

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.605 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 9131 of 2009

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M/S Dina Metals Ltd., A Company Incorporated Under The Companies Act, Having Its Registered office At Abdul Rahmanpur Road, Didarganj, P.S. Malsalami, Patna City, District Patna Through Its Director, Mr. Anand Kumar Sinha Son of Late S.N. Prasad Resident of Ramkrishna Nagar, P.O. New Jaganpura, P.S. Ramkrishna Nagar, District - Patna

.... Appellant/s

Versus

1. The Bihar State Electricity Board, Vidyut Bhawan, Patna Through its Chairman officiating At Vidyut Bhawan, Bailey Road, Patna
2. The Consumer Grievance Redressal Forum Vidyut Bhawan, Bailey Road, Patna, Through Its Secretary
3. The Financial Controller (Revenue) Vidyut Bhawan, Bailey Road, Patna
4. The General Manager Cum Chief Engineer, Patna Electric Supply Undertaking Mangles Road, Patna
5. The Electrical Superintending Engineer, Patna Electric Supply Undertaking (East), Shivalaya Market, Ashok Raj Path, Patna
6. The Electrical Executive Engineer (Technical), Patna Electric Supply Undertaking (East), Shivalaya Market, Ashok Raj Path, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Suraj Samdarshi, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh with
Mr. Akhileshwar Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-09-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 10th September, 2013 whereby the claim of the appellant for grant of rebate on account of prompt payment of dues even on Minimum Monthly Charges remained unsuccessful.

The appellant is a High Tension Specified Service consumer. The appellant claims that on account of prompt payment of the electric charges, it is entitled to prompt payment rebate, which has been wrongly declined to the appellant. The argument is based on the tariff notification dated 28th May, 2001. Such Tariff Notification has been produced by the appellant as Annexure-3. The relevant extracts from the said notification read as under:

“3. TARIFF RATES:

Category of Service	Demand Charge	Energy Charge
HTSS-I	Rs. 700.00KVA/Month Plus	120 Paise/Unit

4. MINIMUM MONTHLY CHARGES:

The minimum monthly charges shall be levied at the rate of Rs. 1012/KVA of contract demand per month which shall be payable on monthly basis.

The minimum monthly charges are subject to minimum assured hours of supply of 630 hours per month.

If for any particular month the hours of supply are less than the minimum assured hours of supply as shown above then the minimum monthly charges for the month will be

Rs. $[700 + \frac{312 \times \text{Hours of actual supply that month}}{630}]$

630

The provisions of Clause-13 of the H.T. Agreement will not be applicable for this category of consumers.

7. PROMPT PAYMENT REBATE:

The tariff rate of item no. 3 is subject to a rebate of 5 paise per unit provided the bill is paid by the due date.”

The grievance of the appellant is that even if the consumption of a consumer such as the appellant is less than the

Minimum Monthly Charges, still, the appellant would be entitled to Prompt Payment Rebate on the minimum monthly charges as well whereas the stand of the licensee is that Prompt Payment Rebate is only allowable on the tariff as per the actual consumption.

A perusal of the Clauses mentioned above would show that the Minimum Monthly Charges are payable on the fixed rate as per the contract demand i.e., Rs. 1012/ K.V.A. whereas the Prompt Payment Rebate is in relation to tariff rate of Item No. 3 which is based upon actual consumption. Therefore, the Prompt Payment Rebate is allowable only in respect of actual consumption of the electricity and not on Minimum Monthly Charges which is dependent upon the contract demand and not on actual consumption of electric consumption.

In view of the said fact, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal which is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P.Kumar

AFR/NAFR	AFR
CAV DATE	N/A
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