by necessary implication, the power to enact any prohibition on transfer of land. We are also in agreement with the submission of Shri Anil Divan that by placing complete prohibition on transfer of land subservient to tea estates no purpose sought to be achieved by the Act is advanced so also such prohibition cannot be sustained. Land forming part of tea estate including land sub-servient to

tea plantation have been placed beyond the ken of the Act. Such land is not to be taken in account either for calculating area of surplus land or for calculating area of land which a person may retain as falling within ceiling limit. We fail to understand how a restriction on transfer of such land is going to carry out any purpose of the Act. We are fortified in taking such view by the Constitution Bench decision of this Court in Maharao Sahib Shri Bhim Singhji v. Union of India Ors., [1981] 1 SCC 166 whereby sub-section (1) of section 27 of the Urban Land (Ceiling and Regulation) Act, 1976 was struck down as invalid insofar as it imposed a restriction on transfer of any urban or urbanisable land with a building or a portion only of such building which was within the ceiling area. The provision impugned therein imposed a restriction on transactions by way of sale, mortgage, gift or lease of vacant land or buildings for a period exceeding ten years, or otherwise for a period of ten years from the date of the commencement of the Act even though such vacant land, with or without building thereon, fell within the ceiling limits. The Constitution Bench held (by majority) that such property will be transferable without the constraints mentioned in sub-section (1) of Section 27 of the said Act. Their Lordships opined that the right to carry on a business guaranteed under Article 19(1)(g) of the Constitution carried with it the right not to carry on business. It logically followed, as a necessary corollary, that the right to acquire, hold and dispose of property guaranteed to citizens under Article 19(l)(f) carried within it the right not to hold any property. It is difficult to appreciate how could a citizen be compelled to own property against his will though he wanted to alienate it and the land being within the ceiling limits was outside the purview of section 3 of the Act and that being so the person owning the land was not governed by any of the provisions of the Act. Reverting back to the case at hand, the learned counsel for the State of Himachal Pradesh has not been able to satisfy us as to how such a prohibition as is imposed by the impugned amendment in the Rules helps in achieving the object of the Act."

36. By referring paragraph 21 of judgment of the Apex Court in ***Union of India and Others vs. S. Srinivasan, reported in 2012 (7) SCC***

683, learned counsel for the petitioners have contended that power of authority cannot be exercised beyond the scope of power conferred by the Statute and in case power is exercised beyond the scope of provisions of the Act, the exercise of such power becomes ultra vires, as the exercise of power must be in consonance of the provisions of the Act, because the basic test is to determine and consider the source of power, which is relatable to exercise of such power and, therefore, it has been contended that Notifications, which are not in accordance with provisions of the Statute, are not sustainable.

37. Learned Advocate General, to substantiate the plea that present petitions are not maintainable and liable to be dismissed, has placed reliance on judgment passed by the Apex Court in ***Raja Jagannath Baksh Singh vs. State of Uttar Pradesh and another,*** reported in ***AIR 1962 SC 1563*** by referring para 21, which reads as under:-

> "21. That leaves one more question to be considered. Mr. Goyal argues that the Act is confiscatory in (character and must be struck down as being a colorable piece of legislation, and in support. of this argument he suggests that the rates prescribed by the Schedule are so heavy that the assessees would virtually have to part with their properties within a short time in order to bear the burden of the tax. This plea raises the question as to whether a taxing statute can be challenged on the ground that the burden of tax imposed by it is unreasonably high or excessive. We have already seen that the provisions of Art. 31(2) cannot be invoked in challenging the validity of a taxing statute on the ground that the tax

levied is unreasonably high and we have also noticed that if the taxing statute does not contravene any other fundamental right guaranteed by part III, it would normally be treated as a valid law by whose authority tax can be collected without infringing Art. 31(1). Though the validity of a taxing statute cannot be challenged merely on the ground that it imposes an unreasonably high burden, it does not follow that a taxing statute cannot be challenged on the ground that it is a colourable piece of legislation and as such, is a fraud on the legislative power conferred on the Legislature in question. If, in fact, it is shown that the Act which purports to be a taxing Act is a colourable exercise of the legislative power of the Legislature, then that would be an independent ground on which the Act can be struck down. Colourable exercise of legislative power is not a legitimate exercise of the said power and as such, it may be open to challenge. But such a challenge can succeed not merely by showing that the tax levied is unreasonably high or excessive, but by proving other relevant circumstances which justify the conclusion that the statute is colourable and as such, amounts to a fraud."

38. Learned Advocate General has also placed reliance on the judgment of Apex Court in ***Delhi Development Authority vs. Bhola Nath Sharma (dead) by Lrs and Others***, reported in ***(2011) 2 SCC 54***, by referring following paras:-

"25. The definition of the expressions "local authority" and "person interested" are inclusive and not exhaustive. The difference between exhaustive and inclusive definitions has been explained in *P. Kasilingam* v. *P.S.G. College of Technology* (1995) Supp 2 SCC 348 in the following words: (SCC p. 356, para 19)

"19 …..A particular expression is often defined by the Legislature by using the word `means' or the word `includes'. Sometimes the words `means and includes' are used. The use of the word `means' indicates that "definition is a hard-and-fast definition, and no other meaning can be assigned to the expression than is put down in definition". (See : Gough v. Gough (1891) 2 QB 665 (CA) *Punjab*

> *Land Development and Reclamation Corpn. Ltd. v. Presiding Officer, Labour Court* (1990) 3 SCC 682, SCC p. 717, para 72.*)* The word `includes' when used, enlarges the meaning of the expression defined so as to comprehend not only such things as they signify according to their natural import but also those things which the clause declares that they shall include. The words "means and includes", on the other hand, indicate "an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions". [See: Dilworth v. Commissioner of Stamps 1899 AC 99 (Lord Watson); *Mahalakshmi Oil Mills v. State of A.P. (1989 1 SCC 164, SCC p. 170 para 11]* The use of the words "means and includes" in Rule 2*(b)* would, therefore, suggest that the definition of `college' is intended to be exhaustive and not extensive and would cover only the educational institutions falling in the categories specified in Rule 2*(b)* and other educational institutions are not comprehended. Insofar as engineering colleges are concerned, their exclusion may be for the reason that the opening and running of the private engineering colleges are controlled through the Board of Technical Education and Training and the Director of Technical Education in accordance with the directions issued by the AICTE from time to time."

26. In Bharat Cooperative Bank (Mumbai) Ltd. v. Employees Union (2007) 4 SCC 685, this Court again considered the difference between the inclusive and exhaustive definitions and observed: (SCC p. 695, para 23)

> "23 …..When in the definition clause given in any statute the word "means" is used, what follows is intended to speak exhaustively. When the word "means" is used in the definition it is a "hard-and-fast" definition and no meaning other than that which is put in the definition can be assigned to the same. On the other hand, when the word "includes" is used in the definition, the legislature does not intend to restrict the definition: it makes the definition enumerative but not exhaustive. That is to say, the term defined will retain its ordinary meaning but its scope would be extended to bring within it matters, which in its ordinary meaning may or may not comprise. Therefore, the use of the word "means" followed by the word

"includes" in the definition of "banking company" in Section 2(bb) of the ID Act is clearly indicative of the legislative intent to make the definition exhaustive and would cover only those banking companies which fall within the purview of the definition and no other."

39. By referring pronouncement of Apex Court in ***State of A.P. vs National Thermal Power Corporation Ltd. and Others,*** reported in ***2002 5 SCC 203***, learned Advocate General has submitted that a grant of power in general terms, standing by itself would, no doubt, be construed in wider sense, but it may be qualified by other express provisions in the same enactment by the application of context and even by considerations arising out of what appears to be general scheme of the Act, with further submissions that power to define categories and revise the classification of categories in the Act 2009, has to be seen in the light of the Scheme of the Act, which empowers the State to levy different rate of electricity duty on different kind of consumers. Relevant paras referred by learned Advocate General read as under:

"List II, Entries 53 and 54, how to be read

22. We now come to the question on the interpretation of Entry 53 in List II of Seventh Schedule. It provides for taxes on the consumption or sale of electricity. The word 'sale' as occurring in Entry 52 came up for the consideration of this Court in *Burmah Shell Oil Storage & Distributing Co.India Ltd. Vs. The Belgaum Borough Municipality* 1963 Supp.(2) SCR 216. It was held that the act of sale is merely the means for putting the goods in the way of use or consumption. It is an earlier stage, the ultimate destination of the goods being "use or consumption". We feel that the same meaning should be assigned to the word 'sale' in Entry 53.

This is for a fortiorari reason in the context of electricity as there can be no sale of electricity excepting by its consumption, for it can neither be preserved nor stored. It is this property of electricity which persuaded this Court in Indian Aluminium Co. case to hold that in the context of electricity, the word 'supply' should be interpreted to include sale or consumption of electricity. Entry 53 should therefore be read as "taxes on the consumption or sale for consumption of electricity".

23. With these two things in mind, namely, that electricity is goods, and that sale of electricity has to be construed and read as sale for consumption within the meaning of Entry 53, the conflict, if any, between Entry 53and Entry 54 ceases to exist and the two can be harmonized and read together. Because electricity is goods it is covered in Entry 54 also. It is not disputed that duty on electricity is tax. Tax on the sale or purchase of goods including electricity but excluding newspapers shall fall within Entry 54 and shall be subject to provisions of Entry 92A of List I. Taxes on the consumption or sale for consumption of electricity within the meaning of Entry 53 must be consumption within the State and not beyond the territory of the State. Any other sale of electricity shall continue to be subject to the limits provided by Entry 54. Even purchase of electricity would be available for taxation which it would not be if electricity was not includible in the meaning of the term "goods". A piece of legislation need not necessarily fall within the scope of one entry alone; more than one entry may overlap to cover the subject-matter of a single piece of legislation. A bare consumption of electric energy even by one who generates the same may be liable to be taxed by reference to Entry 53 and if the State Legislature may choose to impose tax on consumption of electricity by the one who generates it, such tax would not be deemed to be a tax necessarily on manufacture or production or a duty of excise, as held by Constitution Bench in *Jiyajeerao Cotton Mills Ltd., Birlanagar, Gwalior Vs. State of M.P.* 1962 Supp.(1) SCR 282. A mere consumption of goods (other than electricity), not accompanied by purchase or sale would not be taxable under Entry 54 because it does not provide for taxes on the consumption and Entry 53 does not speak of goods other than electricity. Thus in substance Entries 53 and 54 can be and must be read together and to the extent of sale of electricity for consumption outside the State, the electricity being goods, shall also be

subject to provisions of Entry 92A of List I. This, in our opinion, is the best way of reading the two entries. In *C.P. Motor Spirit Act re*., AIR 1939 FC 131, it was held that two entries in the lists may overlap and sometimes may also appear to be in direct conflict with each other. It is then the duty of this Court to reconcile the entries and bring about harmony between them. The Court should strive at searching for reasonable and practical construction to seek reconciliation and give effect to all of them. If reconciliation proves impossible the overriding power of Union Legislature operates and prevails. Gwyer, C.J. observed: (AIR p. 7)

> "A grant of the power in general terms, standing by itself, would no doubt be construed in the wider sense; but it may be qualified by other express provisions in the same enactment, by the implication of the context, and even by considerations arising out of what appears to be the general scheme of the Act."
>
> And again he said" AIR p. 8)
>
> "[A]n endeavour must be made to solve it, as the Judicial Committee have said, by having recourse to the context and scheme of the Act, and a reconciliation attempted between two apparently conflicting jurisdictions by reading the two entries together and by interpreting, and, where necessary, modifying the language of the one by that of the other. If needed such a reconciliation should prove impossible, then and only then, will the non-obstante clause operate and the federal power prevail." In *Calcutta Gas Co. Ltd. Vs. The State of W.B.*, 1962 Supp (3) SCR 1, the Constitution Bench has held that the same rules of construction apply for the purpose of harmonizing an apparent conflict between two entries in the same list."

40. By referring paras 53 to 62 of the pronouncement of the Apex Court in ***Southern Petrochemical Industries Co. Ltd. vs. Electricity Inspector & ETIO and Others,*** reported in ***(2007) 5 SCC 447***, it has been contended that the Act 2009 is a valid Act and, therefore, by virtue

of powers conferred under Sections 3 and 11(2) of Act 2009, the impugned Notifications cannot be held overstepping of limits of power conferred upon the State in issuing the impugned Notifications. Referred paras are as under:-

Constitutional scheme and the vires issue

"53. Article 245 of the Constitution of India vests the Parliament with power of legislation on all matters enumerated in List I and also the matters enumerated in List III of the Seventh Schedule of the Constitution of India. The State Legislature, however, has the exclusive right to legislate matters specified in the Entries contained in List II.

