

(2016) 04 UK CK 0014

In the Uttarakhand High Court

Case No : Writ Petition No. (M/S) No.1091 of 2007

M/S Kotdwar Steels Limited

APPELLANT

Vs

Uttaranchal Power Corporation

RESPONDENT

Date of Decision : 07-04-2016

Acts Referred:

Electricity Act, 2003 — Section 45
Evidence Act, 1872 — Section 115

Citation : (2016) AIR(Uttaranchal) 100

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : Mr. B.C. Rai, Advocate with Mr. Navneet Kaushik, Mr. Akhilesh Kalra, Advocates, for the Petitioners; Mr. A.S. Rawat, Senior Advocate assisted by Mr. Naresh Pant with Mr. D.S. Patni, Advocates, for the Power Corporation

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.(Oral)—All these writ petitions which are before this Court raise a challenge to orders dated 02.06.2006 and 28.02.2007 passed by the Consumer Grievances Redressal Forum, Dehradun (from hereinafter referred to as "CGRF") and Ombudsman, respectively, which have also been annexed to the writ petition as Annexure Nos. 2 and 1 respectively (in WPMS No.1091 of 2007).

2. Since these writ petitions raise a common challenge, all these writ petitions were heard together and are being decided by a common order, though purely for the sake of convenience for the factual aspect alone we refer to the Writ Petition No. 1091 of 2007 (M/S) i.e., M/s Kotdwar Steels Limited, which is the leading case.

3. The petitioners run factories where the nature of work is the same and can be described as "Arc Induction Furnace". In these factories iron scrap is melted and shaped into "steel ingots" which is the finished product. All the units are heavy consumers of electricity as each of these units has an extremely high sanction

load which is about 2,000KVA. Another indicating fact of this aspect is their maximum demand indicator or MDI (which is the proportion or the percentage of electricity which is being used by the Units as against its sanction load). These indicators show that these industries cannot survive except with regular supply of power.

4. Petitioner i.e., M/s Kotdwar Steels Limited in order to run its "Arc Induction Furnace" sought electricity connection vide its application dated 05.08.1996. The required load was sanctioned by the then U.P. State Electricity Board. Similarly, it was done in the case of remaining petitioners as well. Later the U.P. Regulatory Commission was established in the year 1999 which framed its first electricity tariff on 27.07.2000 which was effective from 09.08.2000.

5. The electricity tariff of 2000-2001 is essential to our discussion, as the rate of electricity as given in that tariff is an issue here. There are various components and categories to the above electricity tariff of 2000-2001, to which we need not go into as that not be relevant for our purposes, but what is relevant is that in this electricity tariff, two categories were opened for commercial consumers. First category is the one which was to consume power even during "restricted hours". For this category, there was to be a 15% of extra surcharge. The second category was for consumers who are getting power supply from an "independent feeder", emanating on 400/220/132 KV. For this second category of consumers, again 15% of extra surcharge was demanded. The second category was also given an assured minimum supply of 500 hours in a month and in case of shortfall in the guaranteed hours of supply (i.e., 500 hours per month), consumers were to be given a rebate at the rate of 1% per 10 hours. Presently we are concerned with the second category.

6. The U.P. Power Corporation later on a representation made by consumers passed a circular on 08.09.2000 whereby it declared that such consumers who do not require a guaranteed supply of minimum of 500 hours per month and who have given undertaking to this effect shall not be required to pay 15% of surcharge.

7. The background of the present litigation now take us to a case, namely, M/s LML Limited, Kanpur v. State of U.P. and others decided by the Hon'ble High Court of Judicature at Allahabad and later by the Hon'ble Supreme Court. Here the demand of 15% of surcharge was challenged by LML Limited in a writ petition before the High Court of Judicature at Allahabad, where two points were raised. Firstly, that the two categories of surcharge:- (a) for those consumers who consume electricity even during peak hours and (b) 15% of surcharge from such consumers who consume electricity on an independent feeder have to be seen together and this 15% of surcharge can only be levied if a consumer is consuming electricity not only during peak hours but is also supplied electricity through an independent feeder. In other words, a consumer must be shown to be taking both the above "special facilities", in order to be charged a 15% surcharge. This contention, however, was rejected by the Division Bench of

Hon"ble High Court of Judicature at Allahabad, wherein it held that the two conditions are entirely different and cannot be mixed and the two facilities are separate facilities for which separate surcharges of 15% each has to be paid, if one is availing both the facilities.

