

HONB'E JUSTICE CHALLA KODANDARAM

WRIT PETITION No.27582 OF 2012

ORDER:

The writ petition is filed challenging the proceedings dated 09.12.2011, issued by the 3rd respondent.

It is the case of the petitioner that on account of the agreement entered into by the petitioner with the 1st respondent vide agreement dated 08.07.2011, the petitioner has availed the power supply specifically for construction purpose and accordingly, the petitioner was being billed from the date of the supply till the date of issuing the impugned demand proceedings/notice under H.T. Category-II. The impugned proceedings came to be issued informing the petitioner that the petitioner has been billed under H.T. Category-II tariff instead of H.T. Category-II temporary tariff up to October, 2011. As the tariff chargeable under H.T. Category-II and H.T. Category-II temporary is different the petitioner is required to pay the differential amount of Rs.30,67,212/-.

It is the contention of the learned counsel for the petitioner that for whatever reasons, if a wrong classification is made in terms of the Regulation Clause 3.4.1, the petitioner is required to issue notice and call for explanation and inasmuch no notice was given to the petitioner unilaterally the demand made without there being a notice and called for any explanation is bad and unsustainable.

On the other hand, learned standing counsel for the respondents-Transco submits that on account of the notified General Terms and Conditions of Supply as applicable and also the tariff notification issued by the A.P. Electricity Regulatory Commission, the petitioner is liable to be classified as H.T. Category temporary and the relevant category under which the petitioner is required to pay as it is a statutory mandate.

Learned counsel for the petitioner had also relied on the following judgments of this court:

- i) Hindustan Petroleum Corporation Limited vs. A.P Electricity Regulatory Commission and 3 others (W.P.No.14980 of 2007)
- ii) M/s. Meenakshi Infrastructure Pvt., Limited vs. A.P. Central Power Distribution Co., Limited and others (W.P.No.13376 of 2012)

Having considered the respective submissions and having perused the record, the writ petition is liable to be allowed on account of the respondents not adhering the regulations notified under the General Terms and Conditions of Supply in particular Clause 3.4.1 which mandate an opportunity of hearing is being given to the petitioner whenever reclassification is sought to be made. In those circumstances, the writ petition is to be allowed setting aside the proceedings dated 09.12.2011, issued by the 3rd respondent.

Accordingly, the writ petition is allowed setting aside the proceedings dated 09.12.2011, issued by the 3rd respondent. However, a liberty is given to the respondents to issue a fresh notice to the petitioner and after giving the opportunity of hearing to the petitioner, the respondents shall pass appropriate orders in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order. No order as to costs.

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

CHALLA KODANDA RAM,J

Date:27.09.2016,
Gk.

HONB'E JUSTICE CHALLA KODANDARAM



WRIT PETITION No.27582 OF 2012

Date:27.09.2016.

Gk