

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. 4024 of 2011 (C)

PETITIONER:

**M/S.ESSAR TELECOM INFRASTRUCTURE (P) LTD
36/2624, FIRST FLOOR, CHERAMANGALATHU HOUSE
SHENOY ROAD, COCHIN- 682 017, REPRESENTED BY
DEPUTY MANAGER (LEGAL), MR.BABU PATTATHANAM.**

**BY ADVS.SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN
SRI.ARUN THOMAS
SRI.JENNIS STEPHEN**

RESPONDENTS:

- 1. KERALA STATE ELECTRICITY BOARD,
VYDHYUDHIBHAVANAM, PATTAM, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY - 695 001**
- 2. THE DEPUTY CHIEF ENGINEER,
K.S.E.BOARD, ELECTRICAL CIRCLE, KANNUR DISTRICT - 670 001**
- 3. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION
KADACHIRA, KANNUR DISTRICT - 670 001**
- 4. THE KERALA STATE ELECTRICITY REGULATORY
COMMISSION, VELLAYAMBALAM, THIRUVANANTHAPURAM
REPRESENTED BY IT'S CHAIRMAN - 695 001**

R1-R3 BY ADVS. SRI.RAJU JOSEPH (SR.)

SRI.K.T.PAULOSE, SC, KSEB

R1 TO R3 BY ADVS. SRI.P.P.THAJUDEEN, SC, K.S.E.B

SRI.T.R.RAJAN,SC,K.S.E.B.

SMT.NAZEEBA.O.H., KERALA STATE ELECTRICITY BOARD

R4 BY ADVS. SRI.S.SUJIN, SC, ELECTRICITY REGULATORY COMMISSION

SRI.S.SREEKUMAR,SC, KSERC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-05-2015,
ALONG WITH WPC. 4023/2011, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: PHOTOCOPY OF THE PERMISSION ORDER NO. B3/3807/2008/EIN DATED 4.11.2008 ISSUED TO THE PETITIONER

EXHIBIT P2: PHOTOCOPY OF THE OWNERSHIP CERTIFICATE DATED 09.06.2008 ISSUED TO THE PETITIONER

EXHIBIT P3: PHOTOCOPY OF THE MAHAZAR DATED 27.11.2010

EXHIBIT P4: PHOTOCOPY OF THE BILL DATED 27.11.2010 FOR A SUM OF RS. 1,04,318/- ISSUED TO THE PETITIONER

EXHIBIT P5: PHOTOCOPY OF THE APPEAL DATED 2.12.2010

EXHIBIT P6: PHOTOCOPY OF THE STATEMENT GIVEN BY THE PETITIONER DATED 28.12.2010

EXHIBIT P7: PHOTOCOPY OF THE ORDER DATED 22.1.2011 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER

EXHIBIT P8: PHOTOCOPY OF THE BOARD ORDER NO. B.O.(FB) NO. 46/2003 (PLG. COM. 4206/01 DATED 15.1.2003

EXHIBIT P9: BOARD ORDER NO. 368/2008 (DPC1/C-182/2007 DATED 7.2.2008 ISSUED BY 1ST RESPONDENT

EXHIBIT P10: TRUE COPY OF THE JUDGMENT DATED 10.02.2006 IN O.P. NO. 26408/2000 BEFORE THE HON'BLE HIGH COURT OF KERALA

EXHIBIT P11: TRUE COPY OF THE JUDGMENT IN R.P. NO. 974/2006 IN O.P. NO. 26408/2000

EXHIBIT P12: PHOTOCOPY OF THE INTERIM ORDER DATED 28.1.2011 IN W.P.(C). NO. 2993 OF 2011 ON THE FILE OF THIS HON'BLE COURT

RESPONDENT(S)' EXHIBITS:-NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NOS. 4023 & 4024 OF 2011

Dated this the 28th day of May, 2015

JUDGMENT

The penalty can be on the basis of fixed charges as well as current charges. The issue is concluded by **Executive Engineer, Southern Electricity Supply Company of Orissa Limited (SOUTHCO) and Another v. Sri. Seetaram Rice Mill [(2012) 2 SCC 108]**. Ext. P7 order imposing penalty cannot therefore be faulted with.

The writ petitions are dismissed. No costs.

**V. CHITAMBARESH
JUDGE**

DCS