54. Federal supremacy no doubt recognizes that the State's power to legislate with regard to any matters in List III would be subject to any Act of the Parliament; however, Clause (3) of Article 246 of the Constitution of India gives the legislature of the State an exclusive power with respect to any matters in List II, subject to restriction imposed in the entry itself, as for example, Entries 1, 2, 12, 13, 17, 22, 23, 24, 32 and 33. Entry 53 of List II does not contain any such restriction and has not been made subject to any of the entry made in List I or List III.

55. Various entries in the three Lists provide for the fields of legislation. They are, therefore, required to be given a liberal construction inspired by a broad and generalize spirit and not in a pedantic manner. A clear distinction is provided for in the scheme of the Lists of the Seventh Schedule between the general subjects of legislation and heads of taxation. They are separately enumerated. Taxation is treated as a distinct matter for purposes of legislative competence vis-`-vis the general entries. Clauses (1) and (2) of Article 248 of the Constitution of India also manifests the aforementioned nature of the entries of the List, and, thus, the matter relating to taxation has been separately set out. The power to impose tax ordinarily would not be deduced from a general entry as an ancillary power. In List II, entries 1 to 44 form one group providing for the legislative competence of the State on subjects specified therein, whereas entries 45 to 63 form another group dealing

with taxation. We, however, do not mean to suggest that in regard to the validity of a taxation statute, the same, by itself, would be a determinative factor as in a case where the Parliament may legislate an enactment under several entries, one of them being a tax entry.

56. A bare perusal of Entry 53 of List II and Entry 38 of List III, however, clearly suggests that they are meant to operate in different fields.

57. In National Thermal Power Corpn. Ltd, (2002) 5 SCC 203, this Court has clearly held that: (SCC p. 225, para 26)

> "The power of the State Legislature to enact law to levy tax by reference to List II of the Seventh Schedule has two limitations: one, arising out of the entry itself, and the other, flowing from the restriction embodied in the Constitution."

Entry 53 does not contain any such restriction and, thus, Clause (3) of Article 254 of the Constitution of India will have no application in the instant case.

58. Legislative competence of the State of Tamil Nadu to legislate the impugned Act is beyond any dispute. It cannot, therefore, be said that the State's action in enacting the Act suffers from colourable exercise of any power. Thus, it can be safely concluded that the State has not over-stepped its limits of power. [See K.C. Gajapati Narayan Deo and Others v. The State of Orissa, 1954 SCR 1 and R.S. Joshi, Sales Tax Officer, Gujarat and Others v. Ajit Mills Limited and Another, (1977) 4 SCC 98]

59. In the decision of this Court in Raja Jagannath Baksh Singh v. State of Uttar Pradesh [AIR 1962 SC 1563], it has been held: (AIR p. 1572, para 21)

> “21... Though the validity of a taxing statute cannot be challenged merely on the ground that it imposes an unreasonably high burden, it does not follow that a taxing statute cannot be challenged on the ground that it is a colourable piece of legislation and as such, is a fraud on the legislative power conferred on the legislature in question. If, in fact, it is shown that the Act which purports to be a taxing Act is a colourable exercise of the legislative power of the legislature, then that would be an independent ground on which the Act can be struck down. Colourable exercise of legislative power is

not a legitimate exercise of the said power and as such, it may be open to challenge. But such a challenge can succeed not merely by showing that the tax levied is unreasonably high or excessive, but by proving other relevant circumstances which justify the conclusion that the statute is colourable and as such, amounts to a fraud."

60. Entry 53 of List II provides for a taxation entry; whereas Entry 38 of List III provides for a non-taxation entry dealing with general aspects of electricity excluding taxation. The 1998 Act empowers the Commission only to fix the electricity tariff or the charges for consumption of electricity. The legislation made by the State is independent of actual tariff of electricity charges. Tariff would mean a cartel of commerce and normally it is a book of rates.[BSES Ltd. (2004) 1 SCC 195, SCC at p. 208)

61. Article 254 deals with methods of resolving conflict between the law made by the Parliament and law made by the State in respect of the matters enumerated in the concurrent list. In M.P. Vidyut Karamchari Sangh v. M.P. Electricity Board [(2004) 9 SCC 755], it was held: (SCC p. 767, para 28)

> “28 Recourse to the said principles, however, would be resorted to only when there exists direct conflict between two provisions and not otherwise. Once it is held that the law made by Parliament and the State Legislature occupy the same field, the subsequent legislation made by the State which had received the assent of the President of India indisputably would prevail over the parliamentary Act when there exists direct conflict between two enactments. Both the laws would ordinarily be allowed to have their play in their own respective fields. However, in the event there does not exist any conflict, the parliamentary Act or the State Act shall prevail over the other depending upon the fact as to whether the assent of the President has been obtained therefor or not. (See Bharat Hydro Power Corpn. Ltd. v. State of Assam)"

62. The 2003 Act is, thus, not repugnant to the 1948 *(sic 1998)* Act.”

41. It would also be relevant to refer following paras of pronouncement of Apex Court passed in ***Authorized Officer, Central Bank of India vs. S. Shanmugavelu,*** reported in ***2024 (6) SCC 641***, which read as under:-

> “94 The principle of "reading down" a provision refers to a legal interpretation approach where a court, while examining the validity of a statute, attempts to give a narrowed or restricted meaning to a particular provision in order to uphold its constitutionality. This principle is rooted in the idea that courts should make every effort to preserve the validity of legislation and should only declare a law invalid as a last resort.
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> 95. When a court encounters a provision that, if interpreted according to its plain and literal meaning, might lead to constitutional or legal issues, the court may opt to read down the provision. Reading down involves construing the language of the provision in a manner that limits its scope or application, making it consistent with constitutional or legal principles.
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> 96. The rationale behind the principle of reading down is to avoid striking down an entire legislation. Courts generally prefer to preserve the intent of the legislature and the overall validity of a law by adopting an interpretation that addresses the specific constitutional concerns without invalidating the entire statute.
>
> 97. It is a judicial tool used to salvage the constitutionality of a statute by giving a provision a narrowed or limited interpretation, thereby mitigating potential conflicts with constitutional or legal principles.
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> 98. In B.R. Enterprises v. State of U.P. & Ors. reported in (1999) 9 SCC 700, this Court observed that the principles such as “Reading Down” emerge from the concern of the courts towards salvaging a legislation to ensure that its intended objectives are achieved. The relevant observations read as under: - (SCC pp. 764-64, para 81)
>
>> “81.. It is also well settled that first attempt should be made by the courts to uphold the charged provision and not to invalidate it merely because one of the possible interpretations leads to such a