8. The second contention of LML Limited in the above case was that it is in any case not getting supply from an independent feeder. This contention too was rejected. The relevant paragraph 25 of the order of the Hon"ble Court reads as under:-

"25. In the tariff approved by the Commission, the language used is "for consumers getting power supply on independent feeders emanating from 400/220/132 KV." What is to be seen is whether the petitioner is a consumer of the type mentioned in this clause. The word "independent feeder" has not been defined in the tariff and the learned counsel for the parties have placed reliance on the dictionary meaning of the word. "Independent" means not depending or contingent upon something else for existence, operation, etc., not relying on another or others for aid or support. The meaning of the word "feeder" in the context in which it is used here is a conductor or group of conductors connecting primary equipment in an electric power system. Sri Sudhir Agrawal learned counsel for UPPCL has referred to Section 2(1) of Indian Electricity Act, 1910, which defines a distributing main and service line. He also referred to proviso (b) of sub-clause (1) and sub-clause (2) of Clause 6 of the Schedule of the same Act and has submitted that any service-line laid for the purpose of supply in pursuance of a requisition under sub-clause (1) shall, notwithstanding that a portion of it may have been paid by the person making the requisition be maintained by the licensee who shall also have the right to use it for the supply of energy to any other person. Learned counsel has submitted that under the provisions of Indian Electricity Act, 1910, which are saved and are still operative by virtue of Section 15(6) of the U.P. Electricity Reforms Act, 1999, even though the line may have been constructed at the cost of the petitioner the licensee has the right to use the said line for supply of energy to any other person. Learned counsel for the respondent has submitted that the domestic supply is of 220 volts, an ordinary industrial power is of 440 volts and that used in railway traction is 11000 volts, but the petitioner is getting supply of a very special type which is of 1,32,000 volts and there are very few consumers getting power of such high voltage. It is stated in para 11 of the counter-affidavit that the petitioner has been given supply by an independent 132 KV supply line from Navbasta sub-station and there is no tapping in between. One important fact mentioned in this para is that energy consumption shown in the meter installed at the Navbasta Sub-Station and the energy consumption shown in the meter installed at the petitioner's-factory tallies within the permissible limits of Indian Electricity Rules. A copy of monthly readings and the power consumption from January to August, 2000 has been filed as Annexure CA-5 to the counter-affidavit. The last two columns of this document mention the units supplied at Navbasta Sub-Station and billed at consumer (petitioner) end and they almost

tally with each other. This is a conclusive proof of the fact that the entire quantum of electricity supply emanating from Navbasta sub-station is being received by the petitioner. Had there been any tapping in between or any other consumer was getting supply from the same feeder line, the quantum of electricity supply received by the petitioner have been much less and not have tallied with the supply emanating from Navbasta sub-station. In view of this clinching evidence, there cannot be even a slightest doubt that the petitioner is getting supply from an independent feeder line emanating from 132 KV sub-station. The petitioner is, therefore, fully covered by the relevant part of the tariff and is liable to pay 15 percent surcharge."

(emphasis supplied)

9. In other words, the Division Bench of Allahabad High Court had categorically held since the energy consumption at the sub-station and petitioners' factory were the same, or "within permissible limits of Indian Electricity Rules" then that mean that petitioners are getting electricity through an independent feeder, as there is no tapping in between.

10. The Court recognised that there is no statutory definition of an "independent feeder", but independent feeder mean a supply of electricity which is independent to the units. In terms of electricity law, it mean that the feeder from where the electricity is being supplied is not being tapped and there is no loss of energy from the feeder to the unit.

11. This Court has referred to the relevant paragraph in the case of LML Limited for the reasons as it has an important bearing in the present case, inasmuch as what goes to the root of the matter here is also whether the petitioners were getting the supply of electricity from an "independent feeder" or not?

