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MADHYA PRADESH URJA ADHINIYAM 2001

MADHYA PRADESH ACT

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MADHYA PRADESH ACT No. 12 of 2001

THE MADHYA PRADESH URJA ADHINIYAM 2001

[Received the assent of the Governor on the April, 2001, assent first published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 17 th April, 2001. An Act to provide for prohibition of unauthorized use of electrical energy and assessment of Cases of unauthorized use of electrical energy in the State of Madhya Pradesh and for matter connected therewith or incidental thereto. Be it enacted by the Madhya Pradesh Legislature in the Fifty-Second year of the Republic of India as follows:-

Short title, Extent and Commencement

1. (1) This Act may be called the Madhya Pradesh Urja Adhinyam, 2001.
- (2) It extends to the whole of Madhya Pradesh.

Definitions

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. In this Act unless the context otherwise requires -

(a) "assessing Officer" means any officer or category of officers authorized by the State Government from time to time for the purposes of this Act;

(b) "electricity Utility" means any person authorized to engage in generation, transmission, distribution, supply or sale, as the case may be, of energy;

(c) "energy" means any electrical energy –

(i) generated, transmitted or supplied for any purpose, or (ii) used for any purpose except the transmission of a message;

(d) "unauthorized use of energy" means any abstraction, consumption or use of energy not permitted under any law relating to electricity for the time being in force and includes any abstraction, consumption or use of energy not permitted by any Electricity Utility in any manner whatsoever; (e) words and expressions used but not defined in this Act and defined in the Indian Electricity Act, 1910 (Act 9 of 1910) and in the Electricity (Supply) Act, 1948 (Act 54 of 1948) shall have the meanings respectively assigned to them in those Acts.

Prohibition of unauthorized use of energy

3.(1) No person shall indulge in unauthorized use of energy and any person indulging in unauthorized use of energy shall be liable to pay the amount assessed under the provisions of this Act in addition to any other action under any law relating to electricity for the time being in force.

(2) The Electricity Utility may disconnect supply of electricity to any person indulging in unauthorized use of energy.

Entry Search and Seizure

4. (1) Any officer of -

i.the Revenue Department, not below the rank of Naib-Tahsildar.

ii.the Police Department, not below the rank of Assistant Sub- Inspector.

iii.the Energy Department, not below the rank of an Electrical Inspector.

iv the Electricity Utility, not below the rank of a Junior Engineer. as may be notified in this behalf by the State Government may –

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electrical energy has been, is being or is likely to be used unauthorisedly, and

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, is being or is likely to be used for unauthorized use of electrical energy.

(2) The occupant of the place of search or any person on his behalf shall remain present during the search and a copy of the panchnama prepared pursuant to the search shall be delivered to such occupant or person who shall be under an obligation to sign the panchnama:

Provided that no inspection search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such places or premises and an officer not below the rank of an Assistant Engineer of the Electricity Utility or Tahsildar of the area.

Assessment

5. (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of energy, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed. The person so served shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment of the electricity charges payable by such person.

(3) Any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the Electricity Utility within 7 days of service of such provisional assessment order upon him. In case the person deposits the assessed amount he shall not be subjected to any further liability or any action by any authority whatsoever.

(4) If the assessing officer reaches to the conclusion that unauthorized use of energy has taken place, it shall be presumed that such unauthorized use of energy was continuing for a period of three months immediately preceding the date of inspection in case of domestic and agricultural services and for a period of six months immediately preceding the date of inspection for all other categories of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.

(5) The assessment under this Section shall be made at a rate equal to one-and-half times of the tariff rates applicable for the relevant category of services.

Appeal

6. (1) Any person aggrieved by a final order made under Section 5 may, within 30 days of the said order, prefer an appeal to an officer superior to the assessing office appointed as appellate authority in this behalf by the State Government from time to time.

(2) No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to one third of the assessed amount is deposited in cash or by way of bank draft with the Electricity Utility and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The appellate authority shall dispose of the appeal after hearing the parties and pass appropriate order.

