

Petitioner Vs. Respondent

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Court : Guwahati

Decided On : Feb-03-2014

Judge : The Honourable Chief Justice Mr. Abhay Manohar Sapre & Ujjal Bhuyan

Appeal No. : W.A.No. 9 of 2014

Appellant : Petitioner

Respondent : Respondent

Advocate for Pet/Ap. : Ms. J.R. Thakur

Judgement :

A.M. Sapre, CJ.

1. This is an intra-court appeal filed by the writ petitioner of WP(C) 2882/2005 under Rule 2(3) of Chapter V-A of the Gauhati High Court Rules against the order dated 2.8.2013 passed by the Single Judge in the abovementioned writ petition. By impugned order, the learned Single judge dismissed the appellants writ petition and accordingly declined to grant any relief to the petitioner claimed in the writ petition. So the question which arises for consideration in this appeal is whether the learned Single Judge (writ court) was justified in dismissing the appellants writ petition? The appellant a Private Limited Company is engaged in manufacturing steel items. They have obtained one electric connection for consumption of electricity supply from the Assam State Electricity Board - the respondent herein.

On 24.12.2000, the sleuths of the Board visited the petitioners factory premises and inspected the meter. It was noticed that meter was interfered from inside and its seal was found tempered. Looking to the nature of interpolation noticed in the meter, it was concluded that the interpolation/manipulation in the meter was done by the petitioner to prevent the meter from recording the actual consumption of electricity used and consumed by the petitioner. The inspection report was accordingly prepared with following note therein.

Existing L.T. Meter connection checked and plaster Seal No.C 32353 fixed on C.T. Secondary box found cut. On opening the C.T. Terminal Cover box, it is found that insulation of C.T. Secondary wires found removed in all C.T.S. (6 wires) at C.T. Secondary Page 2 of 3

Terminal Joints. This will help shorting C.T.S. thereby preventing the meter in recording actual consumption. Hence, it is a case of malpractice. The original condition of meter and C.T.S. kept as it is for future necessary action. A new H.T. Meter installed including New C.T.P.T., Seal and meter performance checked found OK. Name and Designation:

1. ..
2. ..
3. ..
4. ..
5. ..
6. ..
7. ..
8. ..

Consumers Representative: I was present during above inspection and checking and verified all new seals put by A.S.E.B. and found in intact condition. On the

basis of the aforementioned inspection, the respondent Board made the assessment and accordingly issued the revised bill for consumption of the electricity to the petitioner for the period in question amounting to Rs. 10, 78,484. It is against this demand; the petitioner felt aggrieved and filed the writ petition out of which this appeal arises. The only ground on which the impugned demand was challenged was that the inspection of the meter was done in the absence of the petitioners representative and hence it was bad and therefore no demand could be issued on the basis of such inspection. In other words, the contention was that in terms of clause 19 of the Terms and conditions of the Supply 1998, it was necessary for the sleuths of the Board to have made the inspection only in presence of the petitioners representative and since it was not done, and hence such inspection even if made was not binding on the petitioner and in consequence no demand could be raised on the basis of such inspection.

The writ court did not find any merit in the submission/ground raised by the petitioner and hence dismissed the petition giving rise to filing of this appeal by the writ petitioner.

Heard Ms. M. Hazarika, learned senior counsel assisted by Ms. J.R. Thakur, learned counsel for the applicant and Mr.B.D.Das, learned Standing Counsel, APDCL for the respondents. Having heard the learned counsel for the petitioner and on perusal of the record of the case, we are in agreement with the view taken by the writ court and hence find no merit in this appeal which too deserves dismissal in limini. Indeed, we need not burden our order by mentioning detail facts except to make reference of the noting made in the inspection report quoted supra which in no uncertain terms mentions that the inspection was made in presence of petitioners representative. Learned counsel for the petitioner was not able to point out any mistake or error in the said remark nor was she able to point out as to why such noting be not relied on. Her only submission was that the representative of petitioner came late on the spot and for this she placed reliance on one noting on the panchanama at page no 28 (in Hindi). Mere perusal of the panchnama would go to indicate that it does not support the case of the petitioner and on the other hand proves that petitioners representative was present when the meter was being inspected by the sleuths of the inspecting team of the

respondent. In the light of foregoing discussion, we are of the considered opinion, that appellant was not able to make out any case to set aside the impugned order of the writ court. As a result, the appeal is found to be devoid of any merit. It fails and is accordingly dismissed in limini. No cost.

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