

THE HON'BLE SRI JUSTICE S.V.BHATT

WP.Nos.34215 and 18779 of 2012, WP.No.30094 of 2010; WP.No.28545 of 2011; WP.Nos.10130, 10131, 10132, 18355, 19817, 20168, 25131, 25161, 25960, 28548, 39443 and 16075 of 2013 and WP.Nos.1216, 1572, 7638 and 22052 of 2014

COMMON ORDER:

Heard Mr. Challa Gunaranjan, Mr. Sinivas Rao Putluri,
Mr. Dhulipalla V.A.S. Ravi Prasad, Mr. M. Ravindra, Mr. P. Anand Seshu
and Mr. R. Vinod Reddy, learned counsel for parties.

2. The first respondent vide orders dated 26.10.2012 disposed of O.P.Nos.73 to 77 of 2012. The subject matter of these orders is determination of surcharge and additional surcharge under Section 39, 40 and 42 of the Electricity Act, 2003 (for short 'the Act').

The OP's determine surcharge and additional surcharge, allegedly, payable by petitioners for the financial years 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.

3. As noted above, the petitioners are challenging the demand as well as orders passed by the first respondent. The prayer in WP.No.10130 of 2013 would comprehensively suffice as reference to prayers in these writ petitions:

"For the reasons stated in the accompanying affidavit, it is hereby that this Hon'ble Court may be pleased to issue a Writ, one in the nature of a Writ of Mandamus declaring the orders dated 26.10.2012 passed by the 1st respondent in O.P.No.73 to 77 of 2012 determining the surcharge and additional surcharge for FY 2007-08 to 2012-13 as arbitrary, illegal, contrary to the National Tariff Policy and provisions of Electricity Act, 2003 and to set aside the same, consequently and/or otherwise also declare the action of respondents 2 & 3 in levying and demanding Cross Subsidy Surcharge from the petitioner company on its generation by letters in Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.862/12 dated 26-12-2012 for the financial year 2007-2008, Lr.No.SE/O/ELR/SAO/JAO/HT/D.No.863/12 dated 26-12-2012 for the financial year 2008-2009, Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.864/12 dated 26-12-2012 for the

financial year 2009-2010, Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.865/12 dated 26-12-2012 for the financial year 2010-2011 and Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.866/12 dated 26-12-2012 for the financial year 2011-2012 as being arbitrary, illegal and in violation of petitioners rights guaranteed under Art.14 & 19(1) (g) of the Constitution of India and consequently set aside the impugned demand notices issued by the 3rd respondent in Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.862/12 dated 26-12-2012 for the financial year 2007-2008, Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.863/12 dated 26-12-2012 for the financial year 2008-2009, Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.864/12 dated 26-12-2012 for the financial year 2009-2010, Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.865/12 dated 26-12-2012 for the financial year 2010-2011 and Lr.No. SE/O/ELR/SAO/JAO/HT/D.No.866/12 dated 26-12-2012 for the financial year 2011-2012 ...”

4. Learned counsel for the parties are admitting that the Civil Appeal Nos.4936 to 4941 of 2007, filed against order dated 05.07.2007 in Appeal Nos.169 to 172 of 2005 and O.P.Nos.248 and 249 of 2007, were heard and dismissed on 31.03.2016.

This Court disposed of WP.No.26740 of 2012 and batch by order dated 27.04.2016 by taking note of order dated 31.03.2016 in Civil Appeal Nos.4936 to 4941 of 2007. The subject matter of those writ petitions is for the period 2015-16. Learned counsel consent to setting aside the orders impugned in the writ petitions and remit the matter back to first respondent for consideration on all legal and factual issues.

5. The submission of counsel is placed on record, the orders impugned in respective writ petitions are set aside and OP's are remitted to first respondent or Telangana State Electricity Regulatory Commission, as the case may be, for consideration afresh. All the legal and factual objections are at large and it is open to the parties to file appropriate additional pleadings in support of their case, if so advised and can canvass the matter before the first respondent.

The writ petitions are ordered as indicated above.

As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

June 20, 2016
DSK

S. V. BHATT, J