

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

W.P. NO. OF 2024

Between:

M/s. Dilpreet Tubes Pvt Limited,
Rep. by its Director Anand Mehta,
Regd Office & Factory # Plot No.8,
I.D.A. Nacharam,
Hyderabad – 500075.

...Petitioner

AND

1. State of Telangana,
rep. by its Principal Secretary,
Power Department, Secretariat, Hyderabad.
2. Southern Power Distribution Company of T.G. Ltd.,
Rep by its Chairman and Managing Director,
Vidyuth Soudha, Somajiguda,
Hyderabad.
3. Superintending Engineer-Operations,
Habsiguda Circle, TSSPDCL,
Uppal, Hyderabad.
4. Asst. Divisional Engineer,
Operations, Habsiguda Circle, TSSPDCL,
Habsiguda, Uppal, Hyderabad.

...Respondents

For DILPREET TUBES PVT. LTD.
Anand Mehta
Director

AFFIDAVIT

I, Anand Mehta, S/o Suresh Mehta Aged about 42 years, Occ: Business, R/o. Flat No.1402 on 14th Floor, Block No.B, Aparna One situated at Plot No.96 in Sy.No.335, Shaikpet Village, Hyderabad Telangana State do hereby solemnly and sincerely affirm and state as follows:

1. I am the petitioner herein and as such I am well acquainted with the facts of the case.
2. I submit that I am filing the present Writ Petition questioning the action of the 2nd and 3rd Respondents herein in issuing a Demand Notice vide Lr. no.SE/OP/HBG/SAOP/AAO-NT/JAO-HT/HBG168/D.No.204/24, dated 22-06-2024 requiring the Petitioner to pay Rs.37,22,133/- (principal Rs.5,54,706/- + surcharge Rs.31,67,427/-) along with surcharge up to the date of payment at 0.05% per day within 15 days failing which the Respondents 2 and 3 have threatened to disconnect the service of the Petitioner. It is submitted that thereafter on 28-07-2024 the connection of the Petitioner was disconnected.
3. It is submitted that originally M/s. Delhi Tubes Pvt Limited was the owner of the property i.e. all that shed on Plot No.P8 in Survey No.49 and

FOR DELPREET TUBES PVT. LTD.

Anand Mehta
Director

50 with land admeasuring Ac.4-00 gts situated at IDA, Nacharam Village and Mandal, Kapra Municipality, R.R. District with a shed area admeasuring 67500 Sft. It is submitted that the said Delhi Tubes Pvt Limited had become indebted to several financial institutions i.e. APSFC, IIBC, APIDC and United Bank of India and ultimately the said financial institutions were given pari passu charge on the property. They seized the assets of the said company on 20-11-1996 and put the property for sale by advertising in newspaper in September, 2001 and conducting sale in February 2002 by way of Tender / Public auction.

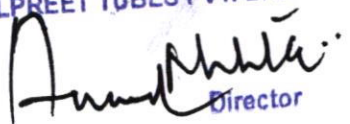
4. It is submitted that the Petitioner has bid for the property for Rs.253.10 lakhs to purchase the assets and the same is approved by the Managing Director of the Financial Institutions in meeting held on 16-03-2002 and thereafter sale letters were issued in favour of the Petitioner. It is submitted that in pursuance of the same the Petitioner paid the amount of Rs.253.10 lakhs towards sale consideration and got the sale deed document no.9910 of 2002 dated 02-11-2002 in its favour from the said Financial Institutions. It is submitted that as per Clause 2 of the said sale deed the vendors are not liable to pay any of the statutory dues whatever except property tax due till the date of the sale deed.

For DILPREET TUBES PVT. LTD.

Director

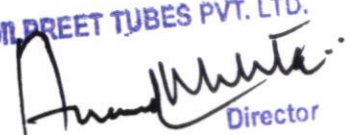
5. I submit that the power connection of the said Delhi Tubes Pvt Limited was disconnected much earlier to the sale in favour of the Petitioner in 1996 itself. It is submitted that the said connection HT service HG168 was disconnected on 30-11-1996 for non-payment of CC charges and a notice was served for payment of Rs.5,54,706/-on the said company. However, no payment was made and subsequently the property was auctioned as mentioned above. It is submitted that 5 years later the Petitioner had purchased the property and applied and obtained a new service connection bearing no. HBG1021. Ever since the Petitioner has been paying power bills regularly and without any default.

