

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11944 of 2017

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M/s Patliputra Industries Limited, a Company incorporated under the provisions of Companies Act, 1956 having its place of business at Deedarganj, P.S.- Deedarganj, Patna City, Town and District- Patna, through its Director, Moti Lal, Son of Late Ram Prasad Sah, Resident of Nawab Bahadur Road, P.S.- Khajekala, Patna City, Town and District- Patna.

.... Petitioner

Versus

1. The South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna through its Managing Director.
2. The Chairman cum Managing Director, Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. The General Manager-cum-Chief Engineer, PESU Area, Mangles Road, Patna.
4. The Electrical Superintending Engineer, Electrical Supply Circle, PESU (East), Shivalaya Market, Ashok Raj Path, Patna.
5. The Head, Special Task Force, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
6. The Electrical Executive Engineer, Electrical Supply Division, Patna City, Patna.
7. The Assistant Electrical Engineer, Electrical Supply Sub-Division, Katra, Patna City, Patna.
8. The Electrical Executive Engineer, MRT, PESU (East), Patna.
9. The Assistant Electrical Engineer, MRT- I, Patna.
10. The Assistant Electrical Engineer, MRT- II, Patna.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Rajesh Kumar
For the Respondents	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Akhileshwar Singh, Advocate Mr. Vijay Kumar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-02-2018

The present writ petition has been filed for the following reliefs :-

- (i) For quashing of the final assessment order bearing letter No. 920 dated 19.07.2017, whereby and whereunder the Assessing Officer had confirmed the provisional



assessment order of Rs. 2,92,78,769/- and directed the petitioner to make payment within 15 days of the receipt of the order.

- (ii) For a direction upon the respondents more specifically respondent no. 6 to consider and rely on the finding of the MRI Report of the meter which was done on 04.07.2011, while inspecting the Unit of the petitioner by the inspecting team.
- (iii) For a direction upon the respondent authorities to supply a copy of the MRI Report to the petitioner for which he is legally entitled to.
- (iv) For a direction upon the respondent authorities to get the meter in question tested by an accredited lab and seek report with regard to the accuracy of the meter.
- (v) For a declaration that Section 135 of the Electricity Act, 2003 cannot be resorted to in case of regular consumers drawing electrical energy through a meter without proper examining the findings of the MRI Report which is a conclusive proof of evidence to ascertain the theft.

2. Learned counsel for the petitioner makes a short submission to challenge the impugned order of assessment to the effect that even though the inspection/seizure report dated 04.07.2011 (Annexure-2) duly stated that "MRI of the meter has already been done", the same has completely been ignored despite specific request for the same to be considered after supplying a copy thereof to the petitioner.

3. Learned counsel for the respondent-Power Company appears and has been heard. The writ petition is sought to be opposed on the basis of the counter affidavit, but the stand of the petitioner with regard to non-supply of the MRI report nor a reference to the same in the impugned order has not



been controverted.

4. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. The Board's letter No. 133 dated 18.02.2010 in this regard is relevant and had taken note of the need to take into account the data recorded in the microchip of electronic meter. It has specifically been stated therein as follows :-

"The Hon'ble High Court has further observed that the electronic meters which record all incidences including any attempt to tamper and the same are stored in the microchip contained therein. If all definite information is available then it will not be appropriate to work on conjectures and surmises.

In view of above observations by Hon'ble High Court, it has been decided that before initiating actions under Section 126/135 of Electricity Act 2003, the concerned officers who has doubts that the consumer is indulged in any sort of malpractice should immediately download all related information from the computer chip installed in the electronic meter and analyze the downloaded data. In case there is evidence to suggest theft, the details of the information downloaded be disclosed to the concerned consumer for his response as well as in the FIR."

5. Even though tampering of the meter has been alleged, no reason has been afforded by the concerned authority for having bypassed the relevant data recorded in the microchip when admittedly MRI of the meter had been done. The impugned final assessment order has instead been made on estimated basis confirming the provisional order of assessment. This is clearly contrary to the Board's own letter dated 18.02.2010 referred to above, apart from being in violation of the principles of natural justice.



6. In the above circumstances the impugned final order of assessment dated 19.07.2017 (Annexure-6) in HTSI Case No. 97/2011 is hereby set aside and the matter remanded to the Electrical Executive Engineer, Electrical Supply Division, Patna City, Patna (Respondent No. 6). The petitioner shall approach the Respondent No. 6 within a period of one week from today, in which event, the Respondent No. 6 shall supply the relevant data downloaded from the microchip of the electronic meter to the petitioner within one week thereafter. The Respondent No. 6 shall, after grant of reasonable opportunity to the petitioner of being heard and taking into consideration the MRI report, pass orders afresh in accordance with law expeditiously and in any event within a period of four weeks after supplying the data as aforesaid.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.02.2018
Transmission Date	NA

