

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 1262 of 2021

M/s. Mecon Limited Petitioner
Versus
The State of Jharkhand ... Respondent
With

W.P. (T) No. 1263 of 2021

M/s. Mecon Limited Petitioner
Versus
The State of Jharkhand ... Respondent
With

W.P. (T) No. 1264 of 2021

M/s. Mecon Limited Petitioner
Versus
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W.P. (T) No. 1265 of 2021

M/s. Mecon Limited Petitioner
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The State of Jharkhand ... Respondent

CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**
Hon'ble Mrs. Justice Anubha Rawat Choudhary

Through Video Conferencing

For the Petitioner : Mr. M.S.Mittal, Sr. Advocate
: Mr. Salona Mittal, Advocate
For the Respondent : Ms. Surbhi, A.C to Mr. Sachin Kumar, AAG-II
: Mr. P.A.S.Pati, G.A.II (W.P.(T) No. 1265/21)

04/13.04.2021 **W.P. (T) No. 1262 of 2021**

Learned senior counsel for the petitioner submits that surviving defects may be ignored.

Regarding surviving defect no. 1, it is submitted that the relevant extract of Annexure-4 has been filed in the drop box. Regarding defect nos. 3 & 4, it is submitted that inadvertently certified copy of the impugned assessment order Annexure-2 in the present writ petition has been interchanged with certified copy of the impugned assessment order Annexur-3 in W.P.(T) No. 1264 of 2021. Learned senior counsel for the petitioner submits that correct photo copy of the certified copy has been filed in respective writ petitions by way of supplementary affidavit. The present writ petition relates to the assessment year 2016-17, whereas W.P (T) No. 1264 of 2021 relates to the Assessment Year 2015-16. Accordingly, on consideration of the submission of learned Senior Counsel for the petitioner all the defects are ignored.

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Learned senior counsel for the petitioner submits that relevant extract of Annexure-4 has been filed in the drop box. The other defect no. 1 relating to

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demand notice may also be ignored. Accordingly, the surviving defects are ignored.

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Learned senior counsel for the petitioner submits that in respect of defect no. 2, certified copy of the impugned assessment order for the Assessment Year 2015-16 pertaining to the instant writ petition has inadvertently been filed in W.P.(T) No. 1262 of 2021 but pertaining to the assessment year 2016-17. However photocopy of the assessment order has already been filed through supplementary affidavit for the assessment year 2015-16 (Annexure-3) in the instant writ petition. Regarding defect no. 3, he submits that the relevant extract of Annexure-4 i.e., notification has been filed in the drop box. Therefore, defect may be ignored. Accordingly, defect is ignored.

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Learned senior counsel for the petitioner submits that defect no.6 which relates to filing of incomplete copy of Annexure-4, has been removed by filing rest of the pages through supplementary affidavit. Accordingly, it is prayed that surviving defect no.6 may be ignored. Accordingly, it is ignored.

Learned Senior Counsel for the petitioner submits that the petitioner is a consumer of electricity supplied by the licensee Jharkhand State Electricity Board (JSEB) or Jharkhand Bijli Vitran Nigam Limited. The petitioner is not an industrial or mining consumer. It is only a domestic and/or commercial consumer of electricity. Petitioner utilizes the electricity energy for its office premises as well as in the residential colony. It is submitted that by the impugned assessment order which are Annexure-3 for different assessment years 2016-17, 2017-18, 2015-16 and 2014-15 respectively in the respective writ petitions in the chronological order, the assessing authority has sought to levy electricity duty relying upon Sections 4 and 4A of the Jharkhand State Electricity Duty (Amendment) Act, 2011 which has been declared ultra-vires by the learned Division Bench of this Court in the case of M/s Anjaney Ferro Alloys Ltd. Vrs. State of Jharkhand & Ors. W.P.(T) No.2890/2011 decided on April 3 2012 (Annexure-5). It is submitted that the assessment order does not state that the petitioner is engaged in the sale of electricity. As per the assessment order petitioner, a high-tension consumer, purchases electricity for its use. It is submitted that in similar circumstances the Coordinate Bench of this Court has

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granted interim protection vide order dated 25.02.2020 in W.P.(T) No.790/2020 and order dated 5th March 2020 passed in W.P.(T) No. 938 of 2020 and analogous cases (Annexure-6 Series). Therefore, interim protection may be granted.

Learned Senior Counsel for the petitioner submits that the petitioner has not been heard before imposing penalty. He further submits that never before has the petitioner been subjected to any such assessment for payment of electricity duty under the Electricity Supply Act 1948 and Electricity Duty Act 1948.

Learned counsel for the State prays for and is allowed three weeks' time to file counter affidavit. One week's time thereafter is allowed to the petitioner to file reply thereto. In the meantime, there shall be stay on demand notices dated 18th November 2020 (Annexure-2) in W.P.(T) No. 1262 of 2021, 1263 of 2021 and 1264 of 2021, notice dated 17.11.2020 (Annexure-2) in W.P.(T) No. 1265 of 2021 and assessment order dated 17th November 2020 (Annexure-3) of the respective writ petitions.

(Aparesh Kumar Singh, J.)

(Anubha Rawat Choudhary, J.)

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