HIGH COURT OF JUDICATURE AT HYDERABAD

For the State of Telangana and the State of Andhra Pradesh

W.V.MP.No. of 2016

IN

W.P.MP.No. 27647 of 2013

IN

WP.No. 22549 of 2013

Between:

M/s. Reliance Global Services (P) Ltd,

“Reliance Global House”

Plot No. 26, Durga Nagar Colony,

Opp: Lane-Chandana Brothers, Ameerpet, Hyderabad,

Rep. by its Director Finance,

Mr. J. Satyanarayana Reddy.

…Petitioners

And

1. The Assistant Divisional Engineer,

Operation, Greelands,

Central Power Distribution Company of A.P. Ltd,

Presently known as TSSPDCL.

2. The Superintending Engineer/Divisional

Engineer, (Assessments),

AP Central Power Distribution Company Ltd,

Presently known as TSSPDCL

Office at: A.P. State Housing Corporation Buildings,

4th Floor, Street No. 17, Urdu Hall Lane,

Himayathnagar, Hyderabad- 500002.

3. The Chief General Manager,

Central Power Distribution Company of A.P. Ltd,

Presently known as TSSPDCL

Metro Zone, APCPDCL,

Mint Compound, Hyderabad.

4. Central Power Distribution Company of A.P. Ltd,

Presently known as TSSPDCL,

Rep. by its Managing Director.

…Respondents

COUNTER AFFIDAVIT FILED BY RESPODENTS NO.

I, Sri. M. Satish Kumar S/o M. Ram Reddy, Age: 38 years, occupation: Assistant Divisional Engineer, Operation, Greenlands, TSSPDCL, do here by solemnly affirm and state on oath as follows:

1. I am working as Assistant Divisional Engineer, Operation, Greenlands, TSSPDCL and well acquainted with the facts of the case and I am authorized to swear this affidavit.

2. It is submitted that the petitioner is having a service connection bearing SC.No. A2026483 in premises bearing plot no. 26, Durganagar Colony, Ameerpet, Hyderabad. The said service connection was classified as industrial connection as the petitioner was only required to carry on consulting and software export business.

3. It is submitted that the said service connection was inspected on 07-12-2011 by the Additional Assistant Engineer/HD-1/DPE/Hyderabad-South. The Detection of Pilferage wing has been assigned the task of detecting unauthorized usage of power and also pilferage and theft of power. On inspection it is found that the petitioner company was also holding training cum consultancy classes in the 1st, 2nd and 3rd Floors of the building and the said activity comes under Category and the petitioner has to be billed under category.

4. It is submitted that during inspection the inspecting officer who was also examined by the appellant authority has stated that there is no software development or activity relating to IT enabled services in the 1st,2nd and 3rd Floors and the students have been trained by the QAI which is the education partner of petitioner company. The inspecting officer has also taken photographs of classroom setup existing in the 1st, 2nd and 3rd Floors and broachers printed for advertising wherein it was clearly stated about the courses being offered by the petitioner company. The inspecting officer has also enquired with the students and was informed that they were being in the said premises. The Balance Sheet of the petitioner company also discloses that they are receiving income by training the students.

5. It is submitted that based on the said inspection report a provisional notice dated: 20-12-2011 was communicated by the ADE to the petitioner company wherein the Provisional Assessment under Section 126 (4) of the Electricity Act. 2003 was assessed at Rs. 1,14,76,453/-. The petitioner has submitted his objection to the said Provisional Assessment notice to the Superintending Engineer, Assessments, Himayathnagar who by order dated: 24-4-2012 has confirmed the liability at Rs.1,12,20,645/-.

6. It is submitted that against the said orders dated: 24-4-2012 the petitioner has filed an appeal before the Chief General Manager i.e the 3rd Respondent. The 3rd Respondent has examined the inspecting officer and also the AE who was working during the period of inspection. The petitioner company was also granted personnel hearing and after examining the entire record came to the conclusion that the assessment can be done only for the period of 12 months as per Section 126(5) & (6) of the Electricity Act 2003. The assessed amount was reduced from Rs.1,12,20,645/- to Rs.25,28,938/-. The said appellate orders passed on 21-1-2013 as per the procedure contemplated under the Electricity Act 2003 and the General Terms and Conditions of Supply. The Appellate authority has not only examined the enquiry officer and other concerned officers and personal hearing was also granted to the petitioner company and passed the orders based on records. Thus the said orders do not require any further examination or review.

7. It is submitted that the 3rd Respondent is a senior officer having the technical expertise to deal with the issue regarding unauthorized use of Electricity and has passed orders as stipulated under the act and the rules.

8. It is submitted that this Honorable Court by order dated: 30-7-2013 in W.P.MP.No. 27647 of 2013 in W.P.NO. 22549 of 2013 has stayed the order of disconnection in the condition of the petitioner company depositing 50 % of the Assessed amount. The petitioner is still due huge amounts to the Respondent company and the non payment of the said amounts is reflecting on the financial health of the TSSPDCL and if the said orders dated: 30-7-2013 are not vacated it will cause irreparable injury to the Respondents.

It is submitted that all the allegations made by the petitioner that are not specifically dealt with herein are denied and the petitioner is put to strict proof of the same.

It is therefore prayed that this Honorable Court may be pleased to vacate the interim order dated: 30-07-2013 in W.P.MP.No. 27647 of 2013 in W.P.No. 22549 of 2013 and dismiss the writ petition and be pleased to pass such other orders as this Honorable Court deems fit and proper in the circumstances of the case.

Sworn and signed before me DEPONENT

On this day of October, 2016

At Hyderabad

Advocate: Hyderabad

VERIFICATION

I, Sri. M. Satish Kumar S/o M. Ram Reddy, Age: 38 years, occupation: Assistant Divisional Engineer, Operation, Greenlands, TSSPDCL, do hereby verify and declare that the facts stated in the above paragraphs of the affidavit are true to my personal knowledge, belief, information and also legal advise from my counsel.

Hence verified on this the day of October, 2016 at Hyderabad.

DEPONENT

Counsel for the Respondent