12. The decision of LML Limited case, however, was challenged before the Hon"ble Apex Court.

13. Meanwhile, in the State of Uttarakhand another petitioner i.e., Kashi Vishwanath Steels Limited who was again asked to deposit 15% of surcharge as it was drawing electricity from an independent feeder came to be challenged before a Division Bench of this Court which was allowed vide order dated 17.01.2007 on the grounds that once the Power Corporation had exempted them from the 15% of surcharge on their undertaking that they will not consume electricity of minimum 500 hours in a month, and such units having exercised such an option, now they cannot be asked to give 15% of surcharge. The exemption is with the circular dated 08.09.2000 of the U.P. Power Corporation which had exempted consumers from 15% surcharge on their undertaking that they do not require 500 hours of guaranteed supply of electricity in a month. This was also held for the reason that the circular dated 08.09.2000 also have an implication in Uttarakhand irrespective of the fact that subsequently Uttarakhand had its own Power Corporation. Uttarakhand Power Corporation challenged this order before the Apex Court.

14. At the same time LML had also challenged the order of the Division Bench of the High Court of Judicature at Allahabad dated 25.04.2001 before the Apex Court and the Hon'ble Apex Court while clubbing the case of Uttaranchal Power Corporation along with the pending appeal of U.P. Power Corporation & LML Limited appeal gave its decision on 13.12.2007. The relevant paragraphs read as under:-

"50. The proximity of issuance of the circular vis-a-vis notification must also be noticed. The tariff was framed on 7-8-2000 which came into force from 9-8-2000 whereas the Circular was issued on 8-9-2000. The consumers exercised their option on 31-10-2000. The judgment in LML was delivered on 25-4-2001. The Circular dated 31-8-2001 undoubtedly was issued in view of the said judgment. The said judgment did not deal with the questions raised before us. In any event if the licensee violates the tariff approved by the Commission appropriate legal action can be taken against it. But it be too much to contend that for a mistake on the part of the Corporation, the consumers suffer. In this view of the matter, we are of the considered view that the doctrine of estoppel shall apply in the cases where the promise was made. However, the principle of said doctrine , however, not be applicable where no such promise was made.

51. The respondent Kanpur Electricity Supply Company not be bound thereby. Tariff is fixed for providing a service. Supply of electrical energy is a public utility service. While carrying out a function of this nature, the court of law must keep in mind the equitable principles also. Equity does not postulate that although the supplier did not fulfil its obligation, still it be entitled to the benefits envisaged under the law.

52. Similarly Uttaranchal Power Corporation also does not appear to have made such a promise. The doctrine of promissory estoppel in those cases also will have no application.

53. In view of the fact that several matters are pending before the Commission on question of independent feeder we need not express any opinion thereupon. If any appeal is pending before the Commission on the said question it decide the same independent of the same irrespective of the result of this decision. We, therefore, without expressing any opinion on the said question, permit the appellants to agitate the same point before the Commission.

54. We, therefore, allow these appeals only to the extent mentioned hereinbefore in terms of the promise made by U.P. Power Corporation and allow the appeals on question of independent feeder to be withdrawn subject to the observations made by us herein above."

15. The net result was that the factories were liable to pay 15% of surcharge as their contention that it cannot be done as there was a promissory estoppel was rejected as it was earlier by the Allahabad High Court. All the same, since in some cases the issue whether these factories were being given electricity through an "independent feeder" was still pending before the High Court that

issue was left open.

16. The, present writ petitions were filed before this Court with the primary relief that the same order as has been given by the Division Bench of this Court in the case of M/s Kashi Vishwanath Steels Limited on "promissory estoppel" be given to them as they are similarly situated, an order which has already been set aside by the Hon"ble Apex Court. All the same now the petitioners have also argued that they are not liable to pay the 15% surcharge as they are not supplied electricity through an "independent feeder"

17. Before we come to the fact of the present case, it must be noted that subsequent to the decision of the Hon"ble Apex Court in the case of LML Limited and Kashi Vishwanath Steels Limited and others, which is referred above, an application was moved for clarification of the directions of the Hon"ble Apex Court in the case of LML Limited. It is necessary to mention that Kashi Vishwanath Steels Limited and the petitioners are seeking the same relief as was being given in the Kashi Vishwanath Steels Limited by the Division Bench of this Court. However, clarification application which was subsequently filed by the Kashi Vishwanath Steels Limited before the Hon"ble Apex Court was decided on 12.05.2010, the relevant Paragraph 15 of the judgment reads as under:-

