

GAHC010145462017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6512/2017

SANJIV TEA INDUSTRY PVT. LTD.
HAVING ITS REGD. OFFICE and PRINCIPAL PLACE OF BUSINESS AND
OFFICE AT DHULIAGAON, P.O. MORONGI-785621, DIST. GOLAGHAT,
ASSAM, REP. BY ITS MANAGING DIRECTOR, SRI SANJIV GOGOI, S/O. SRI
MUKUL GOGOI, R/O. DHULIAGAON, P.O. MORONGI, DIST. GOLAGHAT,
ASSAM.

VERSUS

THE ASSAM POWER DISTRIBUTION CO. LTD. and 2 ORS.
BIJULEE BHAWAN, PALTAN BAZAR, GHY.-781001 REP. BY ITS MANAGING
DIRECTOR.

2:THE APPELLATE AUTHORITY FOR A. P.D.C. LTD.

BIJULEE BHAWAN
PALTAN BAZAR
GHY.-781001.

3:THE AREA MANAGER/ASSESSING OFFICER

INDUSTRIAL REVENUE COLLECTION AREA
ASSAM POWER DISTRIBUTION CO. LTD.
JORHAT
DIST. JORHAT
ASSAM

Advocate for the Petitioner : MR.P BHOWMICK

Advocate for the Respondent : MR. P N GOSWAMI

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

09.05.2024

Heard Mr. P. Bhowmick, learned counsel for the petitioner. Mr. K.P. Pathak, learned counsel appears for the APDCL.

2. The petitioner's case is that in terms of Section 126(5) of the Electricity Act, 2003, the assessment to be made for unauthorized use of electricity would have to be calculated on the basis of the units of electricity consumed for a period of 12 months and the assessment would have to be made at a rate equal to twice the tariff applicable for the relevant category of services specified in Section 126(5).

3. The petitioner's counsel submits that as the petitioner's electricity bill for the last 12 months was Rs.42,26,618/-, the petitioner would have to pay an additional amount of Rs.42,26,618/-, in terms of Section 126(5) of the Electricity Act, 2003.

4. On the other hand, Mr. K.P. Pathak, learned counsel for the APDCL has taken this Court to Page 48 of the writ petition to show that the petitioner was to pay Rs.1,50,09,966/- for theft/malpractice of electricity, in terms of Clause 5.8.4.4 and Clause 6.2.1.1 of the Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004, which was amended in 2007 (hereinafter referred to as the 'Supply Code'). He submits that the Supply Code was made in exercise of the power conferred by Section 50 and Section 181 of the Electricity Act, 2003.

5. On perusing the assessment made by the respondents at Page 48 of the writ petition it is seen that the respondents have also taken into account the sanctioned load of 620 KW given to the petitioner while calculating the assessment. There is nothing stated in the Electricity Act, 2003 as to whether the sanction load is also to be taken into consideration, while making an assessment under Section 126(5) of the Electricity Act, 2003.

6. Mr. K.P. Pathak, learned counsel shall accordingly obtain instructions as to whether the sanction load of any business/household etc. is taken into reckoning, while making an electricity bill in the normal course of business. If not, he should obtain further instructions as to why the same has been taken into consideration, while assessing the payment to be made by the petitioner for malpractice.

7. List the matter on **21.05.2024**.

JUDGE

Comparing Assistant