result, howsoever attractive it may be. Thus, where there are two possible interpretations, one invalidating the law and the other upholding, the latter should be adopted. For this, the courts have been endeavouring, sometimes to give restrictive or expansive meaning keeping in view the nature of legislation, maybe beneficial, penal or fiscal etc. Cumulatively it is to subserve the object of the legislation. Old golden rule is of respecting the wisdom of legislature that they are aware of the law and would never have intended for an invalid legislation. This also keeps courts within their track and checks individual zeal of going wayward. Yet in spite of this, if the impugned legislation cannot be saved the courts shall not hesitate to strike it down. Similarly, for upholding any provision, if it could be saved by reading it down, it should be done, unless plain words are so clear to be in defiance of the Constitution. These interpretations spring out because of concern of the courts to salvage a legislation to achieve its objective and not to let it fall merely because of a possible ingenious interpretation. The words are not static but dynamic. This infuses fertility in the field of interpretation. This equally helps to save an Act but also the cause of attack on the Act. Here the courts have to play a cautious role of weeding out the wild from the crop, of course, without infringing the Constitution. For doing this, the courts have taken help from the Preamble, Objects, the scheme of the Act, its historical background, the purpose for enacting such a provision, the mischief, if any which existed, which is sought to be eliminated. …" (Emphasis supplied)

99. A similar view was reiterated by this Court in its decision in Calcutta Gujarati Education Society & Anr. v. Calcutta Municipal Corpn. & Ors. reported in (2003) 10 SCC 533, wherein this Court observed that the rule of "Reading Down" is only for the limited purpose of making a provision workable so as to fulfil the purpose and object of the statute. The relevant observations read as under: (SCC p. 552, para 35)

"35.The rule of "reading down" a provision of law is now well recognised. It is a rule of harmonious construction in a different name. It is resorted to smoothen the crudities or ironing out the creases found in a statute to make it workable. In the garb of "reading down", however, it is not open to read words and expressions not found in it and thus venture into a kind of judicial legislation. The rule of reading down is to be used for the limited purpose of making a particular provision workable and to bring it in harmony with other provisions of the statute. It is to be used keeping in view the scheme of the statute and to fulfil its purposes."

…" (Emphasis supplied)

100. Thus, the principle of 'Reading Down" a provision emanates from a very well settled canon of law, that is, the courts while examining the validity of a particular statute should always endeavour towards upholding its validity, and striking down a legislation should always be the last resort. "Reading Down" a provision is one of the many methods, the court may turn to when it finds that a particular provision if for its plain meaning cannot be saved from invalidation and so by restricting or reading it down, the court makes it workable so as to salvage and save the provision from invalidation. Rule of "Reading Down" is only for the limited purpose of making a provision workable and its objective achievable."

42. Following paras of the judgment of Apex Court in ***Allahabad University and Others vs. Geetanjali Tiwari (Pandey) and Others,*** reported in ***2024 (20) SCC 23*** are also relevant to be referred, which read as under:

"On the principle of reading down

32 Examining the reasons assigned by the High Court for reading down Regulation 10(f)(iii) of the 2018 Regulations would necessitate an understanding of what the principle of 'reading down' is all about. Precedents on 'reading down' of a provision are legion and only a few of them are referred to here.

33. In CST v. Radhakrishan (1979) 2 SCC 249, this Court held: (SCC p. 257, para 15)

> "15. … In considering the validity of a statute the presumption is in favour of its constitutionality and the burden is upon him who attacks it to show that there has been a clear transgression of constitutional principles. For sustaining the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived. It must always be presumed that the Legislature understands and correctly appreciates the need of its own people and that discrimination, if any, is based on adequate grounds. *It is well settled that courts will be justified in giving a liberal interpretation to the section in order to avoid constitutional invalidity. These principles have given rise to rule of reading down the sections if it becomes necessary to uphold the validity of the sections.*" (emphasis supplied)

34. Hon'ble P.B. Sawant, J. (as His Lordship then was) in his concurring judgment in DDC v. DDT Mazdoor Congress 1991 S9pp (I) SCC 600 captured the rule of "reading down" as follows: (SCC pp. 728-29, para 255)

> "255. It is thus clear that the doctrine of reading down or of recasting the statute can be applied in limited situations. It is essentially used, firstly, for saving a statute from being struck down on account of its unconstitutionality. *It is an extension of the principle that when two interpretations are possible — one rendering it constitutional and the other making it unconstitutional, the former should be preferred. The unconstitutionality may spring from either the incompetence of the legislature to enact the statute or from its violation of any of the provisions of the Constitution.* The second situation which summons its aid is where the provisions of the statute are vague and ambiguous and it is possible to gather the intentions of the legislature from the object of the statute, the context in which the provision occurs and the purpose for which it is made. *However, when the provision is cast in a definite and unambiguous language and its intention is clear, it is not permissible either to mend or bend it even if such recasting is in accord with good reason and*

conscience. In such circumstances, it is not possible for the court to remake the statute. Its only duty is to strike it down and leave it to the legislature if it so desires, to amend it. What is further, if the remaking of the statute by the courts is to lead to its distortion that course is to be scrupulously avoided. One of the situations further where the doctrine can never be called into play is where the statute requires extensive additions and deletions. Not only it is no part of the court's duty to undertake such exercise, but it is beyond its jurisdiction to do so." (emphasis supplied)

35. Hon'ble K. Ramaswamy, J. (as His Lordship then was), in a separate concurring opinion, had the occasion to consider authorities on statutory interpretation and observed: (DTC Mazdoor Congress 1991 Supp (1) SCC 600, SCC pp. 762-63, paras 323-24 & 326

"323. In Craies Statute Law (7th edn., Chapter 5 at page 64) it is stated that where the words of an Act are clear, there is no need for applying any of the principles of interpretation which are merely presumptions in cases of ambiguity in the statute. The safer and more correct course of dealing with the question of construction is to take the words themselves and arrive, if possible, at their meaning without in the first place referring to cases. Where an ambiguity arises to supposed intention of the legislature, one of the statutory constructions, the court propounded, is the doctrine of reading down. Lord Reid in Federal Steam Navigation Co. v. Department of Trade and Industry [(1974) 2 All ER 97, 100] (as also extracted by Cross Statutory Interpretation, Butterworths' edition, 1976 at page 43 in proposition 3) has stated thus:

''… the Judge may read in words which he considers to be necessarily implied by words which are already in the statute and he has a limited power to add to, alter or ignore statutory words in order to prevent a provision from being unintelligible, absurd or totally unreasonable, unworkable or totally irreconcilable with the rest of the statute.'