"15. Appearing for the appellant Mr. Shanti Bhushan, learned senior counsel strenuously argued that the circular issued by the U.P. State Corporation modifying the tariff prescribed by the Regulatory Commission was wholly without any jurisdiction and could be recalled by the Uttarakhand Power Corporation w.e.f. the date the same was issued. Inasmuch as such a withdrawal was ordered by the Corporation it committed no illegality especially when the withdrawal was supported by clear and authoritative pronouncement of the High Court of Allahabad stating that the grant of exemption tantamounted to modifying the tariff which modification the corporation was not legally competent to make. It was further argued by Mr. Shanti Bhushan that there was no question of any promise having been made either by U.P. State Corporation or the Uttarakhand Power Corporation. In the absence of any such promise and in the absence of any material to show that the petitioner had acted upon any such promise and changed its position, there was no question of interfering with the order of withdrawing the exemption on the basis of the principles of equitable estoppel."

18. In other words, it was categorically held that there was no promissory estoppel and there cannot be a promissory estoppel against statue. It was also held that Uttarakhand Power Corporation, in any case had not made any promise to Kashi Vishwanath Steels Limited so that it could get any benefit regarding the surcharge.

19. The learned counsel for the petitioners Mr. B.C. Rai, before this Court argue that in the present cases the question of "independent feeder" still remains open and in case he cannot be given the benefit of promissory estoppel as given in the case of Kashi Vishwanath Steels Limited which is in any case has now been set

aside by the Hon'ble Apex Court, his case has still to be appreciated on the facts of the case as he can prove before this Court that the petitioners were not getting power through an "independent feeder" hence 15% of surcharge is not liable to be charged from them.

20. Learned senior counsel for the Power Corporation Mr. A.S. Rawat submits that indeed what goes to the root of the matter is that whether the petitioners are getting their electricity from an independent feeder or not.

21. On this aspect of "independent feeder" the counsel for the petitioners as well as the respondents counsels were heard at length. After hearing both sides at length and going through the records as well as the case laws cited by the parties, this Court has absolutely no doubt in its mind that the petitioners were getting their electricity from an independent feeder, and since they were getting a special facility from the Power Corporation and this special facility must be given at a special price, consequently they must give the 15% surcharge.

22. The reasons are as follows:

23. We must first know as to what an "independent feeder" mean. The word "independent feeder" has not been precisely defined in either any electricity statute or Rules. We have to derive meaning of the phrase by implication, usage, logic and pragmatism, keeping in mind the context where it is being used.

24. In the absence of any statutory definition of the term "independent feeder", the petitioners invoke the normal dictionary meaning for the term and have argued (as they have throughout the proceedings below) that an independent feeder mean a "feeder" which is independent to petitioners' unit or factory. In other words, a sub station supplying electricity only to the petitioners and to no other, can only qualify as an "independent feeder". This apparently attractive proposition soon looks fanciful if we dig slightly into the background of the case and examine the basic fundamentals of electricity law, and the ground realities. We must also bear in mind that a dictionary meaning of a word or phrase though useful generally may not be always relevant as what be relevant is the context where it is used as well as the accepted meaning of the term, which may at times be different than the dictionary meaning.

25. This plea of the petitioners that they were not being supplied electricity through an independent feeder has been rejected by both the Consumer Grievances Redressal Forum as well by the Ombudsman in appeal vide order dated 02.06.2006 and 28.02.2007 respectively. Both these forums have dealt with this aspect in detail and examined the aspect of independent feeder and have held that indeed all the petitioners were being supplied electricity through an independent feeder, hence, they have to pay an additional surcharge of 15%. We only have to examine whether the reasoning adopted by them is correct or not?

26. Electricity was being supplied to the petitioners through two feeders each

through a 30KV feeder by way of formation which is known as "clusters". This factual aspect has been admitted by both the parties. The grievance of the petitioners is that when they were being supplied electricity by way of a group feeder or a cluster it imply that any defect or problem at the end of any one consumer disturb supply from the 33KV supply factors to all the consumers who get their power through this "independent feeder". It is being argued that independent feeder is nothing but a service line which is actually defined under Section 2(1) of the Indian Electricity Act, 1910. Section 2(1) reads as under:-

"Section 2(1). "Service Line" means any electric supply-line through which energy is, or is intended to be, supplied-

(i) to a single consumer either from a distributing main or immediately from the supplier's premises, or

(ii) from a distribution main to group of consumers on the same premises or on adjoining premises, supplied from the same point of the distributing main:"

