

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.38070 of 2016

ORDER:

Heard learned counsel for petitioner and the standing counsel for respondents.

2. Petitioner challenges the provisional assessment notice dated 09.02.2016 as illegal, unsustainable in fact and amounts to arbitrarily exercise of authority conferred on respondents 3 and 4.

3. Respondents 3 and 4 through the provisional assessment dated 09.02.2016 demanded the petitioner to pay a sum of Rs.79,740/-. Petitioner, it is alleged, has paid, on 16.02.2016, a sum of Rs.5,000/- and part payment of Rs.28,000/- under receipt No.345550200862. The complaint of petitioner is that the very demand is unsustainable and respondents should enquire into the matter, consider the explanation, pass final orders if the circumstances still warrant and thereafter, petitioner can work out the remedies. The action of respondents threatening to disconnect power supply in the interregnum is unsustainable and illegal.

4. Learned standing counsel opposes the writ petition, primarily, on the ground that the challenge to provisional assessment is unavailable. The petitioner at best, if so advised, can file explanation before respondents 3 and 4 the respondents will consider and pass appropriate orders in accordance with law. She further fairly states

that pending consideration of the issue, disconnection is not warranted.

5. Having regard to the submissions of the learned counsel, I am satisfied the writ petition can be disposed of by this order:

- a) Petitioner is given three (3) weeks time from today to file explanation, if so advised, against the provisional assessment communication dated 09.02.2016.
- b) Petitioner is also directed to deposit a further sum of Rs.5,000/- (Rupees Five Thousand only) on account towards the demand made in the notice dated 09.02.2016.
- c) Respondents 3 and 4 are directed not to disconnect the service connection of petitioner till the matter is enquired into and final assessment order is passed as the circumstances warrant.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

November 7, 2016
DSK

S. V. BHATT, J