6. While so, it is submitted that the Respondent No.2 & 3 have issued a notice in letter no.Lr.No.SE/OP/HBG/SAQ/AAO-HT/JAO/SAI/D.No. 1278/20 dated 02-02-2021 to the Petitioner demanding for payment of the arrears and the Petitioner issued a reply dated 01-03-2021 denying liability. Thereafter there was no response / action from the Respondents. However, suddenly the impugned notice is issued on 26-06-2024 proposing to disconnect the power connection if the amount is not paid and ultimately the same is disconnected on 28-07-2024.

For DILPREET TUBES PVT. LTD.

Director

7. I submit that the earlier connection in favour of Delhi Tubes Pvt Limited was disconnected in the year 1996 and after the auction sale in favour of the Petitioner when the Petitioner had applied for a new connection the Respondents 2 and 3 have issued a new connection in favour of the Petitioner company without raising any objection regarding the earlier arrears to be paid by M/s. Delhi Tubes Pvt Limited and also without informing the Petitioner about the dues of the said company. It is further submitted that at that point of time the amount due is only Rs.5,54,706/- and had there been any intimation to the Petitioner at that point of time itself the Petitioner might have paid the same depending on the legal position as on that date if the said amount is actually payable by the Petitioner who is the auction purchaser.

8. It is further submitted that as on the date of disconnection or even purchase of the property by the Petitioner in auction there was no requirement of paying of arrears by the auction purchaser while obtaining a new connection. I further submit that the amounts which are due from M/s. Delhi Tubes Pvt Limited are of the year 1996 and a fresh connection in favour of the Petitioner is of the year 2002 and the notice issued by the Respondent Corporation for payment of arrears and surcharge at the first

FOR DELHI TUBES PVT. LTD.

Director

instance is on 02-02-2021 which was suitably replied by the Petitioner on 01-03-2021 and the impugned notice is of 22-06-2024. Thus, there is a delay of at least 18 Years in issuing a notice for payment of the arrears. Thus the demand for surcharge at least is illegal in view of the fact that the Petitioner never had any notice about the amounts which were due by the earlier owner.

9. I further submit that the demand being made by the Department now is hopelessly barred by time and there cannot be any collection of the alleged arrears after a gap of 22 Years. It is further submitted that the Hon'ble Apex court in the matter of Assistant Engineer (D1) , Ajmer Vidyut Vitran Nigam Ltd and another vs Rahamatullah Khan Alias Rahamjulla CIVIL APPEAL NO 1672 of 2020 held that arrears of power cannot be recovered beyond 2 years and further held there cannot be any disconnection of supply for non-payment of arrears. It is further submitted that the amounts due are of the year 1996 and the purchase by the Petitioner is in the year 2002 and fresh connection is also issued in 2002 itself without any demand for the earlier arrears and as such the demand cannot be made against the Petitioner after a gap of about 22 Years. I further submit that the impugned notice / demand is issued by the

FOR DILPREET TUBES PVT. LTD.
Anand Khate

Department only on the basis of the judgment rendered by the Hon'ble Supreme Court in TSSPDCL Vs SRIGDHA BEVERAGES and the position of law was totally different earlier. The said judgment can be applied only prospectively and the same cannot be given any retrospective effect and no demand can be made against the Petitioner for alleged dues which are more than two decades old. I further submit that even if the amounts are recoverable the Respondent has to resort to filing a civil suit for the same and cannot disconnect power supply for recovery of arrears that too after a period of 22 years.

10. It is further submitted that the Hon'ble Supreme Court in a judgment rendered in K.C. MENON Vs. KERALA ELECTRICITY BOARD AND OTEHRS 2023 (SCC online) SC 663 has clearly held that the interest accrued on the principal dues from the date of application for supply of electricity by auction purchaser has to be waived and as such also the Petitioner is not liable to pay the surcharge amount imposed by the Respondent Corporation more particularly in view of the fact that the Petitioner never had information or notice about the arrears for the year 1996 and the fresh connection was issued in favour of the Petitioner without intimation of the arrears and without any demand for payment of

For DILPREET TUBES PVT. LTD.

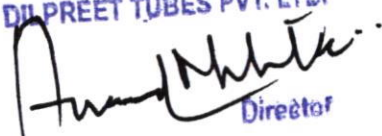
Anand Khata
Director

the arrears and as such the Petitioner is not at fault in this regard. As such the judgment TSSPDCL Vs. SRIGDHA BEVERAGES is not applicable to the facts of the case and the present case and the notice issued to the petitioner is clearly illegal and consequential action of the Respondents 2 and 3 in disconnecting service connection is also equally illegal and liable to be set aside. Thus the Petitioner is constrained to file the present Writ Petition.

