

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.6227 of 2008

ORDER:

Heard Sri T.C. Krishnan, learned counsel for the petitioner and Smt. J. Koteswari Devi, learned Standing Counsel for the respondents.

Petitioner herein is a proprietary concern and is a consumer of the respondents with Service Connection No.00607001789. On 14.05.2003 and 14.06.2003, the respondents served electricity bills on the petitioner demanding Rs.1,51,906/- and Rs.1,69,264/- respectively.

In the present writ petition, the dispute is only with regard to the surcharge amounts of Rs.86,913/- and Rs.93,800/-, as indicated in the said bills. There is absolutely no dispute on the fact that the petitioner paid rest of the amounts covered by the said bills.

After receipt of the said bills, the petitioner submitted representations on 26.05.2003 and 13.06.2003 to the respondents. The Divisional Engineer, Operation, Chittoor, addressed a letter bearing No.DE/O/CTR/AE.Coml.2/D.No.5766/03, dated 26.07.2003, to the first respondent - Superintending Engineer, Operation, Tirupati, recommending waiver of the said surcharge

amounts levied due to low P.F. Earlier, when the respondent authorities attempted to disconnect the power supply to the petitioner industry, the petitioner had approached this Court by way of filing Writ Petition No.19390 of 2004. This Court while ordering *rule nisi* in the said writ petition, directed the respondents not to disconnect the power supply to the petitioner industry, in WPMP.No.8120 of 2008. Eventually, the said writ petition was disposed of by this Court by way of an order, dated 05.10.2007, directing the respondents to consider the representations of the petitioner and to pass appropriate orders in accordance with law, and to continue to give power supply to the petitioner industry pending consideration of the same. Thereafter, by way of the impugned letter bearing No.SE/O/TPT/SAO/JAO-HT/D.No.1387/08, dated 20.02.2008, the first respondent asked the petitioner to arrange for payment of a sum of Rs.1,90,581/- covered by the earlier bills.

According to the learned counsel for the petitioner, the impugned action on the part of the first respondent is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India. It is contended by the learned counsel that the first respondent without considering the letter No.DE/O/CTR/AE.Coml.2/ D.No.5766/03, dated 26.07.2003, of the Divisional Engineer, wherein, the second respondent recommended for waiver of the subject surcharge, passed the

impugned order and had the recommendation made by the Divisional Engineer been considered by the first respondent, the order impugned would not have emanated.

There is absolutely no controversy, in reality, that duly taking into consideration the representations, dated 26.05.2003 and 13.06.2003, the Divisional Engineer, Operation, Chittoor, while assigning the reasons, made a request to the first respondent for waiver of the surcharge levied due to low P.F. on the petitioner. A perusal of the order under challenge vividly shows that the first respondent did not take into consideration the said recommendation made by the Divisional Engineer. The said action on the part of the first respondent can neither be countenanced nor approved.

For the aforesaid reasons, the writ petition is allowed, setting aside the letter bearing No.SE/O/TPT/SAO/JAO-HT/D.No.1387/08, dated 20.02.2008, of the first respondent, and the matter is remitted to the first respondent for fresh consideration in accordance with law, and for passing appropriate orders after giving opportunity of hearing to the petitioner and by considering the letter No.DE/O/CTR/AE.Coml.2/D.No. 5766/03, dated 26.07.2003, of the Divisional Engineer, Operation, Chittoor. Till the said exercise attains finality, the interim order

passed by this Court on 25.03.2008 in WPMP.No.8120 of 2008 shall continue to operate.

Consequently, Miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed. No order as to costs.

A.V.SESHA SAI, J

18th JULY, 2017.

kvni