324. At p. 92 of the Cross Statutory Interpretation, the author has stated that:

'The power to add to, alter or ignore statutory words is an extremely limited one. Generally speaking it can only be exercised where there has been a demonstrable mistake on the part of the draftsman or where the consequence of applying the words in their ordinary, or discernible secondary, meaning would be utterly unreasonable. Even then the mistake may be thought to be beyond correction by the court, or the tenor of the statute may be such as to preclude the addition of words to avoid an unreasonable result.'

Therefore, the Doctrine of Reading Down is an internal aid to construe the words or phrase in statute to give reasonable meaning, but not to detract, distort or emasculate the language so as to give the supposed purpose to avoid unconstitutionality.

*** *** *** ***

326. It is, thus, clear that the object of reading down is to keep the operation of the statute within the purpose of the Act and constitutionally valid." (emphasis supplied)

36. The question of "reading down" a provision arises if it is found that the provision is ultra vires as it stands. This is the law laid down in Electronics Corpn. of India Ltd. v. State of A.P. (1999) 4 SCC 458.

37. An instructive passage is found in B.R. Enterprises v. State of U.P. (1999) 9 SCC 700, reading thus: (SCC pp. 764-65, para 81)

"81. … Thus, where there are two possible interpretations, one invalidating the law and the other upholding, the latter should be adopted. For this, the courts have been endeavouring, sometimes to give restrictive or expansive meaning keeping in view the nature of legislation, may be beneficial, penal or fiscal etc. Cumulatively it is to subserve the object of the legislation. Old golden rule is of respecting the wisdom of legislature that they are aware of the law and would never have intended for an invalid legislation. This also keeps courts within their track and checks individual zeal of going wayward. Yet in spite of this, if the impugned legislation cannot be saved the courts shall not hesitate to strike it down. *Similarly, for upholding any provision, if it could be saved by reading it down, it*

> *should be done, unless plain words are so clear to be in defiance of the Constitution. These interpretations spring out because of concern of the courts to salvage a legislation to achieve its objective and not to let it fall merely because of a possible ingenious interpretation. The words are not static but dynamic. This infuses fertility in the field of interpretation*. This equally helps to save an Act but also the cause of attack on the Act. Here the courts have to play a cautious role of weeding out the wild from the crop, of course, without infringing the Constitution. For doing this, the courts have taken help from the Preamble, Objects, the scheme of the Act, its historical background, the purpose for enacting such a provision, the mischief, if any which existed, which is sought to be eliminated………" (emphasis supplied)

38. In State of Rajasthan v. Sanyam Lodha (2011) 13 SCC 262, this Court was considering whether absent a challenge to the law/rule, the same could be read down. Answering in the negative, Hon'ble R. V. Raveendran, J. (as His Lordship then was) speaking for the bench held: (SCC p. 269, para 12)

> "12. It is true that any provision of an enactment can be read down so as to erase the obnoxious or unconstitutional element in it or to bring it in conformity with the object of such enactment. Similarly, a rule forming part of executive instructions can also be read down to save it from invalidity or to bring it in conformity with the avowed policy of the Government. When courts find a rule to be defective or violative of the constitutional or statutory provision, they tend to save the rule, wherever possible and practical, by reading it down by a benevolent interpretation, rather than declare it as unconstitutional or invalid. But such an occasion did not arise in this case as there was no challenge to the validity of Rule 5 and the parties were not at issue on the validity of the said Rule. We are therefore of the view that in the absence of any challenge to the Relief Fund Rules and an opportunity to the State Government to defend the validity of Rule 5, the High Court ought not to have modified or read down the said Rule."

39. Caution has been sounded in Subramanian Swamy v. Raju (2014) 8 SCC 390 in the following words: (SCC p. 420, para 61)

> "61. Reading down the provisions of a statute cannot be resorted to when the meaning thereof is plain and unambiguous and the legislative intent is clear. The fundamental principle of the 'reading down' doctrine can be summarised as follows. Courts must read the legislation literally in the first instance. If on such reading and understanding the vice of unconstitutionality is attracted, the courts must explore whether there has been an unintended legislative omission. If such an intendment can be reasonably implied without undertaking what, unmistakably, would be a legislative exercise, the Act may be read down to save it from unconstitutionality. The above is a fairly well-established and well-accepted principle of interpretation which having been reiterated by this Court time and again would obviate the necessity of any recall of the huge number of precedents…"

40. On the question as to whether harshness of a provision could afford reason for reading down the same, we find that a three-Judge bench of this Court in Authorised Officer, Central Bank of India v, Shanmugavelu (2024) 6 SCC 641 speaking through Hon'ble J.B. Pardiwala, J. has held as follows: (SCC pp. 706-707, paras 100-102)

> *"100. Thus, the principle of 'Reading Down' a provision emanates from a very well-settled canon of law, that is, the courts while examining the validity of a particular statute should always endeavour towards upholding its validity, and striking down a legislation should always be the last resort. "Reading Down" a provision is one of the many methods, the court may turn to when it finds that a particular provision if for its plain meaning cannot be saved from invalidation and so by restricting or reading it down, the court makes it workable so as to salvage and save the provision from invalidation. Rule of 'Reading Down' is only for the limited purpose of making a provision workable and its objective achievable.*
>
> *101*. The High Court in its impugned order resorted to reading down Rule 9(5) of the SARFAESI Rules not because its plain meaning

would result in the provision being rendered invalid or unworkable or the statute's objective being defeated, but because it would result in the same harsh consequence of forfeiture of the entire earnest-money deposit irrespective of the extent of default in payment of balance amount.

