HC-KAR



**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**

**DATED THIS THE 1ST DAY OF JULY, 2026**

**BEFORE**
**THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO.101923 OF 2014 (GM-KEB)**

**BETWEEN:**

HIND AUTO CRANKS PVT. LTD.,
NO. 372, DHARWAD ROAD, BELGAUM
REP BY ITS DIRCTOR,
SHRI PARUSHRAM NINGOJI KAKATKAR
AGE: 70 YEARS, OCC: BUSINESS,
R/O. HIND AUTO CRANKS PVT. LTD.,
OLD P.B.ROAD, BELGAUM-590016.

... PETITIONER

(BY SRI D.L.LADKHAN, ADVOCATE)

**AND:**

1. HUBLI ELECTRICITY SUPPLY
COMPANY (HESCOM)
CORPORATE OFFICE, AT NAVANAGAR,
HUBLI-580028,
DISTRICT: DHARWAD,
REP. BY ITS MANAGING DIRECTOR.

2. HUBLI ELECTRICTY SUPPLY
COMPANY (HESCOM)
CORPORATE OFFICE, AT NAVANAGAR,
HUBLI-580028,
BY ITS GENERAL MANAGER
ADMN & HRD.

3. FINANCIAL ADVISOR
CORPORATE OFFICE, HESCOM,
NAVANAGAR, HUBLI-580028,
DIST: DHARWAD.

Digitally signed by MOHANKUMAR B SHELAR
Location: HIGH COURT OF KARNATAKA

4. THE CONTROL AUDIT (INTERNAL AUDIT)
CORPORATE OFFICE, HESCOM,
BY ITS CHIEF AUDITOR NAVANAGAR,
HUBLI-580028, DIST: DHARWAD.

5. THE CHIEF ENGINEER, ELECTRICITY,
BELGAUM ZONE, HESCOM, NEHRU NAGAR,
BELGAUM-590010.

6. THE SUPERINTENDENT ENGINEER ELECTRICAL,
OPERATION AND MAINTENANCE
CIRCLE HESCOM LTD., BELGAUM-590010.

7. THE EXECUTIVE ENGINEER ELECTRICAL,
OPERATION AND MAINTENANCE
URBAN DIVISION, HESCOM LTD.,
NEHRU NAGAR, BELGAUM-590010.

8. THE ASSISTANT EXECUTIVE
ENGINEER ELECTRICAL,
OPERATION AND MAINTENANCE,
DIVISION NO.1, HESCOM LTD.,
NEHRU NAGAR, BELGAUM-590010.

9. THE ACCOUNTS OFFICER,
INTERNAL AUDIT OPERATION AND
MAINTENANCE, URBAN DIVISION,
HESCOM LTD., NEHRU NAGAR,
BELGAUM-590010.

… RESPONDENTS

(BY SRI B.S. KAMATE, ADVOCATE FOR R1 TO R6 AND R9)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR RECORDS OF DEMAND NOTICE UNDER NO. BGM/EEE/AO/AAO/SAR/5506-11 DATED 27.08.2013, ISSUED BY RESPONDENT NO.7 EXECUTIVE ENGINEER (ELECTRICAL) O & M URBAN DIVISION, HESCOM, NEHRU NAGAR, BELGAUM TO RESPONDENT NO.8 ASSISTANT EXECUTIVE ENGINEER (ELE) O & M SUB DIVISION NO.1 HESCOM, BELGAUM AT ANNEXURE-J AND QUASH THE DEMAND NOTICE UNDER NO. BGM/EEE/AO/AAO/SAR/5506-11 DATED 27.08.2013, ISSUED BY RESPONDENT NO.7 ANNEXURE-J AND ETC.,

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

**ORAL ORDER**

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The captioned writ petition is filed seeking following reliefs:

> *"1. To issue any writ or any direction in the nature of writ of certiorari quashing the demand notice under No. BGM/EEE/AO/AAO/SAR/5506-11 dated 27.08.2013, issued by Respondent No.7 Annexure-J.*
>
> *2. To issue any writ or any order or any direction in the nature of writ of mandamus directing the Respondent no.5 Chief Engineer (Ele) O and M Zone HESCOM Ltd and appellate authority Belgaum to decide appeal on merit presented by petitioner on 07.11.2013 at Annexure-R."*

2. The petitioner availed the benefit of rebate in electricity bills under the scheme introduced by the respondent-Board for conversion of electricity supply from Low Tension (LT) to High Tension (HT), however subsequently was subjected to recovery proceedings on the allegation that such benefit was obtained by suppressing material facts. The specific allegation of the respondent-Board is that the petitioner secured conversion by clubbing seven separate LT installations standing in the names of different consumers within the same premises

and thereby claimed the rebate in contravention of the terms and conditions governing the scheme. The legality and sustainability of the impugned recovery proceedings, therefore, hinge upon the true scope and applicability of the scheme as well as the factual foundation on which the respondent-Board alleges suppression and misrepresentation by the petitioner.

