

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A No. 329 of 2007

M/s Tata Steel Limited..... Appellant
Versus
Jharkhand State Electricity Board & Ors..... Respondents
.....

Coram: The Hon'ble the Chief Justice
The Hon'ble Mr. Justice Amareshwar Sahay

For the Appellant : Mr. M.S.Mittal
For the Respondents : M/s. Rajesh Shankar, A. Prakash

.....
ORDER

C.A.V. on 09/10/2007

Delivered on 11/10/2007

Amareshwar Sahay, J. Heard Mr. Mittal, learned counsel for the appellant and Mr. Rajesh Shankar, learned counsel for the respondents.

2. The only point which has been argued and to be decided in this appeal is as to whether the impugned bills raised by the Jharkhand State Electricity Board is barred under Section 56 (2) of the Electricity Act, 2003?

3. This point was raised by the appellant before the writ Court but the learned Single Judge has rejected the said plea of the appellant and has answered the said question in negative.

4. Section 56 of the Electricity Act, 2003 speaks about disconnection of supply in default of payment and it reads as under:-

*"56. Disconnection of supply in default of payment- (1)
Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being*



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the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest,-

- (a) an amount equal to the sum claimed from him, or*
- (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,*

whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."

5. According to Mr. Mittal, the learned Single Judge has misinterpreted the provision of Sub-section 2 of Section 56 of the Electricity Act, 2003. It is submitted that as per Section 56 (2) of the Electricity Act, no demand can be raised for the first time after a period of two years from the date when such amount became 'first due' and such amount due, i.e. the arrears must be shown continuously in the current bills. But in the present case the demand raised in the impugned bills are of more than two years and the same were not shown as arrears in the current bills and, therefore, the same is hit by Section 56 (2) of the Electricity Act. According to Mr. Mittal, the amount becomes "first due" on the date when the electrical energy is consumed and the consumer is liable to pay the charges for such consumption.

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6. On the other hand Mr. Rajesh Shankar, learned counsel appearing for the Electricity Board, in support of the impugned judgment of the learned Single Judge, has submitted that the amount "first due" becomes not from the date of consumption of the electrical energy but it becomes due only when the demand is made by raising bills for consumption of such electrical energy. In support of his submission he has relied on a decision of the Single Bench of Delhi High Court in the case of "*H.D.Shourie- versus- Municipal Corporation of Delhi and another, reported in AIR 1987 Delhi 219.*"

7. In the impugned judgment the learned Single Judge after discussing the intent and purport of Section 56 (2) of the Electricity Act has held that the recovery of amount of the impugned bills cannot be said to be hit by provision of Section 56 (2) of the Electricity Act 2003 and it cannot be said to be barred under the said provision of the Act. The learned Single Judge has also noticed that Delhi High Court in the case of "*H.D.Shourie- versus- Municipal Corporation of Delhi and another*" has also taken the same view.

8. After going through the impugned judgment, the decision of the Delhi High Court, i.e. AIR 1987 Delhi 219 and after hearing the parties, we are of the view that when the consumer consumes electrical energy, he becomes liable to pay the charges for such consumption but, thereafter, when the Board raises bills as per the tariff, making specific demand from the consumer for payment of the amount for consumption of electrical energy then only the amount becomes "first due" for payment of such consumption of electrical energy.

9. In view of the above findings, we further hold that the period of two years as mentioned in Section 56 (2) of the Electricity Act, 2003 would run from the date when such demand is made by the Board, raising the bills against consumption of electrical energy.

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10. Consequently, we affirm the view taken by the learned Single Judge in the impugned judgment and, accordingly, having found no merit, this letters patent appeal is dismissed.

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sd/- Anand
Amareshwar Sahay, J.

M.Karpaga Vinayagam, C.J.

sd/- M. Karpaga Vinayagam, C.J.

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B. B. Banta
6/11/07
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Authorised U.S. No. 1 of 1972

The 15th Kartik, 1929

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