27. This argument of the petitioners has been rejected by the Consumer Grievances Redressal Forum for the reasons that as per the U.P. State Electricity Board office memorandum more than one unit can be given electricity through clusters, provided they all are doing the same process or work and if that is the case it remain to be an independent feeder. Admittedly, all the petitioners who are given electricity in a manner of cluster formation are doing the same work i.e., "Arc Induction Furnace". However, it has already been elaborated by the Consumer Grievances Redressal Forum that giving electricity to each through a separate feeder as visualised to them is neither practical nor physically possible as it involve construction of a separate lines or bays, which is not practically possible. The petitioners were well aware that they are being supplied electricity through an independent feeder by a cluster system, and they have primarily raked up this issue in order to save themselves from the electricity bill, which they are legally bound to pay.

28. For the petitioners, two independent feeders were formed by way of a system called "cluster". These two feeders and the petitioners, to which it supplied power, are as follows:

Feeder "I" :-

1. Ms. Kotdwar Steels Limited
2. M/s Bhagyashree Steel Alloys (P) Ltd.
3. M/s Amrit Versha Udyog (P) Ltd.
4. M/s Poddar Alloys (P) Ltd.
5. M/s Mehrishi Steels (P) Ltd.
6. M/s Sumo Steels (P) Ltd.

Feeder "II" :-

1. M/s Rana Castings (P) Ltd.
2. M/s Pushkar Steels (P) Ltd.
3. M/s Sant Steels & Alloys (P) Ltd.
4. M/s H.R.J. Steels (P) Ltd.
5. M/s Kukreti Steels (P) Ltd.
6. M/s Aruna Steels (P) Ltd.

29. It has also been one of the arguments of the petitioners that they had opened their units in the hill region of the then State of U.P. (presently the State of Uttarakhand) and they relied upon an Office Memorandum dated 11.03.1997, wherein it was stated that consequent to the concession given to the industrial units in Bundelkhand as well as in the hill regions of the State of Uttar Pradesh, a number of units have been opened in these areas and consequently a large number of units have been sanctioned electricity load. In view thereof, it was decided to supply electricity to these units from 33 KV feeder. This reliance has been placed by the petitioners while opposing the stand of the Power Corporation that as per Office Memorandum dated 16.06.1980 it was decided that from the independent feeder constructed for a particular consumer even though at his cost, other connections having the same and/or similar process(es) may be given, if technically feasible, for which the old consumers will not be entitled for any refund on account of some portion of the common line constructed at his cost. The Petitioners have further relied upon the Office Memorandum dated 31.05.1996, which deals with the independent feeder and states that "normally no independent feeder will be constructed for any consumer. The constructed of independent feeder for Arc/Induction Furnaces, Rolling/Re/rolling Mills and Mini Steel Plant consumers will continue as per prevalent rules. Such consumers will have to pay complete expenses "Bay" charges and "system loading charges" of the independent feeder."

30. It has been argued by respondent Uttaranchal Power Corporation Ltd. that while the electricity connection was sanctioned to the petitioners, as per the annexure attached by the petitioners themselves in present writ petitions, it contains Condition No. 12 which specifically lays down that they will be supplied electricity through an independent feeder and further that orders issued by the Board from time to time shall be applicable and shall have to be complied with. It has further been argued that the petitioners were sanctioned electricity by its predecessor the UP State Electricity Board in the year 1995 and 1996 for running arc/induction furnaces and according to the Policy, the electricity to such an industry could be supplied only through an independent feeder. As far as the reliance by the petitioners upon circular dated 11.03.1997 issued by the UP State Electricity Board is concerned, the Uttaranchal Power Corporation also relies upon it and says that such an order was passed in order to expedite release of

industrial load sanctioned in the year 1996-97 as the load could only be released in form of clusters for which consumers were to bear the cost of 33 KV base and main line on cost hiring basis. This circular further provides for release of connections to similar process consumers from 33 KV feeders. The petitioners took the supply from the said independent feeder with open eyes and clear understanding that the supply was given by the UP State Electricity Board after taking into consideration all aspects, both practical and technical, and the said supply was accepted by the consumers treating the feeders to be independent feeders. Since, 1996-97, the petitioners have accepted the said electricity supply as supply from an independent feeder. Now, they cannot be allowed to change their position on grounds that they are being supplied electricity by way of clusters, they cease to get electricity through an independent feeder.

