

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.12699, 13509, 13574,
13578, 16329, 16506, 16525, 22248,
22254, 22510, 23043 and 23048 of 2011

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Date: 15-4-2015

Between

M/s Devashree Ispat Pvt. Ltd.,
Sy. No.460, Elekatta village,
Shadnagar Mandal, Mahaboobnagar Dist.,
Rep. by its MD Prakash Goenka;
and others

... Petitioners

and

APERC,
Rep. by its Secretary,
Singareni Bhavan,
Red Hills, Hyderabad;
and 3 others

... Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.12699, 13509, 13574,
13578, 16329, 16506, 16525, 22248,
22254, 22510, 23043 and 23048 of 2011

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Common Order:

Heard Sri D.V.Nagarjuna Babu, learned counsel appearing for the petitioners, Sri Srinivasa Rao Putluri, learned Standing Counsel appearing for the

1st respondent-APERC and Sri O.Manohar Reddy, learned Standing Counsel appearing for the respondents 2 to 4-APCPDCL.

2. These writ petitions are filed seeking to declare the action of the respondents 2 to 4 in levying and collecting development charges for the release of 4950 KVA CMD to the petitioners as highly illegal, arbitrary, unjust and contrary to Clause 7 of the Andhra Pradesh State Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulation, 2004 i.e., Regulation No.3/2004 and Sections 43, 46, 181 and 182 of the Electricity Act, 2003 and consequently direct the respondents to refund the said amounts to the petitioners together with interest at 24% per annum.

3. The learned counsel appearing for the petitioners submits that the issue involved in the present writ petitions is squarely covered by the common order dated 05-10-2005 in W.P.No.4010 of 2005 and batch passed by the learned single Judge of this Court, wherein the batch of writ petitions were allowed observing as under:

"From the above, it is clear that Clauses 5 to 11 stand deleted from the

date of Regulation 3 of 2004 i.e. with retrospective effect. It is settled principle of law that a subordinate legislation can never be made with retrospective effect even assuming that the said deletion amounts to amendment of the rules/regulations. Further, the Distribution Companies were directed to file all relevant data with the Commission within 60 days of the issue of the order, till a separate regulation under Section 46 of the Act is made. Since the clauses in question are not notified as required under Section 181 and were not placed before the Legislature of the State for its approval, the deletion shall be treated as *non est* in the eye of law. Therefore, applying such a law and making demands for payment of notional developmental charges for new connections and for additional loads is arbitrary and illegal.”

4. In the aforesaid circumstances, the present batch of writ petitions are also allowed in terms of the ratio laid down by the learned single Judge of this Court in the said common order dated 05-10-2010 in W.P.No.4010 of 2005 and batch. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

15th April, 2015.

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(Common Order)

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15th April, 2015.

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