102. However, harshness of a provision is no reason to read down the same, if its plain meaning is unambiguous and perfectly valid. A law/rule should be beneficial in the sense that it should suppress the mischief and advance the remedy. The harsh consequence of forfeiture of the entire earnest-money deposit has been consciously incorporated by the legislature in Rule 9(5) of the SARFAESI Rules so as to sub-serve the larger object of the SARFAESI Act of timely resolving the bad debts of the country. The idea behind prescribing such a harsh consequence is not illusory, it is to attach a legal sanctity to an auction process once conducted under the SARFAESI Act from ultimately getting concluded." (emphasis supplied)

41. Thus, what follows from the above authoritative discussions is this. Whenever a court is seized of a question of vires of a primary legislation/ subordinate legislation or a part of it, a presumption of constitutionality is attached to the impugned provision and the courts would ordinarily strive to save the impugned provision from being declared ultra vires; however, there could be situations where the subordinate legislation (like a rule or a regulation) is challenged on the ground of excessive delegation or is itself violative of the enabling/primary legislation under which it is framed or even breaches constitutional guarantees.

42. "Reading down" of a provision is a subsidiary rule of interpretation of statutes, which the courts tend to employ in situations to save the subordinate legislation like a rule or a regulation, wherever possible and practical, by reading it down by a benevolent interpretation, rather than declaring it as unconstitutional or invalid. However, it has been clarified that it is to be used sparingly, and in limited circumstances. Additionally, it is clear that the act of reading down a provision, must be undertaken only if doing so can keep the operation of the statute *"within the purpose of the Act and constitutionally valid"*.

43. Following paras of the judgment of Apex Court in ***M/s. Devi Das Gopal Krishan etc. v. State of Punjab and Others,*** reported in ***AIR 1967 Supreme Court 1895*** are also relevant to be referred, which read as under:

> "(12) Nor does the decision of this Court in The State of Madras v. Gannon Dunkerley & Co., (Madras) Ltd. lend support to the argument so widely advanced by the learned counsel. That case has nothing to do with the fixation of rates of taxes. There section 6(1) of the Madras General Sales Tax Act, 1939, as amended by Madras Act 25 of 1947, provided that no tax will be payable on any sale of goods specified in the schedule to it. Section 6(2) of that Act authorised the State Government to amend the schedule by notification. The amendment of the Schedule by the State Government was challenged on the ground that section 6(2) was invalid as it was a delegation of the essential power of legislation ,of the State Government. Venkatarama Ayyar, J., speaking for the Court, in rejecting that contention, observed thus :
>
> > "Now, the authorities are clear that it is not unconstitutional for the legislature to leave it to the executive to determine details relating to the working of taxation laws, such as the selection of persons on whom the tax is to be laid, the rates at which it is to be charged in respect of different classes of goods, and the like."
>
> It is not necessary to scrutinize the correctness of this statement, having regard to the decisions relied upon, for this Court in 1965-2 SCR 477: (AIR 1965 SC 1107) accepted it, but made it clear that such a power to fix the rates must be supported by some reasonable guidance given under the Act whereunder the said power was conferred. Nor the observations of Rajagopala Ayyangar, J., in the said decision speaking for the minority, lend support to the contentions of the respondents.
>
> 13. The decision in Vasantlal Maganbhai Sanjanwala v. The State of Bombay, 1961-1 SCR 341: (AIR 1961 SC 4) raised the question whether section 6(2) of the Bombay Tenancy and Agricultural Lands

Act, 1948 (Bom. LXVII of 1948), which enabled the Government to fix the rent payable by a tenant within the maximum limits prescribed thereunder, was valid. When it was argued that it was bad because of excessive delegation, this Court sustained it on the basis of a legislative policy disclosed by Section 12(3) of the Act.

14. In Union of India v. Messrs. Bhana Mal Gulzari Mal, 1960-2 SCR 627: AIR 1960 SC 475) this Court rejected the contention that caluse 11B of Iron and Steel (Control of Production & Distribution) Order, 1941, whereunder the Central Government was authorised to issue notification fixing the maximum price of steel, was void on the ground of excessive - delegation, as it found that the said clause only further canalized the policy disclosed in Ss. 3 and 4 of the Act.

15. Further citation is unnecessary, for the principle of excessive delegation is well settled and the cases are only illustrations of the application of the said principle. The law on the subject may briefly be stated thus :

> "The Constitution confers a power and imposes a duty on the legislature to make laws. The essential legislative function is the determination of the legislative policy and its formulation as a rule of conduct. Obvi- ously it cannot abdicate its functions in favour of another. But in view of the multifarious activities of a welfare State, it cannot presumably work out all the details to suit the varying aspects of a complex situation.It must necessarily delegate the working out of details to the executive or any other agency. But there is a danger inherent in such a process of delegation. An overbur- dened legislature or one controlled by a powerful executive may unduly overstep the limits of delegation. It may not lay down any policy at all; it may declare its policy in vague and general terms; it may not set down any standard for the guidance of the executive; it may confer an arbitrary power on the executive to change or modify the policy laid down by it without reserving for itself any control over subordinate legislation. This self effacement of legislative power in favour of another agency either in whole or in part is beyond the permissible limits of delegation. It is for a Court to hold on a fair, generous and liberal construction of an impugned statute whether the legislature exceeded such limits.

> But the said liberal on struction should not be carried by the Courts to the extent of always trying to discover a dormaint or latent legislative policy to sustain an arbitrary power conferred on executive authorities. It is the duty of the Court to strike down without any hesitation any arbitrary power conferred on the executive by the legislature."
>
> See 1961-1 SCR 341 at pp. 356-357: (AIR 1961 SC 4 at pp.11-12."

44. Following para of the judgment of Apex Court in ***Kartar Singh vs. State of Punjab,*** reported in ***(1994) 3 SCC 569*** is also relevant to be referred, which reads as under:-

> "130. It is the basic principle of legal jurisprudence that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. It is insisted or emphasised that laws should give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Such a law impermissibly delegates basic policy matters to policemen and also judges for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application. More so uncertain and undefined words deployed inevitably lead citizens to "steer far wider of the unlawful zone ... than if the boundaries of the forbidden areas were clearly marked".

45. To consider the plea that power of classification of consumer is only with HPREC, it would be relevant to refer definition of Tariff Order, regarding which HPREC is competent for classification of consumer under Clause 2.3, referred *supra*.