31. An independent feeder does not cease to be an independent feeder merely because some other units are also electrically connected to the same sub-station. The question is not whether the consumer is on a single independent feeder but more crucial question is whether there is any tapping of power from that feeder or not as held by the Allahabad High Court in the LML Case, referred above? Admittedly, there is no tapping of power between the feeder and petitioners' unit hence it continues to be an independent feeder. Moreover, the practical aspect of the matter also cannot be lost sight of, which is that if each unit is given an independent feeder by way of a separate line or bay, it entail wastage of land, likely to be fertile land, which will be rendered useless inasmuch as that system require separate bays where each be using up a huge chunk of land. Therefore, independent feeder is not to be understood as one single unit connected to a single transformer but as an independently fed unit, free of tapping! It is always accepted and well understood that an independent feeder does not mean one feeder and one consumer, but a feeder which independently feeds similar kind of consumers, which is independent and segregated from other consumers.

32. We must once again appreciate what kind of activity these companies or consumers are into. Electricity here is being supplied to Arc Induction Furnaces. Such an industry cannot function but through an independent feeder. It is a technical compulsion for these industries to get power through an independent feeder. It has to be segregated from other consumers. This has been explained rather well by the Ombudsman in the order dated 28.02.2007, when it explains this technical aspect and says that in an induction furnace the use of electricity is for melting steel scrap. Here, heat is produced in the steel scrap by inducing an electric current into this mass through an induction coil. Due to the high magnitude of current in an arc induction furnace, at times the charge causes large swing in voltage fluctuations. These fluctuations can affect the life and efficiency of ordinary electrical appliances in households. Hence, ordinary consumers have to be segregated and arc induction furnaces have to be supplied power through a separate independently fed feeders or "independent feeders".

33. Para 66 of the ombudsman's order further clarifies it, as it states:

"66. The voltage fluctuations/surges also require dampening by having a strong network at the sending end of the supply which means that the independent feeder for such loads emanates from a grid substation, where the Extra High Voltage network of interconnected EHV Lines and Inter Connecting Transformers (I.C.Ts.) ensures that the voltage fluctuations/current surges are adequately dampened/cushioned out. Thus there is an overriding technical compulsion to have an independent feeder for arc/induction furnaces consumers and that too, one that is emanating from a 400/220/132 KV substations. Obviously such a feeder shall not be connected to either of the feeders supplying power to rural and urban consumers and shall be independently fed from the feeding sub station. The language used and nomenclature evolved was part of the power-sector technicals in active usage in the power-sector industry of UP for the greater part of the UPSEB's existence and certainly so after the issue of its Order No. 1535 ? HC dated 6-6-1978, followed by its Order No. 38/HC dated 16.06.1980 and may not have gained statutory provision at the time of the UPERC Tariff Order 2000-01, or for that matter may not have reached the hallowed pages of Standard English in the OED. That shall not however erase or evade the facts of the existence of this terminology "as it was in acceptance as the learned counsel for the Complainants has zealously tried to do. He has accepted that where a formal definition does not exist the prevalent common usage shall prevail;- the common usage shall however pertain to the power-sector technical language and not that of any lay man in ignorance of the context of usage of the power-sector of the time of UPSEB, in the then undivided UP."

34. Hence, it was both an operational necessity as well as a technical compulsion which resulted in the manner of supply of electricity on mutually acceptable terms. It is also on record that petitioners never complained of a faulty supply of electricity, tapping, etc. and were in fact fully satisfied till they actually decided to raise the bogey of an "independent feeder".

35. There is another aspect to this matter. All the petitioners before this Court had full knowledge all throughout, the manner in which they were going to be supplied electricity and as to what is the actual nature of an independent feeder, they knew it very well. They also readily agreed to that system. They have availed the facility which was of special facility all throughout. They only raised this issue once an additional surcharge of 15% was to be levied from them. Electricity which could have been used for other purposes has been diverted for the benefits of these consumers. It is both illegal and unethical on their part to deny payment for a special facility which they have enjoyed at.

36. In view of the aforesaid, all the writ petitions fail and are hereby dismissed. Interim order dated 22.03.2007 stands vacated.

37. Petitioners shall pay 15% surcharge along with any interest including penal interest applicable in the case for the past period, as per law.

38. No order as to costs.