

(2011) 02 GUJ CK 0165

In the Gujarat High Court

Case No : Special Civil Application No. 15237 of 2010

Executive Engineer (O and M) Dakshin Gujarat Vij Company
Li. APPELLANT

Vs

Acme Chem Ltd. and Another RESPONDENT

Date of Decision : 17-02-2011

Acts Referred:

Citation : (2011) 02 GUJ CK 0165

Hon'ble Judges : Rajesh H Shukla, J

Bench : Single Bench

Advocate : Lilu K. Bhaya, for the Appellant; B.M. Vaishnav, for Respondent 1 and Himanshu K.P. Atel, AGP for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

Rajesh H. Shukla, J.—The present petition has been filed by the Petitioner-Dakshin Gujarat Vij Company Ltd., for the prayer that the Judgment & Order dated 26.10.2009 passed by the Deputy Chief Electrical Inspector & Appellate Authority (South Zone), Vadodara in Appeal No. 01/2009-2010 may be quashed and set aside on the grounds set out in the petition.

2. The brief facts narrated in the petition are with regard to consumption of the electricity by the Respondent No. 1 for the purpose of construction. The unit was set up in Plot No. 412 and, thereafter, with the change in the name of the Company, it was also proposed to have Plot No. 413. The intimation was also given to the Petitioner-Company that some work is being carried on.

3. As reflected from the impugned order, the Junior Engineer as well as Executive Engineer had visited the premises of the Respondent No. 1 and had not found anything objectionable or have not reported any irregularity and, hence, they had not taken any steps. However subsequently, as could be found from the assessment and the bill dated 24.02.2009(Annexure-B) which has been issued, the assessment was made, which has been challenged before the Respondent

No. 2-authority by the Respondent No. 1-Consumer. The Respondent No. 2-authority has discussed in the impugned order in detail after considering the rival view points and passed the impugned order referring to the calculation, which has been arrived at. It is referred to in the affidavit-in-reply filed by the Deputy General Manager of the Respondent No. 1 that as per the provisions of Section 126 of the Electricity Act, the assessment has been made, however, the Petitioner-Company has not been able to point out as to the irregularity, which is alleged to have been made or committed where the officers of the Petitioner-Company had visited the premises and they have not taken any steps. Moreover, while passing the impugned order, the Respondent No. 2-authority has taken care to direct the Respondent No. 1 to deposit 50% of the bill amount. The method of calculation, which has been arrived at, is also reflected, which cannot be said to be erroneous as the Respondent No. 2-authority, which is fully conversant with the technical aspect, has arrived at this assessment.

4. The reliance placed by the learned Counsel, Ms. Bhaya upon the order of this Court passed in Letters Patent Appeal No. 546 of 2010 in Special Civil Application No. 679 of 2009 with Civil Application No. 3118 of 2010 in Letters Patent Appeal No. 546 of 2010 dated 11.05.2010 will have no application to the present case as the facts were totally different as there it was specifically observed with regard to the unauthorized use of power and dishonesty, which is not the case here.

5. Therefore, the present petition deserves to be dismissed and is accordingly dismissed. Notice is discharged. Interim relief stands vacated.

6. It goes without saying that if the amount in excess of the amount mentioned in the impugned order is paid, same shall be refunded to the Respondent No. 1-Consumer.