46. As per definition of Tariff Order in Clause 1.2.46 in Chapter-I of Himachal Pradesh Electricity Supply Code, 2009, Tariff Order means the order issued from time to time by the Commission on annual aggregate revenue requirement and retail tariff for the licensee and consumers respectively.

47. The determination of tariff in the tariff order by the Electricity Regulatory Commission is a cost/charge payable by the consumers for purchasing electricity for its consumption, whereas tariff is determined by Regulatory Commission under HP Electricity Supply Code, 2009 read with relevant provisions of Electricity Act, 2003, whereas concept of levy of electricity Duty for consumption and supply of electricity under HP Electricity (Duty), 2009 is altogether different. It is a Duty imposed/levied by the State by exercising the power under Entry 53 (List II) of the Constitution, which empowers the State to levy tax for consumption and/or supply of electricity. Tariff mainly relates with cost of production and the rate on which electricity can be sold by different entities to different categories of the consumers.

48. Categorization of consumers by the Regulatory Commission is not for the purpose of levy of tax, but for purpose of determining 'Tariff' chargeable for supply/sale of electricity to the consumers by the Board,

licensee, electricity trader, or generating company, or by one entity to another.

49. The levy of tax/electricity Duty is over and above the Tariff determined by the Electricity Regulatory Commission.

50. Therefore, plea of the petitioners regarding impermissibility of classification of consumers by the State with reference to provisions of Section 3 of the Act, 2009, for power conferred on HP Electricity Regulatory Commission for classification of consumers, is misconceived and not sustainable.

51. The State has a right for classification of consumers as well as reclassification of consumers for the purpose of determining levy of electricity Duty at different rates from different kind of consumers.

52. There may be a general classification of large industrial consumers, but depending upon the peculiar nature of industry or other relevant factors, there is no inhibition to the State to redefine classification or to categorize different industrial units by way of sub-classification, based on intelligible *differentia*.

53. Perusal of provisions of Sections 3 and 11 of the Act 2009 as well as Clause 2.3 and Clause 1.2.46 of H.P. Electricity Supply Code 2009, it is evident that categorization by the Regulatory Commission in the Tariff order are for the purpose of fixation of retail tariff for the licensee

and consumers respectively, whereas classification under Section 3 of the Act 2009 is altogether for different purpose, i.e., for levying electricity Duty/taxes on the consumption or supply/sale of electricity/energy. Tariff is a charge/cost for the sale/supply of electricity by ‘A’ to ‘B’. Electricity duty/tax on consumption is on the tariff determined by the Regulatory Commission. Therefore, plea of the petitioners that for the purpose of Section 3 of the Act 2009, the State has no authority to re-classify or de-classify the categorization or to sub-classify by creating a class within class, on account of provision for classification of consumers by Regulatory Commission, is not sustainable, as both classifications are for different purpose in two different fields.

54. Though, it has been concluded that the State has a right to reclassify, declassify or create a sub-class within a class under Act 2009 for the purpose of levying duty/tax on consumption or supply or sale of electricity duty, however, provisions contained under Section 11(2) of the Act 2009, empowering the State Government to revise rates of electricity duty not exceeding 50% at any one time of the rates specified under Section 3 of the Act, 2009, are vague, uncertain, unbridled, unguided, and arbitrary as Section 11(2) of the Act 2009 does not specify minimum interval of period for enhancing duty at the rate of 50% of rate specified at any one time.

55. For absence of necessary guiding principles, there is possibility of casualty as has happened in present case, because vide Notification dated 18.01.2024 (Annexure P-5), rate of electricity duty leviable on stone crusher was enhanced from 25% to 37.50%, i.e., 50% of rate specified under Section 3 existing at the time of issuing the Notification dated 18.01.2024, but the said increase is within period of about 5 months because earlier enhancement from 11% to 25% was notified, vide Notification dated 01.09.2023 (Annexure P-4). As a result within five months, Electricity Duty has been enhanced from 11% to 37.50%, which is 240%.

56. At the time of issuing Notification dated 01.09.2023 (Annexure P-4), the existing rate of electricity duty leviable on stone crusher industry was 11%, as circulated vide communication dated 20.07.2017 (Annexure P-3). The increase in the electricity duty was made after about 6 years from 11% to 25%. Now, though there is a sufficient interval of time between determination of electricity duty levied in 2017 and revision of electricity duty levied vide Notification dated 01.09.2023, but here also the enhancement is more than 50% of the existing rate which is more than 118%. This enhancement is beyond the competence of the State, as it exceeds cap of 50% of rate existing at the time of revision of rate of electricity duty on 01.09.2023.

57. It is settled law that vague and uncertain provisions of law conferring unguided and unbridled powers on the authority to take a decision arbitrarily are liable to be quashed. But we are of the view that the Act empowers the State to levy electricity duty on consumption of supply of electricity and first portion of Section 3 of the Act, 2009 confers such power on the State and power to revise electricity duty under Section 11(2) of the Act, 2009 is extension of power to levy duty on consumption of electricity and conferring such power on the State Government is not violative of any constitutional provision, nor in conflict with the aim and object of enacting Act 2009, rather it has direct nexus with the object sought to be achieved by enacting Act 2009.

58. Though, as has been rightly pointed out by learned counsel for the petitioners that there is ambiguity in heading of Section 11 of the Act, 2009, which states that Section 11 deals with 'power to exempt from payment of electricity Duty', however, Section 11(2) of the Act, 2009 has to be read separately, as it confers power on the State to revise the rates of electricity duty and revision of rates includes decrease or increase of rate of electricity Duty. Section 11(1) confers power upon the State to exempt any licensee, consumer or person from payment of whole or part of electricity duty for period specified in the Notification issued for such purpose in Official Gazette is also a power, which can be included in

power to revise the rates of electricity Duty, but in a different manner and for a specified period, bringing it as zero, however, it does not amount to general revision of rates of electricity duty, dealing with all classes of consumers.

59. However, despite ambiguity in heading of Section 11 of the Act, 2009, the provisions of Section 11(2) cannot be quashed or declared unconstitutional on this ground, as both Sub-Sections, i.e., Sections 11(1) and 11(2) of the Act, 2009, can be related to each other and otherwise also, ambiguity in heading of Section 11 of the Act, 2009 cannot be a reasonable ground to strike down provisions of Section 11(2) of the Act, 2009, because, as already discussed supra, the revision of rates of electricity duty is within ambit and scope of the purpose of the enactment as well as power conferred under Section 3 of the Act, 2009 to levy electricity duty on consumption/supply and sale of electricity.

