

IN THE HIGH COURT OF MADHYA PRADESH AT

INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 11th OF SEPTEMBER, 2023

WRIT PETITION No. 17919 of 2020

BETWEEN:-

M/S AQUATIC PIPES AND TUBES PVT. LTD. THR SHRI GHANSHYAM GUPTA S/O LATE SHRI RAMVILAS GUPTA, AGED ABOUT 51 YEARS, OCCUPATION: DIRECTOR OF THE COMPANY 501-502, VIKRAM TOWER, 4TH FLOOR SAPNA SANGEETA ROAD (MADHYA PRADESH)

.....PETITIONER

(BY MS. BHAKTI VYAS ON BEHALF OF SHRI LOKENDRA JOSHI, ADVOCATE)

AND

**MADHYA PRADESH MADHYA KSHETRA VIDHYUT VITRAN COMPANY
1. CENTRAL DISCOM THROUGH MANAGING DIRECTOR BIJLI NAGAR COLONY NISHTHA PARISAR GOVINDPURA (MADHYA PRADESH)**

**MADHYA PRADESH MADHYA KSHETRA VIDYUT VITRAN CO. LTD.
2. (CENTRAL DISCOM) CHIEF GENERAL MANAGER (CENTRALIZED HT EBILLING CELL) BIJLI NAGAR COLONY, NISHTHA PARISAR, GOVINDPURA, BHOPAL (MADHYA PRADESH)**

**MADHYA PRADESH MADHYA KSHETRA VIDYUT VITRAN CO. LTD.
3. (CENTRAL DISCOM) D GENERAL MANABGER (CENTRALIZED HT EBILLING CELL) BIJLI NAGAR COLONY, NISHTHA PARISAR, GOVINDPURA, BHOPAL (MADHYA PRADESH)**

**GENERAL MANAGER MP MADHYA KSHETRA VIDHYUT VITRAN
4. COMPANY (CENTRAL DISCOM) RAJGARH (BIAORA) (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI SIDDHARTHA SHARMA, ADVOCATE)

This petition coming on for hearing this day, the court passed the following:

O R D E R

01. The petitioner has filed the present petition under Article 226 of the Constitution of India being aggrieved by the action of the respondents, whereby they have declined the benefit of five years' exemption from payment of electricity duty for a new 33 KV connection.

02. The State Government issued a notification dated 04.03.2014 by publishing in M.P. Gazette to the effect that upon taking HT connection of 33 / 132 / 220 KV, consumer shall be entitled for exemption from payment of electricity duty on electricity consumption for the period of 5/ 7 /10 years respectively. In pursuant to the aforesaid notification, the petitioner applied under 'SANKALP' scheme on 02.12.2018 to get 33 KV connection on the land bearing Survey Nos.24/3/2 & 24/3/4/2, Village – Mohanpura, Jaipur – Bhopal Highway, Rajgarh.

03. On the very same day, the Deputy General Manager, (O & M) carried out the survey of the location and submitted a report. The Deputy General Manager, (O & M) vide letter dated 27.12.2018 informed the petitioner about the estimated cost of Rs.18,14,656/-. The petitioner deposited the said amount on the next day by way of RTGS. The petitioner provided an e-stamp of Rs.500/- on 19.02.2019 for the execution of the agreement. After the purchase of the e-stamp, an agreement was executed on 22.02.2019 and the work order dated 23.02.2019 was issued. The petitioner constructed the sub-station to get HT supply. The completion report dated 30.09.2019 was submitted and

on the basis of aforesaid report, the supply was started.

04. Thereafter, the first electricity bill was issued on 31.03.2019, in which the electricity duty of Rs.50,000/- was added. The petitioner submitted a representation to the respondents raising an objection about charging of the electricity duty, which came to be turned down vide Annexure-P/8 solely on the ground that the notification was valid for five years and the first supply of electricity was started on 31.03.2019 i.e. after five years from 04.03.2014, therefore, electricity duty has rightly been charged. The petitioner again submitted a representation to the Chief General Manager, who rejected the same vide order dated 10.08.2020. Hence, the present petition is before this Court.