Interest

7. When a person is in default in making payment of assessed amount he, in addition to the assessed amount shall be liable to pay, on the expiry of 30 days from the date of order of assessment an amount of interest at the rate of sixteen percent per annum compounding every six months.

Mode of Recovery

8. (1) Where a person is in default in making payment of the assessed amount along with any other charges, the assessing officer may draw up under his signature, a statement in the form prescribed, specifying the amount due from such defaulter (such statement

hereinafter referred to as Certificate) and shall proceed to recover from such defaulter the amount specified in that Certificate by one or more of the modes mentioned below :

(a) attachment and, or sale of defaulter's movable property.

(b) attachment and, or sale of defaulter's immovable property.

(c) take over the management of defaulter's movable and, or immovable properties and appoint an officer for the management of such property.

(2) (i) The assessing officer by a notice in writing requiring any person from whom amount is due or may become due to the defaulter or any person who holds or may subsequently hold amount for or on account of the defaulter, to pay to the assessing officer either forthwith upon the amount becoming due or being held at or within the time specified in the notice (not being before the amount becomes due or held) so much of the amount as is sufficient.

(ii) A notice under clause (i) may be issued to any person who holds or may subsequently hold any amount for or on account of the defaulter jointly with any other person and for the purposes of this sub-section the shares of the joint holders in such account, shall be presumed, until the contrary is proved to be equal.

(iii) A copy of the notice shall be forwarded to the defaulter at his last address known to the assessing officer and in case of a joint account to all the joint holders at their last addresses known to the assessing officer.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice and in particular where any such notice is issued to a post office, banking company or an insurer it shall not be necessary for any pass book, deposit receipt, policy or any other documents to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(v) Any claim with respect to any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent, objects to it by a statement on oath that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any amount for or on account of the defaulter, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be liable to the assessing officer or the Electricity Utility to the extent of his liability to the defaulter on the date of the notice, or to the extent of the defaulter's liability for any sum due under this Act, whichever is less.

(vii) The Assessing officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the defaulter to the extent of the amount so paid.

(viii) Any person discharging any liability to the defaulter after receipt of a notice under this sub-section shall be personally liable to the assessing officer to the extent of his own liability to the defaulter so discharged or to the extent of the defaulter's liability for any sum due under this Act, whichever is less.

(3). Where the defaulter has property within the jurisdiction of more than one assessing officer and the assessing officer by whom the certificate is drawn up -

(i) is not able to recover the entire amount by sale of movable and, or immovable property within his jurisdiction, or

(ii) is of the opinion that, for the purpose of expediting or securing recovery of the whole or any part of the amount, it is necessary so to do; he may send a recovery certificate in the prescribed form where the whole or a part of the amount is to be recovered, a copy of recovery certificate specifying the amount to be recovered, to such assessing officer within whose jurisdiction the defaulter resides or has property and there-upon such assessing officer shall proceed to recover the amount in default.

(4) It shall not be open to the defaulter to dispute the correctness of recovery certificate drawn up by the assessing officer on any grounds whatsoever except on the ground of any clerical or arithmetical mistake therein but it shall be lawful for the assessing officer to modify or correct the recovery certificate if for any reason, he thinks it necessary, so to do

Protection for acts done in good faith

9. No suit, prosecution or other proceedings shall lie against any officer or employee of Electricity Utility or any other officer, for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made there under.

Power to make rules

10. (1) The State Government may, by notification make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall be laid on the table of the Legislative Assembly.

Statement of objects and Reasons

The electrical energy is essential component of basic human need as well as for running of business and industry. Electrical energy is being abstracted, consumed or used unauthorizedly at a large scale resulting in heavy loss to the Electricity Utility. Accordingly, it is felt that this large scale unauthorized use, if not checked, would lead to the collapse of this basic service.

2. The State Government has, therefore, proposed to enact a suitable legislative measure to put an effective curb on the tendency of unauthorized use of electrical energy in the State.

3. Hence this Bill.