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AJMER VIDYUT VITRAN NIGAM LIMITED L 113

Regd. Off. City Power House, Hathi Bhata, Ajmer-305001

Phone: 0145-2629563, Fax: 0145-2629563.

No. AVVNL/MD/Dy. CE (Comml.)/XEN. (LC)/ALO-I/F.4/D. 832 Date: 08/08/12

The Addl. Superintendent of Police,  
The Superintending Engineer (O&M) / (M&P),  
AVVNL, .....

Sub: - Regarding justification in recovering provisional civil liability in the cases of theft of Electricity (Sec 135) and maliciously injuring the meter (Sec 138 & 135).

Since, there was no provision in the Electricity Act'03 regarding 'Assessment' in the cases of theft of Electricity, some of the courts/ Forums directed to make assessment in the cases of theft of Electricity, following the procedure laid down U/S 126 of the Act'03, which is wrong.

It is to made clear that the Central Govt., in exercise of it's power conferred by Sec 183 of the Act had made order dated 08.06.05, thereby the Electricity Supply Code as specified by State Commission under Sec 50 of the Act shall also include the method of assessment of the electricity charges payable in the case of theft of electricity pending adjudication by the appropriate court.

In pursuance of above order of Central Govt. (S.O. 790 (E) dated 08.06.05.) The RERC, vide it's Notification dated 20.06.06. made regulation namely "The RERC (Supply Code and Connected matters) (Fourth Amendment) Regulation '06 " and under sub clause (d) (e) and (f) of clause 3, the quantum, period and rate of charge of Assessment (Provisional civil liability) have been prescribed. The notification dated 20.06.06 has been adopted in Comml. 300.

Further, Sec 154(6) of the Act'03 provides that if civil liability so determined finally by the special court is less than the amount deposited by the consumer or person, the excess amount shall be refunded by the licensee, which means that licensee can determine the civil liability, provisionally.

Therefore, the Assessment (Provisional civil liability) so determined in the cases of theft of electricity is different from the Assessment in the cases of unauthorized use of electricity U/ 126 of the Act, where due procedure of provisional assessment order, opportunity of hearing and final assessment orders, is to be followed.

For distinction in Sec 126 (Unauthorized use of electricity) and cases of theft of electricity U/ 135, please refer this office letter no. 554 dated 29.06.12.

CASE:- Southern Electricity Supply Corporation V/s Sita Ram Rice Mills 2012 SCC (2)108.

Please send copy of this letter to all offices under your jurisdiction.

(R. B. Singh)

Executive Engineer (Legal)

Copy submitted to the following for information & necessary action: -

1. The Superintending Engineer (Legal) JVVNL, Jaipur.
2. The Executive Engineer (Legal) JdVVNL, Jodhpur
3. Sh. .... C/o Superintending Engineer (O&M) .....

(Anami N. Mathur)

Assistant Law Officer -