

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.347 of 2009**

Sri Tirupati Wires having its works and Unit at Mohanpur.....Petitioner
Versus
Jharkhand State Electricity Board & OthersRespondents

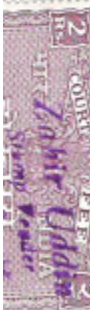
CORAM : HON'BLE MR. JUSTICE AJIT KUMAR SINHA

For the petitioner : Mr.Dhananjay Kumar Pathak
For the respondents : M/s Rajesh Shankar & S. Shrivastava

02/ 30.01.2009 In the instant writ petition the petitioner prays for issuance of appropriate writ, order or direction for quashing of the order dated 14.11.2008 passed by the respondents Electrical Superintending Engineer, Giridih and the Energy bill dated 21.11.2008 issued under the signature of Electrical Executive Engineer, Commercial and Revenue whereby and whereunder the said respondent has saddled the petitioner with a huge and arbitrarily inflated liability by adopting a repealed formula of assessment as contained in Clause 16.9 of BSEB Tariff of 1993 whilst ignoring the fact that the other assessing officers of the Respondent Board have adopted and applied the average highest formula in the same and similar circumstances and this Hon'ble Court in may cases including W.P.(C)No.5202 of 2008 has considered the said aspect.

I have heard the arguments at length and this writ petition is being disposed of at the admission stage. The main contention raised by the petitioner is that the impugned order dated 14.11.2008 and the bill dated 6.12.2008 issued on the basis of Clause 16.9 of the Bihar State Electricity Tariff, 1993 was illegal since it has been repealed by the subsequent laws and thus the assessment was contrary to the current applicable law. It has also contended that in any case the Assessing Officer was bound to look into the average actual consumption of the petitioner recorded by its industry during the undisputed period which is proper method and has been relied upon time and again by the Assessing Officer and Appellate authority under Section 127 of the Electricity Act, 2003. The counsel for the petitioner further submits that no order has been served upon the petitioner under Section 126(1) of the Electricity Act and the provisional assessment order as prescribed under Section 126(2) of the said Act is entire subsequent exercise of the respondents Assessing Officer was bad and illegal.

In reply the respondents have submitted that the disposal of the objection petition by the Electrical Superintending Engineer was vide a detailed speaking order and the provisional assessment order of Rs.75,33,096/- was served upon the petitioner. It is also submitted that the petitioner failed to submit objection petition and thus the aforesaid provisional bill was treated to be deemed as final. He further submits that later on request provisional assessment order



was again served and received in person on 4.10.2008 and after hearing the matter it was held that petitioner was liable to pay the compensation bill amounting to Rs.76,44,176/-.

I have heard the arguments and the fact remains that the petitioner was afforded an opportunity subsequently, however, it has remedy under Section 127 of the Electricity Act to file an appeal. It appears that the contention with regard to average actual consumption as recorded by the industry during the undisputed period should have been taken into account by the Assessing Officer before computing the actual bill payable.

Considering the aforesaid facts and circumstances of the case the petitioner is at liberty to move the statutory authority by way of an appeal under Section 127 of the Electricity Act and the same will be considered on its own merit based on the contention raised by the petitioner. The petitioner is further directed to deposit an amount of Rs.25,00,000/- in two monthly installments for restoration of its electrical connection during the pendency of appeal and such deposit will be subject to final outcome in the appeal.

This writ petition is accordingly disposed of.

sd/- Ajit Kumar Sinha, J.

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(Designated under Rule 232 (1) of J.M.C. Rules)
Authorized by No. 75 of 1078

On 30th Magh, 1930

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