05. Vide order dated 23.11.2020, this Court has directed that the deposit of the electricity duty and same shall be subject to the final outcome of the present writ petition.

06. Heard learned counsel for the parties at length and perused the record.

07. The entire **notification dated 04.03.2014** is reproduced below:-

“No.F-3-23-2013-XIII. - WHEREAS, the State Government is of the opinion in order to encourage new high tension consumers in connect with grid of Electricity Distribution Companies and to promote industrialization in the State, it is necessary and expedient to do so in public interest;

Now, THEREFORE, in exercise of powers conferred by clause (i) of section 5 of the Madhya Pradesh Vidyut Shulk Adhiniyam, 2012 (No. 17 of 2012), the State Government, hereby, exempts new high tension consumers as specified in column (2) of the Schedule below, from the payment of electricity duty on consumption of electricity supplied from the grid for a period as specified in column (3) of the said Schedule, subject to the following conditions, namely : -

- (1) This exemption shall be available only to the new high-tension consumers who **take new**

connection from Electricity Distribution Companies of the State within 5 years from the date of issue of the notification.

(2) The exemption shall be available for units/consumers presently connected with the Electricity Distribution Companies of the State.

SCHEDULE

Serial No. (1)	High-tension Consumer	Period of Exemption from electricity duty
1	33 KV Voltage	5 years
2	132 KV Voltage	7 years
3	220 KV Voltage	10 years

[Emphasis Supplied]

08. The aforesaid notification was issued under Section 5(i) of the Madhya Pradesh Vidyut Shulk Adhiniyam, 2012, whereby exemption was granted to promote industrialization in the State of M.P.. The validity of notification was for five years from the date of issuance i.e. 04.03.2014. Within five years, whosoever applies for a new HT connection shall be entitled for exemption from the electricity duty as mentioned in the Schedule in respective category.

09. Learned counsel for the respondents contends that the word 'take' used by the legislature is to be construed as the date when the electricity supply commenced by the Company irrespective of the fact that the consumer applied for an HT connection under the above notification.

10. The above interpretation is not acceptable for the simple reason that when the validity of the notification is five years, the consumer can apply on the last date to get a new connection. The rest of the period

which is liable to be consumed to complete the formalities is outside the limit of these five years of the notification. Otherwise, the legislature would have used the phrase “consumers who **take new connection** and Electricity Distribution Companies of the State commences supply within 5 years from the date of issue of the notification.” However, the petitioner applied on 02.12.2018 and the connection was given on 31.03.2019, therefore, respondents have wrongly given an interpretation of the word 'take' means date of supply.

11. To get a new connection, there is a procedure prescribed under the M.P. Electricity Supply Code, 2013. Regulation No. 4 of the M.P. Electricity Supply Code deals with the procedure for new power supply. As per Regulation – 4.8, requisition for a new supply or an additional supply of electricity energy shall be made in duplicate in the Form as required by the Licensee. Regulation – 4.53 deals with the supply of HT. Further procedure to complete the formalities and issuance of supply is provided under Regulation 4.57. Regulation – 4.63 provides for the time schedule under which connection is provided to the consumer for HT connection is 90 days, therefore, work 'take' cannot be given a meaning that the date from which the supply was started when the notification gives complete five years to avail the benefit, then it should be given to all those consumers who apply within five years to get new connection. The period given in these regulations as discussed above cannot be included in these five years to reduce the period of five years to make connection. The intention of the legislature is to give a complete five years to take benefit of subsidy for new connections including supply. The purpose of issuance of the notification was to encourage the

consumer to get a connection and avail relaxation in payment of electricity duty, it cannot be intended to only apply for a new connection within five years and thereafter pay duty. Therefore, the action of the respondent is wholly unjustified. The demand for electricity duty is hereby quashed. The amount of electricity duty paid by the petitioner be refunded to him within a period of 60 days from today.

12. With the aforesaid, Writ Petition stands allowed.

(VIVEK RUSIA)
J U D G E

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