

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.28341 of 2012

Dated 09.09.2015

Between:

Southern Power Distribution Company of A.P., Ltd.,
rep.by its Superintending Engineer (O)
Vijayawada and 2 others.

... Petitioners

and

-
The Forum for Redressal of Consumer Grievances
of Southern Power Distribution Company of A.P., Limited
Tirupathi rep. by Secretary to the Forum
and another

...Respondents

Counsel for the petitioners: Mr.G.Vidya Sagar

Counsel for respondent No.1: Mr.Sreekanth Reddy Ambati

Counsel for respondent No.2: Mr.C.Raghu

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to
set aside Order, dated 30-06-2012, in
C.G.No.497/2011-12/Vijayawada Circle, of
respondent No.1 whereby it has set aside levy of
voltage surcharge on respondent No.2.

At the hearing, it has come out that in Order, dated 27.08.2015, in Writ Petition No.5310 of 2012, this Court has considered the issues identical to that arising in this Writ Petition and held as under:

“The voltage surcharge being penal in nature, the tariff conditions need to be strictly construed. Upon such construction, I am of the opinion that in the absence of express provision that the consumer whose RMD exceeds its CMD is liable to pay Voltage Surcharge under Clause-1 of GCTS besides paying extra charges for exceeding such demand under Clause-6, respondent No.3 is not liable to pay Voltage Surcharge.

At the hearing Mr. R.Vinod Reddy, learned Standing Counsel for the petitioner, has placed before the Court the present Tariff Order, a perusal of which shows that Clause-8 thereof, which deals with the demand charges for exceeding the maximum demand, contains a proviso to the effect that the said Clause will not apply to the consumers on whom Voltage Surcharge is levied as per Clause-4. This newly inserted Clause itself would show that the licensee has expressly excluded levy of both the charges simultaneously. As the petitioners levied and collected penal charges for exceeding the CMD, levy of Voltage surcharge simultaneously is not sustainable either in law or in equity.”

In the light of the above-reproduced order, this Writ Petition is dismissed with the direction that the reasons contained therein shall form part of this order.

As a sequel to dismissal of the Writ Petition, WPMP.No.36128 of 2012, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 9th September, 2015
LUR