

THE HONB'E SRI JUSTICE CHALLA KODANDARAM

WRIT PETITION No.27546 OF 2007

ORDER:

The writ petition is filed questioning the action of the respondents 2 and 3 in issuing the proceedings dated 05.12.2007, demanding to pay a sum of Rs.10,89,610/-.

It is the case of the petitioner that the demand has been made alleging that wrong multiplying factor was adopted in billing the petitioner between 03.07.2004 to 28.11.2007 and there being a sum of Rs.10,89,610/- has been raised.

Learned counsel for the petitioner submits that there was no notice nor any enquiry was conducted before issuing the said demand. It is also the contention of the learned counsel for the petitioner that in view of Section 56(2) of the Electricity Act for whatever reasons even assuming that there is miscalculation or short levy, a demand prior to two years cannot be made by virtue of Section 52 of the Act. In that view of the matter, demanding a sum of Rs.10,89,610/- for a period of more than three years and four months is impermissible and the petitioner cannot be fastened. Though the writ petition is of the year 2007, no counter-affidavit is filed so far.

Learned counsel for the respondents submits that the M.F itself made a mistake in computing and in applying the correct multiplying factor and the same came to be discovered only when the meter was sent to testing with the M.R.T Department. In that view of the matter, learned standing counsel for the respondents strongly supports the order and submits that the writ petition does not deserves any consideration and the same is liable to be dismissed.

Having considered the respective submissions, the writ petition is liable to be allowed on the simple ground that there is no prior notice

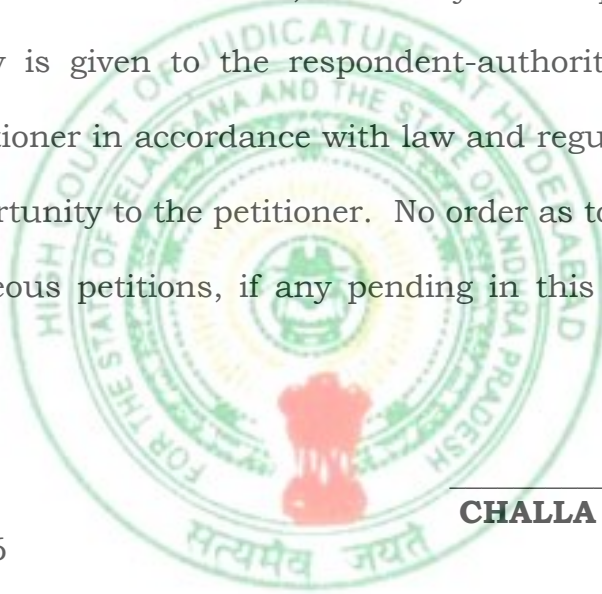
and no enquiry preceding making a demand especially for a past period i.e., from 03.07.2004 to 28.11.2007. Apart from that as rightly contended by the learned counsel for the petitioner that there is a statutory embargo in Section 56(2) of the Act to make a demand for a period of more than two years for whatever reasons. As a matter of fact, if it is a meter defect whereas there is no fraud involved in terms of 7.5.1.4.4 of the general terms and supply as approved by the Electricity Regulatory Commission a demand for period exceeding six months is impermissible.

In those circumstances, the writ petition is allowed setting aside the proceedings dated 05.12.2007, issued by the respondents 2 and 3. However, liberty is given to the respondent-authorities to take action against the petitioner in accordance with law and regulations after giving notice and opportunity to the petitioner. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

Date:17.10.2016
Gk.

CHALLA KODANDA RAM,J



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