3. Before adverting to the rival submissions and examining the controversy on merits, it would be apposite to extract the relevant portion of the circular dated 15.02.1999, produced as Annexure-C, which forms the very basis of the rebate scheme and governs the conditions subject to which the benefit of conversion from LT to HT was extended. The said circular reads thus:

> *"The Board hereby clarifies in such cases as follows:*
>
> ***A**. If the consumer converts his installation from LT to HT duly reducing the sanction loan (sav 150 HP to 100 KVA), then incentives i.e., rebate in the monthly bills shall be restricted to the actual HT bills only (Annexure-1). However, the same consumer is at liberty to enhance the loan/contract Demand to the extent equivalent to the original sanction load of LT installation within the stipulated 3 years period (i.e., 22-10-2000). However, the incentive benefit for this additional contract demand shall be limited to the balance period of the original conversion scheme.*

*For example:*

*i. Sanctioned load of LT installation : 150 HP (131 KVA)*

*ii. Converted to HT with contract demand of 100 KVA on 23.12.1998.*

*iii. Additional load upto 31 KVA serviced on 23.12.1998.*

*iv. Then, rebate in HT bills with additional load of 31 KVA shall be restricted upto 22.12.2001 (i.e., 3 years from 23-12-1998).*

***B.*** *x x x x x x*

***C.*** *If the consumer opts to club several of his LT installations in the same premises (same registered consumer-having 67 HP & above sanctioned load) to HT. the same shall be permitted and incentives be extended taking into consideration the total load of all L.T Installations. However, the conditions as at "A" and "B" above shall apply in this case also.*

*Even if any of the existing installation in the same premises (same registered consumer) with less than 67 HP, then also clubbing and converting to one HT can be permitted, but no incentive be extended to such loan below 67 HP (Annexure-III).”*

4. A careful reading of the extracted portion of the circular dated 15.02.1999 makes it abundantly clear that the incentive contemplated under the scheme is in the nature of a rebate in monthly HT bills extended to consumers who convert their electricity supply from LT to HT. Clause ‘C’ of the circular assumes significance. It expressly permits clubbing of several

LT installations only where such installations belong to the same registered consumer and are situated within the same premises. The benefit of incentive is thus not attached to the premises as such, but to the identity of the registered consumer. The scheme, therefore, unmistakably envisages that the LT installations sought to be clubbed must all stand in the name of one and the same consumer before the incentive of rebate can be claimed.

5. In the backdrop of the aforesaid scheme, the controversy in the present petition narrows down to the following point for consideration:

> *"Whether the petitioner has established that all the seven LT installations, which were clubbed for conversion into a single HT installation, were registered in his own name, thereby rendering him eligible to claim the incentive under the circular dated 15.02.1999?"*

**FINDING ON POINT FOR CONSIDERATION:**

6. During the course of hearing, this Court put a specific query to the learned counsel appearing for the petitioner as to whether the seven LT installations, which were

admittedly clubbed while seeking conversion to HT supply, all stood in the name of the petitioner and whether there were any specific pleadings or documents placed on record substantiating the same. Learned counsel sought time to obtain instructions. When the matter was taken up thereafter, learned counsel fairly submitted that, owing to unavoidable circumstances, he was unable to secure the requisite instructions from the petitioner.

7. Be that as it may, this Court has independently examined the pleadings and the material placed on record. The writ petition is conspicuously silent regarding the particulars of the seven LT installations that were clubbed for the purpose of securing the benefit under the scheme. There is neither a categorical pleading nor any documentary material indicating that all the installations stood in the petitioner's name. The impugned demand notice was issued as far back as in the year 2013. Notwithstanding the lapse of nearly thirteen years, the petitioner has failed to produce even the basic records, such as installation particulars or registration details, which alone could have established his eligibility under the scheme.

8. The burden squarely rested upon the petitioner to demonstrate that the essential conditions prescribed under Clause 'C' of the circular stood satisfied. Unless the petitioner established, by cogent material, that all the seven LT installations belonged to him as the same registered consumer, the respondent-Board was fully justified in proceeding on the premise that the petitioner had clubbed installations belonging to different registered consumers and had thereby wrongly availed the benefit of rebate. In the absence of any rebuttal supported by acceptable evidence, the factual foundation on which the impugned demand proceeds cannot be faulted.

9. Though the controversy lies within a narrow compass, issue strikes at the very eligibility of the petitioner to claim the benefit under the incentive scheme. What was required of the petitioner was only to satisfy this Court that all the seven LT installations sought to be clubbed were registered in his own name and were situated within the same premises, as mandated by the circular. This elementary requirement has remained wholly unsubstantiated. Mere assertions, bereft of

pleadings and documentary proof, cannot confer an entitlement to retain a fiscal incentive extended under a statutory scheme.

10. In that view of the matter, this Court is of the considered opinion that the respondent-Board was fully justified in withdrawing the incentive wrongly extended to the petitioner and in initiating recovery of the rebate already availed. The impugned demand notice is founded upon the petitioner's failure to satisfy the eligibility criteria prescribed under the circular dated 15.02.1999 and, therefore, does not suffer from any jurisdictional error, perversity or arbitrariness warranting interference under Article 226 of the Constitution of India. Accordingly, point framed for consideration is answered in the `***negative'***

11. At this stage, learned counsel for the petitioner submits that certain amounts have already been deposited by the petitioner, both before the appellate authority and pursuant to the interim orders passed by this Court. If any such deposits have in fact been made, the respondent-Board shall give due credit to the said amounts and proceed to recover only the balance amount, if any, in accordance with law.

Accordingly, the writ petition, being devoid of merit, stands ***dismissed***.

**Sd/-**
**(SACHIN SHANKAR MAGADUM)**
**JUDGE**

AM/-
CT:GSM.
List No.: 1 Sl No.: 28