IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 3998 of 2009

M/s Aditya Rice Mills Pvt. Ltd. through its
Director Shreekrishna Mehta   ...   ...   Petitioner

Versus

1. Jharkhand State Electricity Board through
   its Secretary
2. Jharkhand State Electricity Regulatory Commission
   through its Secretary
3. The General Manager-cum-Chief Engineer,
   Electric Supply Area, Hazaribagh
4. The Electrical Superintending Engineer-cum-
   Assessing Officer, Electric Supply Circle, Hazaribagh
5. The Electrical Executive Engineer(Commercial
   and Revenue),Electric Supply Circle, Hazaribagh
6. Jharkhand Urja Vikash Nigam Ltd. through its
   Managing Director   ..   Respondents

CORAM: HON'BLE MR. JUSTICE PRASHANT KUMAR

For the Petitioner: Mr. Dhananjay Kumar Pathak, Adv.
For the Respondents: Mr. Rupesh Singh, Adv .
                       Mr. Amrendra Pradhan, Adv.
                       Mr. S. Srivastava, Adv.

3/18.07.2014   This application has been filed for quashing the order of

assessment dated 21.7.2009 passed by the respondent no.4,

directing the petitioner to pay a sum of Rs.24,29,520/- to the

Electricity Board on the account of pilferage found during the

inspection dated 31.1.09.

It appears that the petitioner is a Company registered

under Indian Companies Act. It is stated that the petitioner

established a 'Rice Mill' and took electrical connection under

HT category vide Consumer No. DM 495(HTS). It, then, appears

that an inspection conducted in the premises of petitioner on

31.1.09 and it was found that seals associated with secondary

L.T. Bushing Cover of distribution transformer was duplicate

and these arrangement made to suppress the recording in the

meter. Accordingly, an F.I.R. lodged. In the F.I.R. itself, it was mentioned that petitioner has committed pilferage of electrical energy to the tune of Rs.24,29,520/-. It appears that electrical connection of the petitioner was also disconnected. Thereafter petitioner filed a writ petition in this Court vide W.P.(C) No. 651 of 2009, which was disposed of on 20.3.2009. Against that order, petitioner preferred an appeal vide L.P.A. No. 145 of 2009, in which an order has been passed by a Division Bench of this Court directing the appellant to pay a sum of Rs.6 lacs and on payment of the said amount, the Board was directed to restore the electrical connection of the petitioner. Thereafter, final order of assessment passed on 21.7.2009.

It appears that a Division Bench of this Court in the case of **M/s Shyam Lal Iron & Steel Company Vrs. Jharkhand State Electricity Board and Ors.** reported in **2013 (3) JBCJ 356 (HC)** has held that assessment in the case of theft will be done as per the regulation of Jharkhand State Electricity Regulatory Commission and not as per the provision of Section 126 of the Electricity Act, 2003. In the said judgment, the Division Bench has further held that even if the officers of Electricity Board had followed the procedure laid down under Section 126 of the Electricity Act, 2003 but if they applied the formula prescribed for assessment of theft of electricity, then the assessment will be treated to have been done u/s 135 of the Electricity Act, 2003. In this case also, from perusal of annexure-11, I find that the procedure of Section 126 of the Electricity Act, 2003 has been followed by the assessing authority, but the assessing authority applied the formula of L x F x D x H, which has been prescribed for assessment in case of theft of electricity. Thus, I find that the impugned order

dated 21.7.2009 (annexure-11) is in consonance with the law laid down by the Division Bench of this Court. Therefore, I find no illegality in the said order. Accordingly, I find no merit in this writ petition, hence, the same is dismissed.

The petitioner is directed to pay the assessed amount, after deducting Rs.6 lacs , which it had already paid, within one month from today. If petitioner fails to pay the said amount within the time stipulated, the Board or successor Company shall disconnect the electrical connection of the petitioner.

(Prashant Kumar, J.)

Sudhir