

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.6546 of 2012

ORDER:

The petitioner challenges the notice dated 31.01.2012 on various factual and legal grounds. This Court on 09.03.2012 and 19.04.2014 ordered as follows:

09.03.2012

WP.No.6546 of 2012

Notice before admission. The learned Government Pleader for Energy entered appearance for the 1st respondent.

Sri O. Manohar Reddy, learned standing counsel entered appearance for respondents 2 to 4. For counters, post after three weeks.

W.P.M.P.No.8317 of 2012

Heard Sri B. Mayur Reddy, learned counsel for the petitioner, Sri S. Sathish Babu, learned Assistant Government Pleader for Energy for the 1st respondent and Sri O. Manohar Reddy, learned standing counsel for respondents 2 to 4.

Perused the writ affidavit and the material papers enclosed and the question of legality and tenability of the provisional assessment order needs to be gone into on merits in the writ petition and in the meanwhile, the rights and interests of both parties have to be evenly balanced by appropriate interim directions.

Therefore, any further action on the provisional assessment dated 31-01-2012 impugned in the writ petition shall stand stayed on the petitioner depositing 50% of the provisionally assessed amount of Rs.24,11,136/- by payment/deposit of 25% of such provisionally assessed amount within six weeks from today and the remaining 25% of the said provisionally assessed amount within a further period of six weeks. The power supply to the premises of the petitioner be restored forthwith, which shall continue only subject to fulfillment of the above conditions.

19.04.2012

Heard Sri Mayur Reddy for the writ petitioner as well as Sri O. Manohar Reddy, learned counsel appearing for the respondents. Learned counsel seeks time to file a counter affidavit in the matter. Sri Mayur Reddy submits that the assessment that has been made by the respondents is absolutely erroneous. If a proper assessment is made,

his liability would not have been as much as is presently made out. But however, to strike a balance between the parties and by way of modification of the orders passed on 09.03.2012,

I grant petitioner time up to 05.05.2012 to deposit a sum of Rs.14.00 lakhs with the respondents and no disconnection of power supply shall be effected until further orders. In case of default of payment the respondents are at liberty to act in accordance with law.

Call the matter on 05.06.2012 for further consideration.”

2. Respondents have filed WVMP.No.2177 of 2012 to vacate the orders referred to above.

3. At the time of hearing, learned counsel for the parties state that the notice impugned in the writ petition is a provisional demand raised by respondents and final assessment order is yet to be passed. Learned counsel for the petitioner tried to persuade this Court to consider the merits of the matter at this stage.

4. Having regard to the fact that final assessment order can be passed by respondents under Section 123 of the Electricity Act, I am satisfied the writ petition can be disposed of by this order.

- a) Petitioner is given two (2) weeks time from today to present representation, if any, against the impugned demand to respondents and the respondents are directed to consider and pass final assessment order in accordance with law after taking note of the objections of the petitioner within a further period of six (6) weeks from the date filing of the representation by the petitioner.
- b) If no representation is filed within the time given by this Court, respondents are at liberty to proceed and determine the amount payable by the petitioner from the material available on record.
- c) The stay granted by this Court is directed to

remain in force for a period of eight (8) weeks
from today.

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.

S. V. BHATT, J

June 1, 2016
DSK