
(2003) 01 JH CK 0068

In the Jharkhand High Court

Case No : CWJC No"s. 3585 of 1999 and 196 of 2000

Bholotia Auto Products and Sunrise Ingot Pvt. Ltd.

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 16-01-2003

Acts Referred:

Citation : (2003) 1 JCR 609

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.S. Mittal, A.K. Yadav, V. Mittal and N.K. Pasari, in CWJC No. 3585/1999 and L.K. Bajla, in CWJC No. 196/2000, for the Appellant; V.P. Singh R. Shankar and M. Kumar, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—The short question that falls for consideration in these writ application is whether the new tariff issued by the respondent-Board under letter No. 1633 dated 24-9-1999 is applicable to the consumers including the petitioners who have Induction Furnace unit used for casting work of refractories item and manufacturing automobile components.

2. Initially the petitioner had challenged the tariff in question on various grounds including that it was issued without making any notification in the official gazette and without taking concurrence of the State Government but now the petitioners challenge the tariff only on the ground that it is not applicable to the petitioner-unit which are having Induction Furnace manufacturing only automobile components.

3. The petitioners units are engaged in casting of automobile components for supply to M/S Telco. Ltd and other automobile industries. It is stated that the petitioners are not a steel manufacturer and they do not make any pencil ingots or the like and that it is having a casting furnace of about one tone or less. The petitioners-industries are manufacturing a very small size of casting for

automobile industries and they work in their furnace at a low temperature. Petitioner's case is that those industries who produce/manufacture pencil ingots or re-rolling steel sheets and rods are only covered by the said tariff.

4. The respondents-Board, in their counter affidavit, have stated on the other hand that the new tariff schedule was introduced for H.T. consumers having induction furnace which has been arrived at after due consensus between the respondent-Board and the Bihar State Manufacturers Association. It is stated that the Board is empowered to fix uniform tariff rate for the industries classified under one category. The petitioner-unit is a Induction Furnace Unit.

5. Learned counsel appearing on behalf of the petitioners mainly contended that the petitioner being a S.S.I. unit engaged in casting automobile components and being not a Steel manufacturer are not covered by the impugned tariff. According to the learned counsel the petitioner-unit do not run its furnace round the clock and the furnace is run at a low temperature and, therefore, it cannot be put at par with the other steel manufacturer unit. Learned counsel drew my attention to Clause 9.6 and Clause 15 of the tariff and submitted that if the said tariff is imposed, petitioner's load would be deemed to be 600 KVA and it will be deprived of the benefits of 1995 Industrial Policy particularly when the connected load of the petitioner-unit is less than 500 KVA.

6. Mr. V.P. Singh, learned counsel appearing on behalf of the respondents-Board, on the other hand has referred the relevant clause of the tariff and submitted that the impugned tariff is applicable to those consumers who are having contract demand of 300 KVA and more and who have been running Induction Furnace. Learned counsel submitted that admittedly petitioner's contract demand for Induction Furnace are 200 and 495 KVA and the capacity of induction furnace is one tonne and, therefore, the tariff is fully applicable to the petitioner-unit.

7. Before appreciating the rival contentions of the parties I would first like to go through the impugned tariff which was issued in 1999 and finally published in the official gazette. The Hindi version of the tariff published in the Bihar Gazette dated 6th April, 2000 has been annexed as an-nexure C to the third supplementary counter affidavit filed by the Board in CWJC No. 196/2000(R), Clause 1 of the tariff reads as under-

"1. Applicability.--This tariff shall apply to all consumers who have a contracted demand of 300 KVA and more for Induction furnace. This tariff schedule will not apply to coasting unit having induction furnace of melting capacity of 500 KG or below.

8. The foot note of the tariff provides as under :

xx xx xx xx xx xx xx xx xx xx (i) If the power is supplied at 11KV to a consumer with contracted demand more than 500 KVA then the demand charges and energy charge will be 5% higher than at item No. 4 and minimum monthly

charges will be 5% higher than at item No. 5.

(ii) Those consumers who are having rolling/re-rolling mill in the same premises will take additional contract demand for the rolling/re-rolling mill over and above the contract demand required for induction furnace @ 600 KVA per tonne of melting capacity. The consumer will have the option to segregate the rolling/re-rolling mill and take separate new connection following all prescribed formalities with a separate transformer. This new connection if taken by the consumer will be allowed to be billed in appropriate tariff schedule.

Such rolling/re-rolling mill will be allowed to avail power at 33KV.

(iii) Any consumer having power under this tariff schedule will have to inform atleast 30 days in advance if he desires to increase the capacity of the furnace and for any decrease in capacity of the furnace, he will give atleast 6 months notice. The Board will complete all formalities for enhancement of contract demand/reduction of contract demand within this period subject to consumer completing all prescribed formalities and technical feasibility.

9. Admittedly, petitioners have been using Induction Furnace through electricity with a capacity to One tonne and for such furnace minimum of 600 KVA load is required for the purpose of heating the furnace. It is, therefore, clear that petitioner kept their contract demand for Induction Furnace below 500 KVA so that they may be able to get the benefits of industrial policy. According to new tariff therefore, petitioners Unit engaged in casting of automobile components by using Induction Furnace having capacity of one Tonne is liable to get the contract load of 600 KVA and pay charges according to tariff. I, therefore, hold that the impugned tariff is applicable to the petitioner Unit.

10. Hence no relief can be granted to the petitioners. These writ applications are accordingly dismissed.