

(2015) 07 AP CK 0077
In the Andhra Pradesh High Court
Case No : W.P. No. 25833 of 2011

S. Narsinga Rao

APPELLANT

Vs

Central Power Distribution Co. of A.P. Ltd. Ors.

RESPONDENT

Date of Decision : 16-07-2015

Acts Referred:

Citation : (2015) 6 ALD 294 : (2015) 6 ALT 648

Hon'ble Judges : C.V. Nagarjuna Reddy, J.

Bench : Single Bench

Advocate : K. Gopal for P. Durga Prasad, for the Appellant; B. Jayasri for R. Vinod Reddy, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed for a mandamus to declare final assessment order dated 14.7.2010 passed by respondent No. 3 and as confirmed in Appeal SAP No. 6914 of January, 2011 by respondent No. 2 as illegal and arbitrary. I have heard the learned Counsel for the parties and perused the record.

2. The petitioner pleaded that he is the absolute owner of the house property bearing Door No. 9-4-80/81 situated at Regimental Bazar, Secunderabad and that he has obtained electricity Connection No. L.Z. 003981 for the said house under Category-1 domestic. He has further pleaded that on the first floor of the said premises, his family members are running an Advocate's Office. That respondent No. 3 has issued final assessment order on 14.7.2010, treating the service connection as one taken for commercial purpose and that the appeal filed against the said order was dismissed by respondent No. 2 on 28.12.2010. Feeling aggrieved by both these orders, the petitioner filed this writ petition.

3. The main ground on which the petitioner has assailed the orders of respondent Nos. 2 and 3 is that the premises used for running an Advocate's Office cannot be treated as being put to use for commercial activity and that, therefore, the

assessment made for allegedly using the premises for a purpose different than the purpose for which the service connection was sanctioned, is illegal.

4. Smt. B. Jayasri, learned Counsel representing Mr. R. Vinod Reddy, learned Standing Counsel for the respondents, placed before the Court the relevant case law.

5. In *Chairman, M.P. Electricity Board and Others Vs. Shiv Narayan and Another*, a two Judge Bench has referred the issue as to whether the premises used for running an Advocate's Office can be treated as being used for commercial purpose and commercial tariff can be levied and collected, to a Larger Bench. The Larger Bench, in its unreported decision dated 27.10.2005 in Civil Appeal No. 1065 of 2000 (*the Chairman, M.P. Electricity Board v. Shiv Narayan*) held that the tariff entries classify user into two categories, namely (a) domestic and (b) commercial and non-domestic purposes, that this classification clubs the commercial and non-domestic purposes into one category and that, therefore, it was not necessary for the Court to decide whether an advocate can be said to be carrying on commercial activity. The Court further held that as the user of the premises by an advocate for his office was admittedly for non-domestic purpose, it would fall into "commercial and non-domestic" category. This decision was referred to and relied upon by Bombay High Court in *Rajendra G. Shah Vs. Maharashtra State Electricity Distribution Company Limited*, .

6. In the instant case also it is not in dispute that the tariff of the licence is couched in the same language as the tariff considered by the Supreme Court, viz., by grouping non-domestic and commercial categories into one category. Therefore, following the ratio laid down by the Supreme Court that the Advocate's Office surely falls in non-domestic category, if not commercial, I do not find any illegality in the impugned assessment.

7. For the above mentioned reasons, the writ petition is dismissed. As a sequel to dismissal of the writ petition, interim order dated 15.9.2011 is vacated and WP MP No. 31851 of 2011 and WV MP No. 4650 of 2011 are disposed of as infructuous.