

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24581 of 2007

ORDER:

This writ petition is filed seeking a writ of mandamus to declare the final assessment order of the Divisional Engineer in DEE/OP/RJNR/F.No.54/D.No.1747/2004 dated 10.10.2006 as confirmed by the Superintendent Engineer (Operation), Ranga Reddy Circle (South), in Lr.No.S.E./OP/RRC(S)/T2/D.No.1443 dated 10.11.2006 and the Forum for Redressal of Consumer Grievances in C.G.No.61/2006-07, South Circle, dated 10.01.2007 and the Vidyut Ombudsman in Appeal No.5 of 2007 dated 01.10.2007, as illegal and arbitrary, and consequently, to direct the 6th respondent either to repay or adjust the amount of Rs.2,40,000/- paid by the petitioner towards the assessment of Rs.9,40,772/- while preferring appeal to the Vidyut Ombudsman.

2. Heard Sri M.P. Chandramouli, learned counsel for the petitioner, and Sri R. Vinod Reddy, learned standing counsel for TSTRANSCO, appearing for the respondents.

3. The case of the petitioner, in brief, is that it is a Company registered under the Companies Act, 1956 and manufacturing M.S. Iron Ingots. It is the H.T. consumer with S.C.No.RRS 383 of APCPDCL with an agreement for 897 KVA as CMD. It has been conducting business and also its responsibilities with APCPDCL without any complaint. While so, on 18.08.2006 it was found that one

of the jumpers was snapped and same was reported to the 3rd respondent, upon which, the Assistant Divisional Engineer visited the premises of the petitioner on 19.08.2006 and restored the power supply. Thereafter, the Divisional Engineer Rajendra Nagar, 4th respondent, recorded the meter reading for the month of August, 2006 and the total consumption worked out to 668805 units, but CC bill for the month of August, 2006 was issued on 26.08.2006 for 966517 units as against the recorded reading of 668805 units. Subsequently, upon consideration of the objections raised by the petitioner, a revised bill was issued and the petitioner paid the bill amount. However, the 4th respondent issued a provisional assessment order dated 10.10.2007 assessing the loss of power at 297712.5 units on account of the incorrect meter and accordingly assessed the value at Rs.9,70,606.50 ps. and the petitioner was directed to file a representation before the 3rd respondent, upon which, the petitioner filed a representation dated 16.10.2006 before the 3rd respondent. The 3rd respondent without answering the relevant contentions passed an order relying solely on CMRI date which was not the accepted method of evaluating the unrecorded units under Clause 22.3.3 of the conditions of supply. Aggrieved thereby, the petitioner filed a complaint before the Redressal Forum, 2nd respondent, but, without properly appreciating the issue, the 2nd respondent had rejected the complaint. Questioning the same, the petitioner filed an appeal before the 1st respondent. The 1st respondent passed award dated 01.10.2007

without resolving the dispute. The same is questioned in this writ petition.

4. It has been contended by the learned counsel for the petitioner that the 3rd respondent had relied upon condition No.22.3.3.3 of the conditions of supply which were in existence prior to January, 2006, whereas the present defect of meter reading was found after January, 2006 and new regulations came into force since then. As per the new regulations, the respondents were obligated to follow condition No.7.5.1 of Andhra Pradesh Regulatory Commission General Terms and Conditions of Supply, 2006, that the meter reading should be recorded in the presence of consumer and thereafter any action has to be initiated, and that the defective meter should be sent to a testing lab and it should be tested in the presence of consumer, but admittedly, no such procedure has been followed and the respondents mechanically passed the impugned orders. It has been further contended by the counsel for the petitioner that during pendency of this writ petition, the petitioner paid Rs.2,40,000/- before the Vidyut Ombudsman. It is also contended that when this writ petition has come up for admission 20.11.2007, this Court granted interim direction to deposit the balance amount of Rs.2,40,000/- out of demanded back billing amount of Rs.4,80,000/- within two weeks and the petitioner had complied with the said direction.

5. Sri R. Vinod Reddy, learned standing counsel for the respondents, submits that the respondents have rightly passed the final

orders and only after noticing that the meter was defective and as per the new regulations, the respondents can impose back billing for two years prior to the date of defect noticed and the respondents have not committed any illegality in assessing the loss of current and therefore no interference is called for from this Court and the writ petition is liable to be dismissed.

6. Admittedly, the respondents have not followed condition No.7.5.1 of Andhra Pradesh Regulatory Commission General Terms and Conditions of Supply, 2006 and the petitioner has already paid the demanded amount of Rs.4,80,000/-. Therefore, in order to give quietus to the litigation, the impugned order is set aside on the condition that the petitioner should not claim the refund of Rs.4,80,000/- which was already paid during pendency of the writ petition. The writ petition is accordingly disposed of.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

2nd May, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 24581 of 2007
(disposed of)

2nd May, 2018

cbs