IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4535 OF 2017

M/s. Katare Cotton Waste Spinning Mills
through its Proprietor … Petitioner
V/s.
The Maharashtra State Electricity
Distribution Co. Ltd. … Respondent

WITH
WRIT PETITION NO. 4536 OF 2017

Sachin Textile … Petitioner
V/s.
The Maharashtra State Electricity
Distribution Co. Ltd. … Respondent

Mr. Nilesh Wable i/b Mr. Vinod P. Sangvikar for the Petitioner.
Mr. Rahul Sinha i/b DSK Legal for the Respondent.

CORAM : R.M. SAVANT, &
K.K. SONAWANE, JJ.
DATE : 21st AUGUST, 2018.

P.C. :

1 The above Writ Petitions have been filed for restoration of the electricity supply to the units of the Petitioners abovenamed. It is required to be noted that the Petitioners alongwith three other entities i.e. Subhash Textiles, Ganesh Textiles and Vijay Textiles were a part of a multipartite agreement under which there was one point power supply covered by Circular No.151 dated 25.11.2011, to all the five entities i.e. two Petitioners

abovenamed and three entities whose names we have just mentioned. An inspection was carried out of the premises of the five entities by the officials of the MSEDCL and on such inspection it was found that the said other entities except Sachin Textiles were unauthorizedly using the supply for purposes other than for which approval was granted namely for industrial purpose, other than for the power loom for which the connection was granted. A plain assessment bill for difference in tariff category was accordingly issued, charging from at the industrial rate. The Petitioner Katare Cotton Waste Spinning Mills (for short Katare Mills) approached the Consumer Grievance Redresssal Forum (CGRF for short). Insofar as Sachin Textiles is concerned the proceeding was withdrawn. The CGRF rejected the application filed by the Petitioner Katare Mills resulting in the Petitioner approaching the Electricity Ombudsman. The Electricity Ombudsman has partly allowed the representation filed by the Petitioner Katare Mills by the order dated 29.12.2016. The final direction issued by the Ombudsman is to the following effect :

> "12. In the result, the representation is partly allowed. The Respondent is directed to issue a revised bill of tariff difference as aforesaid from 18th June, 2016 to the Appellant consumer within a period of one month from the date of receipt of this order.

2 Insofar as the proceeding before the Ombudsman is concerned, it is required to be noted that in the representation filed by the Petitioner Katare Mills, the case of the said petitioner as stated by the Ombudsman in the impugned order was to the following effect :

> "(i) The Chief Engineer, Baramati of MSEDCL sanctioned the power supply to five powerlooms with contract demand of 200 KVA under multipartite agreement.
>
> (ii) While making the application, list of machineries and connected load was mentioned. The supply was released on 14th February, 2014. After release of supply, bills were issued by the Respondent under tariff category of Industrial-Powerloom. The Respondent, however, inspected the premises on 18th June, 2016 together with four other consumers covered under multipartite agreement. Based on the inspection which was carried out within a minute, a Provisional Assessment Order (PAO) of Rs.74,28,950/- was issued to the Appellant on 23rd June, 2016 under Section 126 of the Act. The Respondent, while taking such action, did not follow the provisions of the Act as well as the circulars and guidelines issued by MSEDCL."

3 The said case of the Petitioner Katare Mills is relevant in the context of the relief sought in the above Writ Petitions. Hence, the Petitioner

Katare Mills in its representation accepted the case that the sanctioned power supply was for 200 KVA under a multipartite agreement. It is further the case of the Petitioner Katare Mills as can be seen from Clause (ii) that the Petitioner Katare Mills and four other entities were covered under the multipartite agreement. Hence, it is on the aforesaid premise that the Petitioner Katare Mills had approached the Electricity Ombudsman. The proceeding before the Electricity Ombudsman as indicated above resulted in the representation being partly allowed and the direction came to be issued by the Ombudsman to issue revised bills to the Petitioner Katare Mills. At this stage it is required to be noted that the outstanding if any, now is not qua the Petitioners abovenamed but against the three other entities i.e. Subhash Textiles, Ganesh Textiles and Vijay Textiles against whom an assessment order under Section 126 of the Electricity Act has been passed. However, the said entities being part of the multipartite agreement along with the Petitioners who have been given a one point power supply, the case of the Petitioners cannot be separated and dealt with independently by the MSEDCL unless the outstanding is paid by the said three other entities.

4 The learned Counsel Mr. Wable appearing for the Petitioners would submit that the MSEDCL has not been able to demonstrate that in fact

there was a multipartite agreement covering the two Petitioners abovenamed and the three other entities. The learned Counsel in support of the said contention sought to place reliance on the information sought by the Petitioner i.e. Katare Mills under the Right to Information Act wherein the Information Officer of the MSEDCL informed the Petitioner Katare Mills that no such multipartite agreement can be found in the office. It was, therefore, the submission of the learned Counsel that if there is no outstanding against the Petitioners, the Petitioners cannot be visited with the penalty of continued disconnection of the electricity supply merely because three other entities are in default. It is not possible to accept the said contention of the learned Counsel in the conspectus of facts which we have narrated above. As indicated above the Petitioner Katare Mills in its representation made to the Ombudsman has relied upon the multipartite agreement and has also accepted the fact that the tariff which was made applicable to it and the other entities initially was the one meant for the power loom industry. If there is a multipartite agreement covering all the five entities then the logical corollary would be that all the five entities under one roof would have to be given the same treatment notwithstanding the fact that there is no outstanding against two of the entities i.e. the Petitioners abovenamed. Insofar as the three other entities are concerned, as indicated above an order under Section 126 of the Electricity Act has been passed against the three other entities against which though an Appeal lies under Section 127 no such Appeal has been filed by the three entities and the outstanding against them continues. Hence no relief can be granted to the Petitioners in the above Petitions. The Writ Petitions are accordingly dismissed.

(K.K. SONAWANE, J.) **(R.M. SAVANT, J.)**

Waishali Sushil Waghmare

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