60. However, we are of the considered opinion that Section 11(2) deserves to be modified to include specific provision, providing definite guiding principles with definite interval of period with definite rates at which revision of rates of electricity duty may be specified by the State Government by issuing appropriate Notification. It shall definitely help in dealing with situations like the present one and to avoid abuse of power

by issuing notification of enhancement of electricity duty within a period of about 5 months, revising the rate of electricity duty from 11% to 37.50%.

61. Revision also includes reduction in electricity duty and, therefore, under Section 11(2) of the Act, 2009, the State Government is also empowered to reduce the electricity duty. It is also evident from the Notifications issued in the year 2009, Electricity Duty was 20%, but in 2017 Electricity Duty was reduced from 20% to 11%. Reduction in duty does not have adverse impact on the consumers and, therefore, in case of reduction of electricity duty to any extent, it is only the State Government which will be affected for loss of income and, thus, as the State Government has to determine any reduction of duty, the absence of any prescribed limit may be permissible because it is the State Government, which on reduction shall itself bear the consequences.

62. However, in case of enhancement of electricity duty, the consumers are adversely affected and, therefore, there is necessity of guiding principles to be contained in the Act/Rules or otherwise prescribed by the State Government, exercising its duty in accordance with law to levy electricity duty, which includes enhancement or reduction of electricity duty under the power of revision. It is also apt to record here that State Government may reserve its right to revise the electricity duty in deviation of rates determined in the guiding principles in extraordinary

expressed situations and/or public interest specifically stated, if so warranted in the given facts and circumstances of the case.

63. The guiding principles can also be provided by suitably modifying provisions of Section 11(2) of the Act, 2009, making it subject to the manner as specified in the Rules, dealing with issue of revision of electricity duty or by providing such guidelines in general Rules framed to give effect to the provisions of the Act exercising the power under Sections 15 and 16 of the Act, 2009.

64. Till the time appropriate, suitable amendment is carried out or/and Rules are framed, we are of the considered opinion that instead of striking down Section 11(2) of the Act, 2009, it would be appropriate to issue certain directions to deal with the subject matter in interregnum. Accordingly, hereby, we direct that power to enhance under the power to revise, provided under Section 11(2) of the Act, 2009, read with Section 3 of the Act shall be exercised in following manner:-

Period after previous determination of levy of duty.	**Maximum enhancement**	**Calculation as example regarding maximum enhanced rate of levy of duty every year by taking base electricity duty existing at base year initial point of time as 10%.**	**Rate of electricity duty if enhanced after expiry of period specified in Column 1.**
0	-	10%	10%
After 1 year	5%	10.5%	10.5%

After 2 year	10%	11.02%	11%
After 3 year	15%	11.57%	11.5%
After 4 year	20%	12.14%	12%
After 5 year	25%	12.75%	12.5%
After 6 year	30%	13.38%	13%
After 7 year	35%	14.05%	13.5%
After 8 year	40%	14.75%	14%
After 9 year	45%	15.49%	14.5%
After 10 year	50%	16.26%	15.0%

65. Even as per existing provisions, enhancement from 11% to 25%, vide Notification dated 01.09.2023, is exceeding limit of 50%, which can maximum could have been revised by the State at any time from 11% to 16.5%, i.e., 11%+5.5% = 16.5% and, thereafter, vide Notification dated 18.01.2024, it may have been enhanced from 16.5% to 16.5%+8.25% to the extent of 24.75%. The enhancement from 11% to 25% was notified in September, 2023, which has been assailed in December, 2024, i.e., after 10-11 months from the date of Notification dated 18.01.2024. Therefore, levy of electricity duty in present cases shall be governed by applying electricity duty @ 16.05% from 01.09.2023 and 24.75% from the date of Notification dated 18.01.2024 and revision of electricity duty hereinafter shall be governed in terms of aforesaid directions till the appropriate suitable amendment is carried out by the State and/or guiding principles are incorporated and/or relevant Rules are framed or modified in

aforesaid terms or in any manner, as deem fit by the State Government, but with certain specific provisions guided by certain specific, clear, unambiguous principles framed in consonance with settled law of the land.

66. Before parting, it would be relevant here to refer certain principles for determining rate of tax in ancient India, references whereof we find in Shanti Parva in Mahabharata, Manu Smriti, Kautilya's Arthashastra, and other ancient text like Smritis and Samhitas. Old texts recognize power of Ruler to levy tax, which enables the Ruler to perform his functions of welfare of the people, and right of traders/people to retain the fruits of their trades/earnings to get adequate reward for their hard work. Further, that Ruler should never overtax, and Taxation should never be detrimental to the spontaneous growth of tax base. In these texts, examples of Leech, Bee, and Calf have been referred to understand the rate of tax, which should be imposed by the Ruler. By giving example of Leech, Calf, and Bee, it has been propounded that rate of tax should be determined by the Ruler like Leech, Calf and Bee, who draw only very small quantities from their respective source, i.e., blood, milk, and honey, in such a manner that amount drawn is always so small that it is never detrimental to the growth of the source. It has been pronounced in the old texts that Ruler should not destroy his own roots and the roots of his

subjects by excessive greed, because the Ruler destroying his own roots and roots of his subjects, makes himself and his people to suffer. Excessive taxation destroys tax base and it causes self-destruction.

67. All of the West is not the best, similarly, all Old is not the Gold. Where all of the West is not junk, there all Old is also not obsolete. We should churn the best from the West as well as extract the Gold from the Old by discarding the waste from the old as well as the West, and march forward with new creation by manifestation of a Neo society with modern mechanism by taking the best from Old as well as the New for evolving the system for development of all.

68. In this era also, the ancient guiding principles are very much relevant. Taking into consideration basic principles of determination of rate of tax, respondents are expected to levy electricity Duty in such a manner which shall not be highly excessive-exorbitant so that it never pinches to the industrial consumers, but at the same time, they shall also contribute funds, required for functioning of Government and welfare of the people.

69. Excess payment, if any, made by petitioners to Electricity Duty shall be adjusted against further electricity Duty preferably within one year as far as possible. Any shortfall shall also be recovered in same fashion.

Petitions are disposed of in aforesaid terms, so also the pending applications, if any.

(Vivek Singh Thakur),
Judge.

(Ranjan Sharma),
Judge.

11th August, 2026
(Susheel)