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WP-1507-2021

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 11th OF MAY, 2026WRIT PETITION No. 1507 of 2021*SANTOSH AGRAWAL**Versus**MADHYA PRADESH MADHYA KSHETA VIDHUT VITRAN COM.
LTD. AND OTHERS*

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Appearance:

Shri Santosh Agrawal (self) - Advocate for the petitioner.

Shri Narottam Sharma, learned counsel for the respondents.

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ORDER

1. The instant petition under Article 226 of the Constitution of India has been directed against the order dated 31.12.2020 (Annexure P/1 and Annexure P/1A) passed by Manager, Nagar Kendriya Sambhag Gwalior, M.P., whereby, electricity tarrif for the office run in the residential premises of the petitioner who is an Advocate, has been declared to be a commercial activity and therefore, has held that he is liable to pay electricity terrif at the commercial rates.

2. Assailing the aforesaid orders, learned counsel for the petitioner has argued that since the office of petitioner Advocate is being run in his residential premises, he is not liable to pay electricity charges at commercial rate, as the office of Advocate cannot be said to be a commercial activity when it is run from the residential premises. By referring the judgment passed by this Court in the case of *Dheeraj Singh Vs. Hemant Kumar*



Sharma in Second Appeal No. 2617 of 2024 on 06.08.2024, learned counsel has argued that the expression "commerce" or "commercial" necessarily has a concept of a trading activity and trading activity may involve any kind of activity, be it a transport or supply of goods. He further submits that the generic term for both the aspects is buying and selling, but in legal profession, there is no such kind of buying or selling nor any trading of any kind whatsoever, therefore, to compare legal profession with that of trade and business is a far from correct approach and it will totally be misplaced. He further submits that a professional activity must be an activity carried on by an individual by his personal skill and intelligence, thus there is a fundamental distinction, therefore, between a professional activity and an activity of a commercial character.

3. He further placed reliance upon the case of **K.Kanagasabai Vs. The Superintending Engineer, Kaniyakumari Electricity Distribution Circle, in W.P.No.21731 of 2003 on 23.12.2010** and has argued that the Advocate running his office from his residence cannot be charged the additional tariff on commercial basis except, in case of office is run in an independent commercial place, only then the advocate cannot be exempted from the same. A distinction thus exists between the office in a residence and office in a commercial place. He further submitted that since the office of petitioner is being run in his own residence, it would not attract commercial tariff charge, charging of commercial rate by the respondent is bad in law.

4. On the other hand, learned counsel for the respondent/electricity Board by placing reliance on the judgment passed by Supreme Court in the



case of **Chairman, M.P. Electricity Board and Others Vs. Shiv Narayan and Another** In Civil Appeal No.1065 of 2000 dated 27.10.2005 has argued that in a reference, the Apex Court has held that as the user i.e. Advocate is admittedly 'non-domestic', he would fall in the category of non-commercial category and in such a case, they would be charged at the commercial rate. He further submits that when the law is very much clear on this aspect, no relief as prayed by the petitioner, deserves to be granted.

5. Heard.

6. From perusal of the judgment of Apex Court in the case of **Chairman, M.P. Electricity Board Vs. Shiv Narayan and Another (Supra)**, it is apparent that the tariff entries in the case before the Supreme Court were of two categories i.e. (a) domestic purposes and (b) "commercial" and/or "non-domestic purposes" and the Supreme Court after examining the matter, has held that as the use was non domestic, it would fall in the category of commercial and non-domestic use when the office of Advocate was created for non domestic use. The Apex Court while dealing with the issue before it, did not went into the aspect whether, an Advocate can be said to be carrying on commercial activity or not and only on the basis of the use of premises, it was held that it was a non domestic use, therefore, held that the Advocate was liable to pay the electricity charges on commercial rate.

7. This Court in the matter of **Dheeraj Singh Vs. Himanshu Kumar Sharma (Supra)** has decided the aforesaid aspect whether, the office of Advocate was involved in commercial activity or not and held as under :

"5. The word "commerce" is a derivative of the word "commercial". the word " commercial" originates from the word"



commerce" which has been defined in Black's Law Dictionary, 6th Edn. as under : has been defined in Black's Law Dictionary, 6th Edn, as under:

"Commerce.- The exchange of goods, productions, or property of any kind; the buying, selling, and exchanging of articles. Anderson v. Humble Oil and Refining Co. The transportation of persons and property by land, water and air. Union Pacific R. Co. v. State Tax Commr.

