

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6278 OF 2014

ORDER:

The writ petition is filed questioning the action of the respondents in issuing retail supply tariff orders treating all non-domestic consumers as one category and the provisional assessment order dated 5.3.2013 and the Final Assessment order dated 2.4.2013 issued by the 2nd respondent categorizing the petitioner's office under the L.T Category-II Non Domestic/Commercial and directing the petitioner to pay commercial charges as arbitrary, illegal and violative of Article 14 of the Constitution of India.

It is the case of the petitioner that he being a legal practitioner, an electricity service connection was provided to him under L.T Category-I(B)-Domestic for several years and billed as such. For the purpose of carrying out his professional activity as an Advocate, petitioner is occupying the premises in question and he was informed through a letter dated 15.02.2013 that he would be billed under L.T Category-II Non Domestic/Commercial in terms of the Tariff orders and commercial rates would be charged for it on the ground that the petitioner is using the premises for running his legal practice and this purpose is commercial in nature and the petitioner was directed to submit his objections if any with regard to reclassification and the petitioner submitted his objections on 01.03.2013. There was no response from the respondents to the objections submitted by the petitioner. However, on 06.04.2013, the service connection of the petitioner was disconnected without any prior notice.

On further enquiries, petitioner came to be aware about the provisional assessment order dated 05.03.2013 and subsequently he was served with a notice on 16.4.2013 and ultimately a final assessment order was also served on the petitioner on 02.04.2013. Petitioner paid the amounts as assessed by the respondents under protest.

Learned counsel for the petitioner submits that no notice and no opportunity was given to the petitioner before making the assessment order

and further the respondents have failed to consider as to why the Advocate's office shall not be classified as a Commercial establishment and the said aspect is not being decided by the respondents. Learned counsel for the petitioner also submits that by no stretch of imagination, the professional activity carried out by the petitioner can be treated as a commercial activity. He would also submit that there is a hostile discrimination in classifying the activity of the petitioner. Learned counsel for the petitioner also relied upon a judgment of Madras High Court in **Syed Tajudeen Madani vs. The Tamil Nadu Electricity Board**¹ and submits that in the said judgment, the High Court of Madras while granting stay had given liberty to the petitioner therein to file an application before the Regulatory Commissioner seeking clarification and as and when such application is made, the Regulatory Commission shall consider the same. In those circumstances, the writ petition lacks merits and liable to be dismissed.

Learned counsel appearing for the respondents submits that the issue raised in the writ petition is squarely covered by the order dated 16.07.2015, passed by this Court in W.P.No.25833 of 2011 in **S. Narasinga Rao and The Central Power Distribution Company of Andhra Pradesh, Hyderabad**, wherein this Court while taking into consideration of the judgment of the Supreme Court in **Chairman, M.P. Electricity Board vs. Shiv Narayan**² had upheld the classification of the Advocate's office as not falling within the domestic category.

Having considered the respective submissions, in the context of the controversy raised before this Court, at this juncture, the writ petition does not deserve any consideration and the questions raised by the petitioner need not be considered especially with respect to mini classification/over classification. It may be noted that under the Electricity Act, 2003, the Distribution Companies, are required to file draft proposals before the Electricity Regulatory Commission and in turn the Regulatory Commission, is

¹ Laws (Mad)-2011-11-345

² 2005 (6) SCJ 721

required to consider the same after publishing the draft proposals, at which time, the respective parties have ample opportunities to submit their objections before the Regulatory Commission including about the classification.

Inasmuch as there is no challenge before this Court to the tariff order under which at present the electricity charges are being charged from the petitioner and others alike and considering that the tariff order is only for a particular period and there being opportunity to the petitioner to raise all these issues before the appropriate Regulatory Commission, the issues raised by the petitioner are only academic and do not require to be considered at this stage. After referring to the judgment of the Supreme Court, my learned brother CVNR,J had held that it is not necessary to decide as to whether the Advocate's office would fall within the commercial category or not as the classification has been domestic, commercial and non domestic purpose. Even assuming that the Advocate's office would not fall within the commercial category, the same would fall under non domestic category.

In those circumstances, respectfully following the judgment of my learned brother CVNR,J, the writ petition is dismissed. No order as to costs.

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

CHALLA KODANDA RAM, J

Dated:04.01.2017
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