IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.338 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 1467 of 2013

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1. The Bihar State Electricity Board having its Office At Vidhyut Bhawan, Bailey Road, Patna through its Chairman At Present Bihar State Power (Holding) Company Ltd. through Sri Sachchidanand Lal Karn S/O Late Treveni Lal Karn, Deputy Legal Advisor, Bihar State Power (Holding) Company Ltd. Vidhyut Bhawan, Bailey Road, Patna
2. The Chairman Bihar State Electricity Board, Vidhyut Bhawan, Bailey Road, Patna At Present At The Chairman-Cum-Managing Director, Bihar State Power (Holding) Company Ltd., Vidhyut Bhawan, Bailey Road, Patna
3. The Financial Controller-Revenue Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna At Present Financial Controller-Revenue (SBPDCL) Bihar State Power (Holding) Company Ltd., Vidhyut Bhawan Bailey Road, Patna
4. The Chief Engineer (Commercial) Bihar State Electricity Board, At Present Chief Engineer (Commercial) SBPDCL, Bihar State Power (Holding) Company Ltd. Vidyut Bhawan, Bailey Road, Patna
5. The Electrical Executive Engineer, Electric Supply Circle And Revenue, Patna Electrical Circle, Patna

.... Appellant/s

Versus

M/S Singhania Re-Rolling Mills Pvt. Ltd., A Company Incorporated Under The Provisions Of Companies Act, 1956 Having Its Registered Office At Kamralichak, Deedarganj, Patna City through One of its Directors, Sanjay Kumar Singhania S/O Shri Devi Prasad Singhania R/O Flat No. C-4/A, B-Pushp Vihar Apartment, Exhibition Road, P.S.- Gandhi Maidan, Town And District- Patna

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Anand Kumar Ojha, Advocate.
For the Respondent/s :

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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: 25-07-2016

The order dated 2nd December, 2013 passed by the learned Single Bench in C.W.J.C. No. 1467 of 2013 is the subject matter of challenge in the present Letters Patent Appeal whereby, the demand raised by the appellants in terms of Clause 11.4 of the Supply Code was set aside.

The respondent, for short the writ applicant, has a Re-rolling Mill with a contract demand of 600 KVA. Such Mill comes in the tariff category HTS-1.

The appellants came out with a scheme giving an amnesty who had interfered with the meter in any manner. Such amnesty scheme was contained in the Supply Code. The clause 11.4 of the code contemplates that if any consumer makes voluntary declaration being an HT consumer, he would be billed for a period of six months without any punitive charge and the bill had to be paid in time.

In terms of the condition of the amnesty, the writ applicant submitted a declaration which was accepted on 09.07.2008 when a demand of Rs. 66,71,380/- was raised. It is thereafter, the writ applicant invoked the writ jurisdiction of this Court for demanding installments in terms of the Board Circular because of its poor financial position. On 12.08.2008, this Court directed the writ applicant to pay 25% of the billed amount by 13th August, 2008 and if the amount is deposited, no coercive steps would be taken against them. The writ applicant deposited the said amount.

The writ applicant also submitted a representation to

Financial Controller (Revenue) on 11th August, 2008 but the appellant raised a bill of Rs. 1,28,60,266/-.

The learned Single Bench hearing the earlier C.W.J.C. No. 11238 of 2008 ordered the writ applicant to deposit the balance amount of Rs. 66,71,380/- within four weeks along with interest thereon @ 6% per annum from 01.08.2008. However, liberty was granted to the petitioner to file his objection in respect of the bill which the appropriate authority was directed to consider in accordance with law. The operative part of the orders read as under:

> *"A concessional bill to the tune of Rs.66,71,380/- was issued under clause 11.4 and time till 24.7.2008 was granted to the petitioner for clearing the dues. The petitioner did not clear the dues within the time allotted and filed the instant writ application for grant of installment. In view of the order dated 12.8.2008 of this court, the petitioner deposited 25% of the billed amount on 13.8.2008 as well as filed representation for fixation of installments before the Financial Controller (Revenue). However, no order has been passed as yet.*
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> *Considering the facts and circumstances of the case, I direct the petitioner to deposit the balance amount of Rs.66,71,380/- within four weeks from today coupled with interest thereon @ 6% per annum with effect from 1.8.2008. The interest component would be paid within further three months thereof. In case the petitioner files his objection in respect of the bill before the appropriate authority, the same would be*

considered in accordance with law within a period of two months.

In case the respondent authorities finds that the bill raised is not in accordance with law, it would be open for them to withdraw the same.

Till then, no coercive steps would be taken against the petitioner."

A time limit of four weeks was extended by another two weeks on 21st May, 2012. Admittedly, the writ applicant has deposited the balance amount of Rs. 66,71,380/- within time so granted.

The representation of the writ applicant stands declined by order dated 19th October, 2012, *inter alia,* asserting that a punitive bill amounting to Rs. 1,28,60,266/- was raised against the writ applicant under Clause 11.4(d). Such demand was raised for the reason that the consumer has failed to make payment of the requisite charges in time. It is said challenge which remained successful before the learned Single Bench.

Clause 11.4 of the Supply Code reads as under:

" 11.4 Voluntary Declaration of Tampered Meters

In case a consumer comes forward and voluntarily declares tampering of meter and/or seals:

(a) The tampered meter shall be replaced with a new meter by the Licensee/consumer, as the case may be, immediately and the Licensee shall raise the assessment bill at normal tariff for the period of last 3 months for

domestic and agriculture, and 6 months for all other consumers reckoned from date of declaration.

(b) The energy bill, for the period the meter is not replaced, shall be sent as per the procedure for defective meters.

(c) No case shall be lodged in case a consumer voluntarily declares the tampered meter and pays the requisite charges in time.

(d) In case of default in payment, the procedure for booking the case of consumer shall be followed."

Admittedly, the writ applicant has made voluntary disclosure which offer was accepted when a bill of Rs. 66,71,380/- was issued. The writ applicant invoked the jurisdiction of this Court for directing the respondents to permit the applicant to deposit the billed amount in installments. Earlier this Court directed 25% amount to be paid and later the remaining amount along with interest thereon. Once, this Court has permitted the writ applicant to deposit the bill amount along with interest, it means that the payment has been made within time extended as the grant of interest for the delayed payment, the appellant stands compensated. Thus the writ applicant would be deemed to have paid the amount within the extended period.

Once, the Court has granted time to the writ applicant to deposit the amount along with interest, the default Clause will not be operative. Since the demand stands paid in terms of an order passed by this Court along with interest, the default Clause whereby, the appellant raised punitive bill has been rightly found to be illegal by the learned Single Bench.

We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

The Letters Patent Appeal Stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A