Intercourse by way of trade and traffic between different peoples or States and the citizens or inhabitants thereof, including not only the purchase, sale, and exchange of commodities, but also the instrumentalities and agencies by which it is promoted and the means and appliances by which it is carried on, and transportation of persons as well as of goods, both by land and sea. Brennan v. Titusvill; Railroad Co. v. Fuller; Hoke v. United States. Also interchange of ideas, sentiments, etc., as between man and man.

The term 'commerce' means trade, traffic, commerce, transportation or communication among the several States, or between the district of Columbia or any territory of the United States and any State or other territory, or between any foreign country and any State, territory, or the district of Columbia, or within the district of Columbia or any territory, or between points in the same State but through any other State or any territory or the district of Columbia or any foreign country. National Labor Relations Act, §2."

6. The word "commercial" has been defined to mean:

"Commercial.-Relates to or is connected with trade and traffic or commerce in general; is occupied with business and commerce. Anderson v. Humble Oil & Refining Co. Generic term for most all aspects of buying and selling."

The expression "commerce" or "commercial" necessarily has a concept of a trading activity. Trading activity may involve any kind of, activity, be it a transport or supply of goods. Generic term for almost all aspects is buying and selling. But in legal profession, there is no such kind of buying or selling nor any trading of any kind whatsoever. Therefore, to compare legal profession with that of trade and business is a far from correct approach and it will totally be misplaced.

14. A professional activity must be an activity carried on by an individual by his personal skill and intelligence. There is a fundamental distinction, therefore, between a professional activity and an activity of a commercial character. Considering a similar question in the background of Section 2(4) of the Bombay Shops and



Establishments Act, 1948 (79 of 1948), it was held by this Court in Devendra M. Surti (Dr.) v. State of Gujarat that a doctor's establishment is not covered by the expression "commercial establishment".

8. The Madras High Court in the case of **K. Kanagasabai Vs. The Superintending Engineer Kanniyakumari Electricity Distribution Circle and another** by judgment dated 23.12.2010 passed in WP. No.21731/2003 has held as under:-

"12. Before the Supreme Court, the judgment rendered in (New Delhi Municipal Council vs. Sohan Lal Sachdev (dead) rep. By Mrs. Hirinder Sachdev) (2002) 2 SCC 494 was relied on. The Supreme Court found that certain observations made in the decision rendered in (New Delhi Municipal Council vs. Sohan Lal Sachdev (dead) rep.

By Mrs. Hirinder Sachdev) (2002) 2 SCC 494 to the effect that in the case of a guest house, a building is used for providing accommodation to 'guests' who may be travelers, passengers or such persons who may use the premises temporarily for the purpose of their stay on payment of charges and therefore, the electricity service connection provided to a guest house has to be classified under 'commercial establishment' was found to be incorrect and therefore, the matter was referred to a larger bench for consideration.

13. The larger Bench of the Supreme Court in the decision made in Civil Appeal No.1065 of 2000, dated 27.10.2005 held that the Advocate running his office from his residence cannot be charged the additional tariff on the commercial basis. However in case office is run in an independent commercial place then the advocate cannot be exempted from the same. A distinction has been made



between the office in a residence and office in a commercial place.

14. Following the above decision of the Supreme Court, a Division Bench of the Rajasthan High Court, Jaipur Bench, had categorically held in the decision reported in (J.V.V.N. Limited and others vs. Smt. Parinitoo Jain and another) AIR 2009 Rajasthan 110 that the advocate running his office from his residence cannot be charged the additional tariff on commercial basis. However, in case of office is run in an independent commercial place, then the advocate cannot be exempted from the same. A distinction has been made between the office in a residence and office in a commercial place".

(Underline supplied)

9. Thus, it is clear that although the office of Advocate cannot be said to be a commercial activity, provided, the same is situated in residential premises but where, the office of Advocate is situated in a commercial building, then he cannot seek exemption from payment of higher electricity charges at the commercial rate. Thus, by no stretch of imagination, it can be said that Advocate is liable to pay electricity dues at commercial rates for the office run at his residence, therefore, this Court has no hesitation to hold that the respondent has committed material illegality while charging electricity charges at the commercial rate.

10. Accordingly, while setting aside Annexure P/1 and P/1A, the respondents are directed to raise bills of electricity dues at the residential rates if not yet raised and it is held that the petitioner is only liable to pay electricity dues of the office situated at his residence at residential rates and not at commercial rates.



11. With the aforesaid, this petition stands disposed of.

(MILIND RAMESH PHADKE)
JUDGE

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