

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

WRIT PETITION No.11954 of 2012

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23.07.2015

Between:

M/s.Supreme Wires, Hyderabad
...**Petitioner**

And

The Senior Accounts Officers, AP CPDCL,
Hyderabad and others

...**Respondents**

Counsel for the petitioner: Mr.M.Karibasaiah
for Mr.V.V.Anil Kumar

Counsel for the respondents: Mr.R.Vinod Reddy,
standing counsel for TS CPDCL

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of the respondents in not refunding FSA charges of Rs.4,96,728/- paid by the petitioner in respect of service connection No.HDN873 for the period from July, 2010 to March, 2011 as illegal and arbitrary.

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

The petitioner, who is a HT consumer, is one among the many consumers, who have questioned before this Court, the decision of the Andhra Pradesh Electricity Regulatory Commission (APERC) approving the fuel surcharge adjustment (FSA) for the financial year 2008-09. A learned Single Judge of this Court allowed W.P.No.18212 of 2010 and batch, *vide* common order, dated 29.07.2011, leaving respondent No.3 free to approach APERC for condoning the delay in filing the applications for approval of FSA charges. The petitioner averred that in W.A.No.858 of 2011 and batch, a Division Bench of this Court, *vide* common judgment, dated 20.01.2012, held that APERC has no jurisdiction to condone the delay in filing the applications beyond the prescribed period and that, therefore, levy and collection of FSA charges is illegal. However, the respondents have collected the aforesaid sum towards FSA charges from the bills of the petitioner for the period from July, 2010 to March, 2011. The petitioner pleaded that in the absence of an order of the Supreme Court granting stay, the respondents are liable to refund the FSA charges so collected.

At the hearing, Mr.R.Vinod Reddy, learned standing counsel for Telangana State Central Power Distribution Company Limited (TS

CPDCL) which succeeded to the Andhra Pradesh Central Power Distribution Company Limited (AP CPDCL), submitted that against common judgment, dated 20.01.2012, in W.A.No.858 of 2011 and batch, the respondents filed Petition for Special Leave to Appeal (Civil) No.13785 of 2012 and batch before the Supreme Court, which by its order, dated 08.05.2012, while ordering notice, granted stay of refund of the amounts already collected. In support of his submission, the learned standing counsel has placed before the Court a copy of the aforesaid interim order granted by the Supreme Court. The learned standing counsel further submitted that the probable date of posting of the batch of SLPs before the Supreme Court is fixed as 27.07.2015.

The abovenoted submissions of the learned standing counsel are not disputed by the learned counsel for the petitioner. Inasmuch as the issue of levy and collection of FSA charges itself is the subject matter of the SLPs before the Supreme Court and interim order staying refund of the amounts already collected has been in force, I find it inappropriate to issue a *mandamus* to the respondents to refund the FSA charges already collected by them. In my opinion, the petitioner has to necessarily await the outcome of the SLPs pending before the Supreme Court.

Subject to the above observations, the Writ Petition is dismissed.

As a sequel to dismissal of the writ petition, interim order, dated 27.04.2012, in W.P.M.P.No.15039 of 2012 is vacated and W.P.M.P.No.15039 of 2012 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

23rd July, 2015
GHN