

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 185 of 2018

M/s. Sri Ram Needle Bearing (India) (P) Ltd., a Company incorporated under the Companies Act, 1956 having its factory at P.O. Ratu, District Ranchi, through its Senior Executive Sri Ram Kumar Tiwary, son of late Ram Parmatma Tiwary, resident of Qtr. No. DT /2879, Pani Tanki, Dhurwa, P.O. & P.S. Dhurwa, District Ranchi

... ... **Petitioner**

Versus

1. Jharkhand Urja Vikas Nigam Limited, having its office at Engineers' Bhawan, HEC, Dhurwa, P.O. & P.S. Dhurwa, District – Ranchi, through its Chairman cum Managing Director, having its office at Engineers' Bhawan, HEC, Dhurwa, P.O. & P.S. Dhurwa, District – Ranchi
2. The General Manager – cum – Chief Engineer, JBVNL, Ranchi Electricity Supply Area, Kusai Colony, P.O. & P.S. Doranda, District – Ranchi
3. Electrical Superintending Engineer, JBVNL, Electrical Supply Circle, Ranchi, Kusai Colony, P.O. & P.S. – Doranda, District Ranchi

... ... **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Salona Mittal, Advocate
For the JUVNL : Mr. Rajiv Ranjan, AG
 : Mr. Mrinal Kanti Roy, Standing Counsel

18/17.10.2024 Heard the learned counsels for the parties.

2. This writ petition has been filed for the following reliefs:

"a. For issuance of an appropriate writ or a writ in the nature of certiorari for quashing the order passed by Respondent No.2 vide Memo No.4822 dated 18.11.2017 (Annexure – 9) wherein the representation for claim of remission towards demand charges for the period 1999-2000 has been arbitrarily and illegally denied.

b. For issuance of an appropriate writ in the nature of mandamus commanding upon the Respondents to consider the claim of the Petitioner for proportionate remission towards demand charges in light of the direction given by the Hon'ble High Court in W.P.(C) No. 5494 of 2001 vide judgment dated 23.07.2015 and also in view of the settled law by this Hon'ble Court in respect of the issue in question.

And / or

c. For issuance of any other appropriate writ or direction(s) or order(s) as Your Honour may deem fit and proper in view of the facts and circumstances of the case for doing conscientable justice to the petitioner."

3. The learned counsel for the petitioner submits that the matter relates to the period 1999-2000. The petitioner at the relevant point of time, was having high tension connection and was governed by 1993 tariff. He submits that annual minimum guarantee bill was served

upon the petitioner vide bill dated 20.07.2000, wherein a demand of Rs.10,69,090/- was raised on account of annual minimum guarantee charges. He submits that upon receipt of the bill, the petitioner raised claim for proportionate remission on account of minimum guarantee charges, both in terms of unit consumption and also maximum demand (KVA), but the concerned authority granted remission only in connection with the unit charges. The calculation was done on the basis of hours of interruption as maintained by the electricity board, which was to the extent of 744 hours and 25 minutes. He has submitted that the order was completely silent in connection with remission on maximum demand (KVA) charges. The order was communicated to the petitioner vide letter dated 03.08.2001. He submits that pursuant to such order, a fresh bill dated 23.08.2001 was issued for an amount of Rs.4,57,766/- only.

4. The learned counsel further submits that a writ petition was filed challenging the said order being W.P.(C) No.5494 of 2001 which was disposed of vide order dated 23.07.2015 with a specific direction to give proportionate remission towards demand charges for the financial year 1999-2000 for 744 hours and 25 minutes and the interest charged in the subsequent bill on the delayed payment charges to the extent of Rs.94,460/- in bill dated 23.08.2001 was also set aside. It was also observed that the amount which the petitioner would be entitled be adjusted from the future bills.

5. The learned counsel has submitted that upon receipt of initial bill for annual minimum guarantee charges way back on 20.07.2000, 50% of the same as per the best estimate of the petitioner was paid, as the petitioner was legally entitled for remission on energy consumption as well as maximum demand (KVA) charges .

6. The learned counsel submits that after the order passed by this Court in W.P.(C) No.5494 of 2001, the petitioner duly filed a representation before the General Manager-cum-Chief Engineer, Electric Supply Area, Ranchi, who rejected the claim of the petitioner with regard to remission in maximum demand (KVA) charges.

7. The learned counsel has submitted that the order passed by the General Manager-cum-Chief Engineer was communicated vide memo dated 18.11.2017, which is under challenge in the present case.

8. He has submitted that the impugned order is in conflict with the direction issued by this Court in W.P.(C) No.5494 of 2001; it is also contrary to the law settled before the Hon'ble Patna High Court in the case of *M/s. Suprabhat Steels Ltd. and Ors. Vs. Bihar State Electricity Board & Ors.* reported in *1994 BBCJ 369*, which in turn, was passed after considering the judgment passed by Hon'ble Supreme Court in the case of *M/s. Northern India Iron & Steel Co. Vs. State of Haryana and Anr.* reported in *(1976) 2 SCC 877*.