11. The petitioner Company has got no other equally efficacious alternative remedy except to approach this Hon'ble Court invoking the extraordinary original jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

12. The Petitioner Company has not filed any other writ petition or proceedings for the same relief, which is being claimed in the present writ petition.

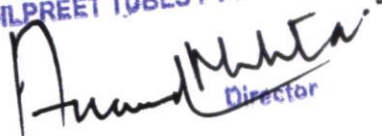
13. It is necessary that this Hon'ble Court may be pleased to direct the Respondent nos. 2 to 4 herein to restore power connection of the Petitioner bearing Consumer No. HGB1021 at Plot No.8, in Survey No.49 and 50,

For DIPREET TUBES PVT. LTD.

Director

I.D.A., Nacharam Village, Uppal, Hyderabad pending disposal of the writ petition.

14. It is therefore, prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the action of the Respondent No.3 in issuing the impugned notice vide letter Lr. no.SE/OP/HBG/SAOP/AAO-NT/JAO-HT/HBG168/ D.No.204/24, dated 22-06-2024 to the Petitioner demanding the payment of arrears of Rs.37,22,133/- along with surcharge up to the date of payment and further disconnecting the power connection of the Petitioner bearing No.HBG1021 as arbitrary, illegal and set aside the same and consequently direct the Respondents 2 to 4 to restore power connection of the Petitioner bearing Consumer No.HBG1021 and not to insist for payment of the amounts as per Demand Notice vide Lr.no.SE/OP/HBG/SAO/AAO-HT/HBG168/D.No.204/24, dated 22-06-2024 and pass such other order or orders in the interest of justice.

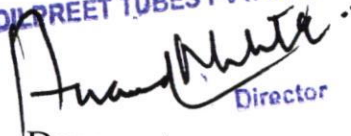
Sworn and signed before me
on this the ____ day of August 2024
at Hyderabad.

For DILPREET TUBES PVT. LTD.

Director
Deponent

Advocate :: Hyderabad

VERIFICATION

I, Anand Mehta, S/o Suresh Mehta Aged about 42 years, Occ: Business, R/o. Flat No.1402 on 14th Floor, Block No.B, Aparna One situated at Plot No.96 in Sy.No.335, Shaikpet Village, Hyderabad Telangana being the Director of the petitioner company herein do hereby declare that the contents of the above paragraphs are true and correct to the best of knowledge, information and belief and hence verified on this the ____ day of August, 2024 at Hyderabad.

For DIRECT TUBES PVT. LTD.

Director
Deponent

Counsel for petitioner



IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
APPELLATE SIDE

WP.No. _____ OF 2024

AGAINST
No. _____ OF 2024

On the file of the Court of _____

M/s. Dilpreet Tubes Pvt Limited,
Rep. by its Director Anand Mehta,

..Appellant/
Petitioner

V E R S U S

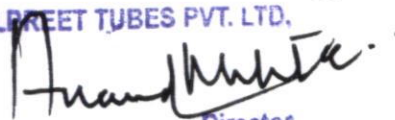
The State of Telangana Power Dept & 3 Other's
...Respondents

I/We M/s. Dilpreet Tubes Pvt Limited, Rep. by its Director Anand Mehta, S/o Suresh Mehta, Aged: 48 years, Occ: Business, R/o Flat No.1402 on 14th Floor, Block No.B, Aparna One situated at Plot No.96 in Sy.No.335, Shaikpet Village, Hyderabad . Appellant/Respondent in the above application do hereby appoint and retain

PERI PRABHAKAR (6390)
ADVOCATE

Advocate/s of the High Court to appear for ME/US in the above APPEAL/PETITION and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein including all applications for return of documents or the receipt of any money that may be payable to ME/US in the said Appeal/ Petition and also to appear in all applications under Clause XV of the Letters patent and in all applications for review and for leave to the Supreme Court of India and in all applications for review of Judgment.

For DILPREET TUBES PVT. LTD.


Director

I certify that the contents of this Vakalat were read out and explained in (.....) in my presence to the executant who appeared perfectly to understand the same and made his /her/their signatures or mark in my presence.

Executed before me thisday of2024

Advocate, Hyderabad

S.R. No.

District

**IN THE HIGH COURT FOR THE
STATE TELANGANA**

AT: HYDERABAD

APPELLATE SIDE

No. of 2024

AGAINST

No. of 2024

VAKALAT

ACCEPTED

M/S Dilpreet Tubes Pvt Limited

..Appellant/
Petitioner

And

The State of Telangana Power dept
& 3 Other's

..Respondents

**PERI PRABHAKAR (6390)
ADVOCATE**

Advocate for Appellant Petitioner

Address for Services: Ph :23210956

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