

(2009) 08 JH CK 0010

In the Jharkhand High Court

Case No : Writ Petition (Civil) No. 5253 of 2003

Chanduka Hi-tech Steels Pvt. Ltd.

APPELLANT

Vs

The Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 13-08-2009

Acts Referred:

Citation : (2009) 08 JH CK 0010

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : M.S. Mittal and N.K. Pasari, for the Appellant; V.K. Prasad and Gautam Rakesh, for the Respondent

Judgement

Amareshwar Sahay, J.—The prayer of the petitioner is;

(A) For quashing the bill for the month of June, 2003 and onwards which have been raised during the period when the petitioner's meter became defective and has been raised on the basis of Annual Minimum Guarantee Charges as the same is in violation of the various judgments of the Hon'ble High court that in respect of H.T. consumers the Annual Minimum Guarantee charges cannot be levied during the period when the meter is defective, specially in view of the fact that the petitioner is entitled to exemption from the payment of AMG charges.

(B) For direction upon the Respondents to raise bills for June 2003 and onwards on the basis of 3 months average consumption prior to the June, 2003 when the meter became defective, i.e. average consumption for the months of March, April and May 2003.

(C) For direction upon the Respondents to delete the delayed payment surcharge on the unpaid amount of bills for the months of June 2003 and onwards since when the bills itself are wrong, there is no question of charging of any delayed payment surcharge on those amounts.

2. According to the petitioner, the arrears of bills for the months of June 2003 to

October 2003 issued by the respondents Electricity Board on the basis of Minimum Guarantee charges are against the various judgments and orders passed by this Court and further that raising bills on the basis of Annual Minimum Guarantee charges to H.T. consumer is against the provisions of 1993 Tariff. According to the petitioner, when the electric meter goes out of order or burnt or stopped or having ceased to function for any reason then the bills has to be raised on the basis of previous three months average as per Clause 16.8 of 1993 tariff.

3. The petitioner has placed reliance on the several orders passed by the several Single Benches of this Court and it is submitted that the orders passed in W.P.(C) No. 5516 of 2001 in the case of "R.D. Alloys Pvt. Ltd. v. Jharkhand State Electricity Board and Ors." is fully applicable in the facts and circumstances of the present case. The order passed in W.P.(C) No. 5516 of 2001 dated 18/03/2002 has been annexed as Annexure-7 to the writ petition.

4. On the other hand, on behalf of the respondents Electricity Board it has been submitted that the impugned bill was raised on the basis of the provisions of 16.8 of the Tariff notification 1993. Clause 16.8 of the Tariff notification reads as follows:

In the event of meter being out of order, i.e. burnt/stopped or having ceased to function for any reason during any months, the consumption for that month/months shall be assessed on average consumption of previous 3 months from the date of meter being out of order or the average consumption for the corresponding three months of the previous year or the consumption of the minimum monthly guarantee which ever is highest. Such consumption will be treated as actual consumption for all practical purpose until meter is replaced/rectified. Fuel surcharge, Power factor surcharge and Electricity duty shall be levied on consumption on so calculated.

5. It is submitted that under Clause 16.8 of the Tariff notification billing has to be made by three modes of calculation and in the present case the 3rd mode Minimum Base Charge being the highest has been taken for the purpose of raising bill under Clause 16.8 of the Tariff and, as such, there is no infirmity in the bills raised to the petitioner.

6. On perusal of the orders passed by the learned Single Bench of this Court in W.P.(C) No. 5516 of 2001, which has been annexed in the writ petition, I find that in that case also the points raised by the petitioners and the objection raised by the respondents electricity Board were the same as has been raised in the present writ petition and, therefore, in my view, since on consideration of facts and relying on the earlier decision of Patna High Court, when a view has been taken by the learned single Judge of this Court then the same view has to be taken in the present case also.

7. Accordingly, the impugned Bill as contained in Annexure-2 for the period June 2003 to October, 2003 is hereby quashed and the matter is remitted back to the

respondent Electricity Board to issue fresh Bills in respect of the aforesaid period i.e. for the period June, 2003 to October, 2003 when the meter of the petitioner was defective on the basis of average consumption of previous three months or the average consumption for the corresponding three months of the previous year, whichever is higher.

8. With the aforesaid observations and directions, this writ petition stands disposed of.