9. He has also submitted that in view of the aforesaid facts and circumstances, the impugned order refusing to grant remission on maximum demand (KVA) charges is not sustainable in the eyes of law, and accordingly, the same be set aside and the respondent authority be directed to grant remission in maximum demand (KVA) charges in terms of the earlier order passed by this Court in W.P.(C) No. 5494 of 2001. Upon grant of remission, fresh bills be issued, and any amount already paid by the petitioner be adjusted accordingly.

10. The learned counsel for the petitioner has also submitted that the formula for calculating remission in maximum demand (KVA) charges has already been crystallized by this Court in the judgment passed in the case of *M/s Balajee Wire Products Vs. The Bihar State Electricity Board & Ors. Reported in 1995 SCC OnLine Pat 374* decided on 22.09.1995. Para 10 of the said judgment is quoted as under:

“10. In my opinion, Mr. Shiva Kriti Singh, is quite right in his submission. The position that emerges, thus, is that the remission in the demand charges should be calculated in the following manner:

$$\frac{\text{Total KVA charged} \times \text{Total hours of non-supply}}{\text{Total hours of power to be supplied}}$$

11. The petitioner has also submitted that if the remission is granted in accordance with the law, the petitioner would pay the same and there may not any question of payment of delayed payment charges if the bill so raised is paid within the time stipulated in the bill itself. The

learned counsel submits that there can be no occasion for the respondents to raise any amount on account of delayed payment surcharges, as the entire fault lies on the part of the respondents. He has relied upon the judgment passed by this Court in the case of *Dumraon Textiles Ltd. Vs. Bihar State Electricity Board & Ors.* reported in **1994 SCC OnLine Patna 65.**

12. The learned counsel appearing on behalf of the respondents has submitted that yesterday when the case was taken up, he had to confirm as to whether any bill on account of maximum demand charges was ever raised by the then Electricity Board, and upon receipt of the records, he has come to know that the demand on account of maximum demand (KVA) charges have been raised along with the monthly bills, and the learned counsel has fairly submitted that in view of the judgments relied upon by the petitioner, the petitioner would be entitled for remission in maximum demand (KVA) charges, but calculation has to be done by the respondent no. 2.

13. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, this Court finds that the foundational facts, as stated by the learned counsel for the petitioner are not in dispute.

14. In view of the judgment passed by this Court, reported in **1994 BBCJ 369 (supra)**, and other judgments that have followed the said judgment the law is well settled that the high-tension consumers are entitled for remission on account of non-supply/short supply of electricity in both maximum demand (KVA) charges and guaranteed energy charges. The petitioner had raised claims for remission on both grounds and the remission on account of guaranteed energy charges, has already been given, to which, the petitioner has no grievance. So far as the remission on account of maximum demand (KVA) charges is concerned, the same has been rejected by the General Manager – cum – Chief Engineer by the impugned order in spite of the specific finding recorded by this Court in W.P.(C) No. 5494 of 2001 which directed the respondents to grant proportionate remission towards

demand charges for the financial year 1999-2000 for 744 hours and 25 minutes and while doing so, this Court had also deleted the interest charged in the fresh bill of annual minimum guarantee charges after adjusting the payment made and granting remission on account of unit charges by way of supplementary bill.

15. This Court finds that the impugned order refusing to grant remission on maximum demand charges is not only contrary to the direction issued in W.P.(C) No. 5494 of 2001 but also contrary to the law settled by Hon'ble Patna High Court way back in the judgment reported in **1994 BBCJ 369 (supra)**.

16. In view of the aforesaid facts and circumstances, the impugned order refusing to grant remission on account of maximum demand (KVA) charges is hereby set aside. The Respondent No. 2 is directed to implement the order passed by this Court in W.P.(C) No. 5494 of 2001 in letter and spirit. The period of non-supply / short supply has already been quantified to be as 744 hours and 25 minutes. The monthly bills whereby the demand charges have been raised is already available with the respondents. It is now only a matter of calculation. The needful be done by Respondent No. 2 at his end.

17. The revised bill be issued to the petitioner within a period of one month from the date of communication of this order.

18. It is made clear that there is no question of imposition of any delayed payment sur-charges in view of the order passed by this Court in W.P.(C) No. 5494 of 2001, read with the judgment passed by this Court reported in **1994 SCC Online Patna 65 (supra)**.

19. If excess payment has been realized from the petitioner and if any amount is refundable, the same be reflected in the revised bill and be adjusted against the future bills in terms of the orders passed by this Court in W.P.(C) No. 5494 of 2001.

20. This writ petition is disposed of.

21. Pending interlocutory application, if any, stands closed.