

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.25833 of 2011

-
Dated: 16.07.2015
-

Between:

S.Narsinga Rao

.. Petitioner

and

The Central Power Distribution Company of
Andhra Pradesh, Hyderabad represented by its
Managing Director,
and others.

.. Respondents

Counsel for the Petitioner: Mr. K.Gopal for
Mr. P.Durga Prasad

Counsel for the Respondent: Mrs. B.Jayasri for
Mr. R.Vinod Reddy
(SC for TSPDCL)

The Court made the following:

ORDER:

This writ petition is filed for a Mandamus to declare final

assessment order dated 14.07.2010 passed by respondent No.3 and as confirmed in Appeal SAP No.6914 of January, 2011 by respondent No.2 as illegal and arbitrary.

I have heard the learned counsel for the parties and perused the record.

The petitioner pleaded that he is the absolute owner of the house property bearing Door No.9-4-80/81 situated at Regimental Bazar, Secunderabad and that he has obtained electricity connection No.L.Z. 003981 for the said house under category-1 domestic. He has further pleaded that on the first floor of the said premises, his family members are running an Advocate's Office. That respondent No.3 has issued final assessment order on 14.07.2010, treating the service connection as one taken for commercial purpose and that the appeal filed against the said order was dismissed by respondent No.2 on 28.12.2010. Feeling aggrieved by both these orders, the petitioner filed this writ petition.

The main ground on which the petitioner has assailed the orders of respondent Nos.2 and 3 is that the premises used for running an Advocate's Office cannot be treated as being put to use for commercial activity and that, therefore, the assessment made for allegedly using the premises for a purpose different than the purpose for which the service connection was sanctioned, is illegal.

Smt. B. Jayasri, learned counsel representing Mr.R.Vinod Reddy, learned Standing Counsel for the respondents, placed before the Court the relevant case law.

In **Chairman, M.P. Electricity Board vs. Shiv Narayan**^[1], two Judge Bench has referred the issue as to whether the premises used for running an Advocate's Office can be treated as being used for

commercial purpose and commercial tariff can be levied and collected, to a Larger Bench. The Larger Bench, in its unreported decision dated 27.10.2005 in Civil Appeal No.1065 of 2000 (**the Chairman, M.P. Electricity Board vs. Shiv Narayan**) held that the tariff entries classify user into two categories, namely (a) domestic and (b) commercial and non-domestic purposes, that this classification clubs the commercial and non-domestic purposes into one category and that, therefore, it was not necessary for the Court to decide whether an advocate can be said to be carrying on commercial activity. The Court further held that as the user of the premises by an advocate for his office was admittedly not “domestic”, it would fall into the category of “commercial and non-domestic”. This decision was referred to and relied upon in **Rajendra G Shah v. Maharashtra State Electricity Distribution Company Limited**^[2].

In the instant case also it is not in dispute that the tariff of the licensee is couched in the same language as the tariff considered by the Supreme Court, viz., by grouping non-domestic and commercial categories into one category. Therefore, following the ratio laid down by the Supreme Court that the advocate’s office surely falls in non-domestic category, if not commercial, I do not find any illegality in the impugned assessment.

For the above-mentioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, interim order dated 15.09.2011 is vacated and WPMP.No.31851 of 2011 & WVMP.No.4650 of 2011 are disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

16.07.2015.
v v

[\[1\]](#) 2005 (6) SCJ 721

[\[2\]](#) Laws (Bom)-2011-8-15/TLMHH-2011-0-1027