SUPREME COURT OF INDIA

U.P. Power Corp. Ltd. & Ors.

Vs.

Vimla Devi & Anr.

C.A.No. 9148 of 2015

(T.S. Thakur and Kurian Joseph,JJ.,)

30.10.2015

JUDGMENT

Kurain Joseph,J.,

1. Leave granted.

2. The short dispute in this case pertains to the steps taken by the appellant- Corporation for levying the energy charges on the first respondent for the period of the alleged meter fault. On the basis of the inspection conducted on 25th/28th November, 2009 by the Junior Engineer of the appellant- Corporation, the first respondent was served with a notice dated 23.03.2010 demanding an amount of Rs.1,97,815/- towards energy charges which escaped billing. The first respondent filed a writ petition before the High Court which was disposed of by judgment dated 18.05.2010 permitting her to file objections and directing the Executive Engineer to consider the objections and pass a speaking order. The Executive Engineer, by order dated 08.06.2010, passed the revised order limiting the demand to Rs.50,891/-. The said order was challenged before the High Court in C.W.P. No. 19347 of 2012 leading to the impugned judgment.

3. The High Court, having conducted an elaborate inquiry into the matter, found that there was no justification for the demand. It was held that the proper procedure prescribed under law was not followed in inspection and preparation of the report. Still further, it was held that even the appellate authority did not discharge its functions as expected of them. The displeasure on the conduct of the assessing officer and the appellate authority was directed to be recorded in their annual character roll (annual confidential report) for the relevant period. The writ petition was thus allowed with costs of Rs.10,000/- to be paid by the appellant-Corporation with liberty to recover the same from the officials concerned after conducting an appropriate inquiry. There was also a direction to communicate the order to the Chief Secretary for ensuring compliance of the directions by the High Court. And thus aggrieved, the Corporation and its officials have come up in appeal.

4. Heard learned Counsel appearing for the appellants and the respondents.

5. Though several contentions are raised by the Counsel on both sides, the dispute essentially is in a very narrow compass. According to the appellants, for whatever reason, there was short assessment of energy charged at the premises of the first respondent during the period between 05.11.2008, when the old meter was replaced and 31.01.2010. It is not in dispute that a new meter was installed at the premises of the first respondent on 23.01.2010. It is fairly conceded that when the meter at the premises of a consumer is reported to be non-functional, and if consequently, there is short assessment for a long period, the bills can be revised for that period but limiting to twelve months. What should be the basis of the assessment, is the simple question.

6. There is no case for the appellants that the meter installed on 23.01.2010 had any fault thereafter, in any case, for quite some time. Therefore, having regard to the entire facts and circumstances of the case, we are of the view that interest of justice will be served if the energy bills of the first respondent are revised for a period of twelve months ending with 31.01.2010, taking the average of twelve months from 01.02.2010. In other words, based on the average consumption for a period of twelve months beginning from 01.02.2010, the energy bills of the first respondent for a period of twelve months ending with 31.01.2010 shall be revised. A fresh demand on that basis shall be issued to the first respondent within two months from today. After adjusting the amounts already paid for the said period, the first respondent shall pay the balance amount within another one month failing which it will be open to the appellants to take appropriate coercive action permitted under law. It is made clear that this order has thus given a quietus to the entire dispute raised in the writ petition regarding the short assessment.

7. Having said that we have also to address the grievances raised by the appellants with regard to the adverse observations against the conduct of the officers and a direction by the High Court to record displeasure in the annual confidential report of the assessing officer and the appellate authority. Going through the materials available on record as produced by both sides, we find that there is no justification for any such direction by the High Court. Apparently, the authorities have only discharged their functions under law. It appears that there has been some procedural irregularity. But that does not mean that there is any malafide or illegal conduct on the part of the officers. It may be noted that even according to the High Court, an inquiry is to be conducted for fastening the liability. If that be so, there is no justification for the remarks against the assessing officer and the appellate authority. It is seen from the records that there is marked difference in the pattern of consumption after the new meter was installed in January, 2010. In such circumstances, it is difficult to digest any allegation of motivated conduct on the part of the two officers.

8. Accordingly, the appeal is allowed with directions as above on reassessment. The adverse remarks on the conduct of the officers are expunged and the directions contained in paragraphs-48, 49 and 51 of the impugned judgment are vacated. The order on costs is also vacated.

9. There shall be no order as to costs.