

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.14333 of 2005

ORDER:

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The petitioner prays for Writ of Certiorari to call for the records leading upto and inclusive of proceedings No.SEA/HYD/SAP.No.4762/D.No.891/2005 dated 23-06-2005 and Order No.DEA-II/HYD/DAT/19045/D.No.905, dated 25-04-2005 and quash the same as illegal.

Heard Sri T.V.Sridevi for petitioner and Smt.B.Jayasri for respondents.

The petitioner is the proprietor of Hotel Madina situated in Jedcherla Town, Mahaboobnagar District. The petitioner has service connection No.550 (L.T. Category-II) on 03-10-1997. The Hotel premises was inspected by the Divisional Engineer and in the inspection, the following aspects were noticed.

“(1)Terminal cover seal is available (2) Supply is available in the premises. The main fuse cutouts (3 Nos.) were removed. Supply went off. But on observing the meter board joints are found visibly outside just below the bottom of the meter board. Suspecting a case the ADE/O/JDC went and brought Sri Pandu Rangam, Superintendent in MRO's office, Jadcherla and Sri J.Narasimha Rao, VAO, Jadcherla. They and Sri Ahmed Khan who is brother of consumer were shown the outward appearance of the meter board and joints appearing visibly outside. Photograph's of meter board are taken before opening in presence of the above witnesses and party. The meter board is opened in the presence of witnesses and party. Behind the board, after opening, in one of the incoming phases of service wire a joint is found before connecting the incoming terminals of the meter which is connected to incoming of main fuse cutout through red PVC

wire with multi strand copper wire, approx about 3 feet in length. In second phase of the incoming service wires just before connecting the incoming terminals of the meter a black tape is found taped. In third phase of incoming service wire before connecting to incoming terminals of the meter a loose wire in red colour with multi strands copper wire approx about 2 feet in length is found jointed and left hanging without connecting other end to anything. All these are shown to the above two witnesses and party photograph's of joints behind the board and inside premises of the hotel are taken. The above two witnesses gave statement. Thus the consumer bypassed the meter to suppress the actual consumption with dishonest intention and violated terms and conditions of supply of APSE Board. Hence a case is booked under pilferage of energy."

The 2nd respondent issued provisional assessment order determining Rs.1,35,075/- and called upon the petitioner to pay Rs.66,328/- for reconnection. The 2nd respondent, after serving notices, passed the final assessment order dated 25-04-2005 determining the amount payable by petitioner as 1,19,852/- for misusing electrical connection. The petitioner filed appeal and the 1st respondent reduced the amount from Rs.1,19,852/- to Rs.1,09,289/-. Hence, the writ petition.

During pendency of the writ petition in W.A.No.1405 of 2005, this court passed the following order :-

"Heard learned counsel for the parties.

The learned Single Judge has dismissed the application for stay, but the writ petition is still pending. Hence, in the interest of justice, the recovery of Rs.1,09,289/- is stayed subject to payment of Rs.60,000/- (Rupees sixty thousand only) by the appellant/writ petitioner, within a period of ten days from today.

The writ appeal is accordingly disposed of. No order as to costs."

Learned counsel for petitioner contends that the details considered by the 2nd respondent are incorrect and the final determination is not supported by material and prays for setting aside the final assessment order.

Counsel appearing for respondents firstly relies upon the reasoning and details given by 2nd respondent in the final assessment order dated 25-04-2005 and further explains the totality of circumstances by relying upon the stand taken in the counter affidavit.

I have perused the orders impugned in the writ petition and also taken note of the contentions urged by the learned counsel appearing for parties.

Now the point for consideration is whether the orders impugned suffer from illegality and are required to be quashed.

Before the point is considered, the following circumstances have to be prefaced.

The assessment period is from 04-10-1996 to 03-10-1997. The petitioner comes under LT category-II. The omissions pointed out by the 2nd respondent are substantially established and no case is made out by the petitioner before the primary authority or the appellate authority. Once these details are accepted, the 2nd respondent is competent to determine the loss of consumption recorded on account of pilferage committed by petitioner.

By taking note of the place where the business is carried out, findings are recorded and to the extent the petitioner can make out, the authorities have finally been reduced from Rs.1,32,075/- to Rs.1,09,289/-. The effort of learned counsel for

petitioner to re-examine the details in the considered view of this Court is impermissible. No other submission is canvassed by petitioner.

The writ petition fails and accordingly dismissed. No order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

S. V. BHATT, J

Dt: 12-07-2016

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