

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 85 of 2006

Dated: 26th July, 2006

Present: Hon'ble Mr. Justice Anil Dev Singh, Chairperson
Hon'ble Mr. A.A. Khan, Technical Member

Union of India & Ors.

...Appellant(s)

Versus

Andhra Pradesh Electricity Regulatory Commission & Ors.

...Respondent(s)

Counsel for the Appellant:

Mr. Neeraj Atri

Mr. R.P. Prajapati, Dy. CEE/S.C. Rly.

Counsel for the Respondent:

Ms. Gulnar Khan for

Mr. R.K. Sharma, AOR, for Resp. 4

ORDER

This appeal is directed against the Order of the Andhra Pradesh Electricity Regulatory Commission, dated April 15, 2006, whereby the prayer of the appellant for direction to the respondent Nos. 2 to 5 to exempt the petitioner from payment of security deposit, or accept post dated cheques as reasonable security in lieu of security deposit envisaged by Regulations 3 and 4 (2) of the Andhra Pradesh

Electricity Regulatory Commission (Security Deposit) Regulation, 2004, (for short ' the Regulation') was rejected by the Regulatory Commission.

In this appeal, basically, the Railways is questioning the Regulations 3 & 4(2) of the Regulation 2004. According to Regulation 4 (2) of the Regulations, the appellants, who are HT consumers, are required to maintain with the distribution licensees' an amount equivalent to consumption charges of two months as security, during the period of agreements for supply of energy to the appellants. In order to resolve the controversy, it will be necessary to set out the Regulations 3 & 4(2) of the Regulations. The said Regulation reads as follows:

"Regulation 3: Power to require security:

- (1) The distribution licensee may require from any person, who requires a supply of electricity to his premises in pursuance of section 43 of the Act, to give security as provided in clause 4 herein, for the payment of all monies, which may become due to the licensee
 - (a) in respect of the electricity supplied to such person; and / or
 - (b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter.
- (2) If such person fails to give such security under sub-clause (1), the distribution Licensee may refuse to give the supply of

electricity or to provide the line or plant or meter for the period during which the failure continues.

“Regulation 4(2) : Security deposit for the electricity supplied/to be supplied:

The HT consumers shall at all times maintain with the licensee an amount equivalent to consumption charges (i.e. demand charges and energy charges etc., as applicable) of two months as security during the period the Agreement for supply of energy to such HT consumers is in force.

In view of the aforesaid Regulations 3 & 4(2), the licensees' are within their right to demand security deposit from the appellants and the appellants are bound to deposit the same in accordance with the provisions of Regulation 4 (2) of the Regulations.

The learned counsel for the appellant assisted by the representative of the South Central Railway submitted that according to the provisions of Section 47 of the Electricity Act, 2003, reasonable security is required to be furnished by the South Central Railway to the distribution licensees' as may be determined by the Regulations. According to him, Regulation 3 read with Regulation 4 (2) does not prescribe reasonable mode of payment of security and is contrary to the provisions of Section 47 of the Electricity Act, 2003. It is submitted that the aforesaid

Regulations do not leave any option for the distribution licensees' to exempt the appellants from such payment.

In *Neyveli Lignite Corporation Ltd., vs. Tamil Nadu Electricity Board & Ors*, Appeal Nos. 114 & 115 of 2005, & *Sri Vasavi Industries Ltd vs. West Bengal Electricity Regulatory Commission & Ors*, Appeal No. 42 of 2005, decided on November 9, 2005 & December 9, 2005, respectively, we have already taken a view that we have no jurisdiction to examine the validity of the Regulations in exercise of our appellate jurisdiction under Section 111 of the Electricity Act, 2003.

In this view of the matter, we do not find any force in the appeal. Accordingly the appeal is dismissed.

(Mr. A. A. Khan)
Technical Member

(Mr. Justice Anil Dev Singh)
Chairperson

Date : 26th July, 2006