**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**

**AND**

**THE HON'BLE SMT JUSTICE T.RAJANI**

WRIT APPEAL NO.315 OF 2009

**JUDGMENT:** {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in Writ Petition No.25862 of 1998. The appellants herein are the respondents in the Writ Petition. The respondent herein filed the Writ Petition seeking a mandamus to declare the action of the respondents in issuing a supplemental bill dated 31.08.1998, for the month of May, 1998 purporting to revise the bill, pursuant to the memo dated 28.08.1998, as illegal and arbitrary.

While the maximum contracted demand for the petitioner's unit was initially fixed as 15000 KVA subsequently, on account of a power crunch, the maximum contracted demand was reduced to 10,975.36 KVA. The power restriction was lifted on 03.05.1998. The billing procedure, as indicated in the memo dated 28.08.1998, is that, for the purpose of application of tariff minimum conditions, the entire month shall be considered as a unit, and the minimum charge condition is waived for May, 1998; the actual recorded energy during the month, and the highest maximum demand recorded during the entire month as a unit, shall be billed as per actuals; the reading taken on 03.05.1998 shall be used for the purpose of checking whether the consumer had exceeded the full month quota for May, 1998; if the consumer exceeded the full month quota by 03.05.1998, the excess energy, used as on 03.05.1998, shall be billed at the penal rates notified in the R & C orders as amended in B.P.Ms.No.10 dated 07.05.1997; in such cases, the quota demand prior to 03.05.1998, or the actual recorded demand upto the contracted maximum demand after 03.05.1998, whichever is more shall be billed at the normal rates, and the excess demand over the quota demand as on 03.05.1998 shall be billed at 20% of the normal rate; and if the recorded demand, in either of the spells, is in excess of the contracted maximum demand, the excess, over contracted maximum demand, should be billed at two times the normal tariff.

While the contracted maximum demand, prior to 03.05.1998, was 11,426 KVA on account of power restrictions, on the power restrictions being lifted from 03.05.1998, the contracted maximum demand stood restored to the earlier prescribed limit of 15,000 KVA. The billing unit, in the present case, is from 21.04.1998 to 21.05.1998. While the petitioner's demand was recorded upto 03.05.1998 as 7584 KVA, it was recorded upto 21.05.1998 as 11,426 KVA (13,908 – 2481.97 KVA). Treating the entire bill from 21.04.1998 to 21.05.1998 as one unit, the authorities had raised a supplemental bill for Rs.3,54,144/- on the ground that the petitioner had crossed the maximum contracted demand during the said month. From the bill it does appear that, prior to 03.05.1998 when the maximum contracted demand was prescribed as 10,975.36 KVA, the petitioner's demand was recorded as 7,584 KVA which is well within the restricted KVA of 10,975.35. For the period subsequent to 03.05.1998, the maximum contracted demand is recorded as 11,426 KVA which is more than 10.975.36 KVA. However, on the power restrictions being lifted on 03.05.1998, the original prescribed maximum contracted demand of 15,000 KVA stood restored and, consequently, the petitioner cannot be said to have exceeded the contracted maximum demand, prescribed by the Board, of 15,000 KVA.

The Learned Single Judge has, in the order under appeal, observed that, having kept the petitioner under restriction upto 03.05.1998, the respondents cannot adopt a higher figure of demand for the same period on the basis of consumption for the subsequent period; the respondents had understood the billing procedure correctly, and had issued the bill dated 26.06.1998; and the supplemental bill dated 31.08.1998 did not accord either with the proceedings issued by the Board from time to time, or with the pattern of power supply.

We are satisfied, for the reasons mentioned hereinabove, that the order of the learned Single Judge, allowing the Writ Petition, does not suffer from any illegality. Interference, under Clause 15 of the Letters Patent, would be justified only if the order of the Learned Single Judge suffers from a patent illegality. As we find no such infirmity in the order under appeal, the Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

**(RAMESH RANGANATHAN, ACJ)**

**(T.RAJANI, J)**

12th June, 2017
RRB