

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 3930 of 2009 (P)

PETITIONER:

**M/S IDEA MOBILE COMMUNICATIONS LTD.,
SECOND FLOOR, MERCY ESTATE, RAVIPURAM
COCHIN-682 015, REPRESENTED BY ITS SENIOR MANAGER
SRI RAMACHANDRAN. C.**

**BY ADVS.SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN**

RESPONDENTS:

- 1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHIBHAVANAM
THIRUVANANTHAPURAM.**
- 2. THE DEPUTY CHIEF ENGINEER,
K.S.E. BOARD, ELECTRICAL CIRCLE, KOZHIKODE.**
- 3. THE ASSISTANT ENGINEER, K.S.E.BOARD,
ELECTRICAL SECTION, KOYILANDY NORTH, PIN-673 305.**

**R1 TO R3 BY SRI.P.SANTHALINGAM (SR.)
SRI.S.SHARAN, SC, K.S.E.BOARD
SRI.P.P.THAJUDEEN, SC, K.S.E.B
SRI.C.K.KARUNAKARAN, SC FOR KSEB**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT. P1: TRUE COPY OF THE BOARD ORDER DATED 15.1.2003**
- EXT. P2: A COPY OF THE CHALLAN SUBSTANTIATING PAYMENT OF THE
 REGULARISATION CHARGE**
- EXT. P3: A COPY OF THE REVISED INVOICE DATED 29.12.2008**
- EXT. P4: TRUE COPY OF B.O.(FM) NO. 368/2008 (DPC1/C-G1/182/2007 DATED
 7.2.2008**
- EXT. P5: TRUE COPY OF THE JUDGMENT DATED 10.02.2006 IN O.P. NO. 26408
 OF 2000**
- EXT. P6: TRUE COPY OF THE JUDGMENT IN R.P. NO. 974 OF 2006 IN O.P. NO.
 26408 OF 2000**

RESPONDENT'S EXHIBITS:-NIL

/TRUE COPY/

P.A TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 3930 OF 2009

Dated this the 28th day of May, 2015

JUDGMENT

Ext. P3 order reflects short assessment of penalty to the tune of Rs. 4,38,279/-. The same implies that there was an assessment earlier according to the petitioner. Ext. P3 order refers to an audit report by the office of the Accountant General. It is the case of the petitioner that proceedings cannot be re-opened on the basis of such audit report. Reliance is placed on **Jomy Thomas Manjooran v. KSEB [2013 (1) KLT 595]**.

2. The respondents on the other hand contend that short assessment is based on an inspection by the officials. The Regional Audit Officer, Vadakara did conduct an inspection of the premises on 20.06.2007. It is on the basis of the inspection, short assessment order was passed. The petitioner points out that the amount earlier assessed as penalty pursuant to the inspection dated 20.06.2007 was well paid.

3. These are matters to be addressed by the third respondent before whom the parties will urge their contentions. Ext. P3 order shall be treated as a show cause notice for all purposes. The petitioner is at liberty to file a detailed objection to Ext. P3 order within a period of three weeks from today. The third respondent shall hear the parties and pass fresh orders. The coercive proceedings shall remain stayed for a period of two months in the circumstances.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS