THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.21730 of 2007

ORDER:

The final assessment order dated 17.09.2007 with respect to the short billing of the energy to the petitioner's unit demanding a sum of Rs.1,73,292/- is challenged before this court.

2. The case of the petitioner, M/s.Srinivasa Modern Rice Mill, is that it was provided with electricity viz., Service Connection No.405 under Category III(A) in terms of the rules and regulations. From the date of establishment since 1990 petitioner's rice mill was running without any complaint and without any blemish record. Petitioner was surprised to receive a notice dated 17.09.2007 demanding a sum of Rs.1,73,292/- alleged to be energy charges for short bill earlier. Thereafter, immediately petitioner also received an assessment notice for short billing, wherein it was observed as follows:

1. Service is inspected during routine inspection.
2. Voltages measured are less recording in B.ph.
3. As per MRT Test report % error is (-) 23%. Hence, short billing proposed from 28.04.2007 to 02.08.2007.

In terms of the said assessment notice, petitioner was assessed for 88164 units, in which the units alleged to have been short billed is to the extent of 43645.

3. Learned counsel for the petitioner submits that on month to month basis the respondent authorities are visiting the unit and noting

down the meter reading and at no point of time they found any defect in the metre and that there was any report of intimated short billing; and all of a sudden the demand has been made to the petitioner and thereupon no enquiry whatsoever was conducted before issuing the demand notice. Learned counsel further submits that in the counter affidavit what all has been stated by the respondents is that by mistake and oversight and the lack of understanding of the authorities the meter reading was wrongly noted by them. For the fault of the respondent authorities, petitioner cannot be mulcated with huge demand particularly when petitioner's unit has become sick on account of various factors.

4. On the other hand, learned counsel for the respondents submits that it is only on account of the defective metre the correct assessment was not made earlier and the demand to the extent of short billing has been made on the petitioner in accordance with the regulations and prays for dismissal of the writ petition.

5. Considered the respective submissions and perused the record.

6. Energy consumed by a consumer is required to be measured by metres installed by the respective licencsee in terms of Section 55 of the Electricity Act and the Regulations made thereunder. The regulatory Commission constituted under the Electricity Act, 2003 has approved the general terms and conditions of supply and notified the same. Regulation 7 of the said Regulations deals with metres and

Regulation 7.5.1 prescribes the procedure to be followed in dealing with respect to cases of tampering/defective metres etc. In terms of Regulation 7.5.1.4.4, if there is no involvement of the consumer in short recording of the energy, other than the cases of domestic and agriculture, a maximum of six months back billing alone can be done and the same is required to be calculated in terms of Regulation 7.5.1.4.2. In the present case, under the impugned assessment order demand has been made for the period from 28.04.2007 to 02.08.2007.

7. The argument of the learned counsel for the petitioner that merely because on every month the officers are visiting and they had failed to point out the defective metre by itself cannot be a ground for setting aside the demand. As a matter of fact the respondent authorities found that the metre was recording at "-23%". Whether the metre is recording correctly or not can be easily found out by comparing the energy consumption in previous period/months with the energy consumption recorded during the disputed period. The opportunity of hearing is to be given only when a dispute is raised in terms of Regulation 7.5.1.5. In the present case admittedly petitioner has not raised any dispute though opportunity was given.

8. Considering the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to avail the alternative remedy as provided under Regulation 7.5.1.5 subject to the condition of petitioner depositing 50% of the demanded amount within six weeks from the date of receipt of a copy

of this order. Petitioner is also at liberty to file a representation as provided under Regulation 7.5.1.5.2 before the Designated Officer, which shall be considered and appropriate orders be passed on the same, in accordance with law, within a period of three months from the date of receipt of the representation.

With the above observation, the Writ Petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

November 21, 2016
LMV