

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.31073 OF 2015

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ORDER:

In this writ petition the petitioner challenging the re-categorization of petitioner's service connection from LT-III (A-1) to LT- II (B) without any notice and adjudication. It is also challenging the action of the respondents in issuing the provisional assessment order dated 30.07.2015 purported to be on account of unauthorized utilization of power for the period from 16.07.2009 to 16.07.2015.

02. Learned counsel for the petitioner relies on 3.4.1 of the GTCS, which reads as under:

"Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/ purpose of usage of the premises without prior intimation to the designated officer of the company), the consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The company after due consideration of the consumer's reply if any, may alter the classification and suitably revise the bills if any, even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection."

03. Learned counsel for the petitioner contends that in view of the said provision, unless and until the petitioner's service connection is re-categorized, the question of treating prior period consumption as unauthorized usage of electricity does not arise, and consequently the very initiation of assessment proceedings under the guise of re-categorization under LT – II (B), is without any jurisdiction and void *ab initio*.

04. Learned Standing Counsel for the respondents however refutes the above contention and alleges that the respondents are entitled to change the category without prior intimation to the petitioner and that this provision is also incorporated in Clause 3.4.1 referred to above. They allege that the petitioner, having got the connection under LT III (A-1) category ostensibly for industrial purpose, has now converted the premises to which the connection has been obtained as "medical

godown”, that he is not carrying any processing activity, and after this was discovered in the inspection conducted by officials of the respondents, the re-categorization of the power supply from LT-III (A-1) to LT II (B) category was done.

05. Learned counsel for the petitioner disputes the contention of learned Standing Counsel for the respondents and points out that the activity of preservation for sale comes within the category of “industrial purpose” under the tariff order and it was not open to the respondents to change the categorization of the power supply since the petitioner was preserving the stock for sale.

06. Having regard to the respective contentions, I deem it appropriate to direct the petitioner to submit the representation to the 2nd respondent setting out in detail objections of the petitioner to re-categorization of the power supply from LT-III (A-1) to LT II (B) within one week from the date of receipt of a copy of this order. The 2nd respondent is directed to consider the same and pass order in accordance with law and communicate the same to the petitioner within three weeks thereafter.

07. Pending the above, the petitioner shall pay 50% of the originally assessed amount as per the provisional assessment order dt 30.07.2015 without prejudice to his rights, and this payment shall be subject to the order which may be passed by the 2nd respondent on the representation by the petitioner. Subject to the payment of 50% of the originally assessed amount, the respondents shall restore the power supply to the petitioner.

08. Accordingly, and in the result, this writ petition is disposed of.

M.S. RAMACHANDRA RAO, J

Dt.20-11-2015

Note: issue copy in (3) days

B/o. bv