

**THE MADHYA PRADESH GOVERNMENT ELECTRICAL
UNDERTAKINGS (DUES RECOVERY) ACT, 1961¹**

[No. 36 of 1961]

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1. For Statements of Objects and Reasons, see Madhya Pradesh Bill No. 28 of 1961. Published in MP Rajpatra (Asadharan), dated 9th September, 1961, page 1673.

[Received the assent of the President on the 31st October, 1961; assent first published in the "Madhya Pradesh Gazette", dated 17th November, 1961].

An Act to extend the period of limitation and to provide for the expeditious recovery of certain sums due to the State Government or to the Madhya Pradesh Electricity Board

Be it enacted by the Madhya Pradesh Legislature in the Twelfth Year of the Republic of India as follows :-

1. Short title, extent and commencement.— (1) This Act may be called the Madhya Pradesh Government Electrical Undertakings (Dues Recovery) Act, 1961.

(2) It extends to the whole of the State of Madhya Pradesh.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires—

(a) "Board" means the Madhya Pradesh Electricity Board, constituted under section 5 of the Electricity (Supply) Act, 1948 Central Act No. 54 of 1948;

(b) "dues" means any sum payable to Government electrical undertaking on account of—

[(i) Consumption of electrical energy supplied, minimum charges, minimum guarantee, special minimum guarantee and surcharge under an agreement or otherwise]; or

(ii) any remuneration, rent or other charges for hire, inspection, test, installation, connection, repair, maintenance or removal of any electric meter, electric machinery, control gear, fittings, wires, or apparatus for lighting, heating, cooling, or motive power or for any other purpose for which electricity can or may be used, or any industrial or agricultural machinery operated by electricity; or

(iii) price of any such goods as aforesaid taken on loan but not returned;

(c) "debtor" means a person by whom any dues are payable;

(d) "Government electrical undertaking" means an electrical undertaking run or controlled either by the State Government or by the Board; and

(e) "prescribed authority" means any person authorised, whether by virtue of office or otherwise, by the State Government, by notification, to perform the functions of the prescribed authority under this Act in and for such area, as may be specified in the notification.

COMMENTS

Meaning words "dues" and Government Electrical undertaking— The question is whether the Board can be held to be Government electrical undertaking as defined by section 2(d) of the Act. The argument advanced on behalf of the appellant is two fold, in the first place it is contended that the Board is not an undertaking and secondly it is urged that it is

1. Substituted by M.P. Act No. 31 of 1976. This shall be deemed to have form part of the Principal Act.

not controlled by the State Government. Both the contentions are rejected. When the Board chosen to supply electrical energy to the consumers, it is acting as an undertaking. The Board which is a statutory body created by the State Government under section 5 of the Indian Electricity (Supply) Act, 1948 is controlled by the State Government. If the dues are payable to the Board by the petitioner are hold to be dues payable to a Government electrical undertaking then under the provisions of the Act for recovery of the due would be attracted. *Everlasting Rubber Works Co. Ltd. Vs. M.P. Electricity Board*. 1980 (II) MPWN 266 at page 360.

3. Bills to state date by which payments are to be made and consequences of non-payment.— (1) Every bill for dues payable to a Government electrical undertaking by a debtor shall be in the prescribed form and shall specify conspicuously the date by which such dues are to be paid.

2) If the dues are not paid by such date, the debtor shall be liable to pay in addition thereto such penalty, as may be prescribed and such dues and penalty shall be recoverable along with the costs incurred in making such recovery, in the manner hereinafter laid down in this Act.

4. Notice of demand for dues and penalty not paid.— Where the dues are not paid by a debtor by the date specified in the bill therefor, the prescribed authority may at any time serve or cause to be served upon him a notice of demand in the prescribed form, stating the name of the debtor, the amount payable by him on account of the various dues, penalty and costs of recovery and the undertaking to which it is payable.

Explanation.— The sending of the notice by registered post shall be deemed to be sufficient service on the person concerned.

5. Suit to challenge liability to payment.— (1) Where a notice of demand has been served on the debtor or his authorised agent under section 4, he may, if he denies his liability to pay the dues, penalty or costs or any part of any of them, institute a suit after depositing with the prescribed authority the aggregate amount specified in the notice of demand under protest in writing that he is not liable to pay the same within three months of the date of the service of the notice of demand.

(2) A suit referred to in sub-section (1) may be instituted in a civil court of competent jurisdiction at any time within six months from the date of deposit with the prescribed authority and subject to the result of such suit, the notice of demand shall be conclusive proof of the various dues, penalty and costs mentioned therein.

6. Recovery of dues, etc., if not paid.— (1) If the aggregate amount of the various dues, penalty and costs mentioned in the notice of demand served under section 4 is not deposited with the prescribed authority within three months of the date of such service or such extended period as the prescribed authority may from time to time allow, the debtor shall be deemed to be in default in respect of such amount and the same shall be recoverable as an arrear of land revenue anything contained in any other law or instrument, or agreement to the contrary notwithstanding.

(2) For the purpose of such recovery, the prescribed authority may forward to the Collector a certificate under his signature in the prescribed form stating the amount and details of the demand and the name and description of the debtor in default and the Collector shall in receipt of such certificate, proceed to recover from the debtor the amount of the

demand as if it were an arrear of land revenue.

7. Power to make rules.- (1) The State Government may, by notification, make rules generally for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the form of the bill for various dues payable by a debtor to a Government electrical undertaking;
- (b) the amount or scale of penalty payable on non-payment of such dues by due date;
- (c) the form and costs of notice of demand, the mode of the service thereof and the costs of recovery;
- (d) the form of the certificate under sub-section (2) of section 6; and
- (e) any other matter which has to be or may be prescribed.

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

8. Recovery of arrears of dues.- All arrears of dues payable to a Government electrical undertaking and outstanding against a debtor at the commencement of this Act shall also be recoverable in the manner provided for in this Act and the rules made thereunder :

Provided that in the case of such arrears-

- (i) it shall not be necessary to issue a bill as contemplated by section 3; and
- (ii) any penalty chargeable for the non-payment of such arrears on the date by which such dues were to be paid, in accordance with rules or practice as hitherto prevailing, shall be deemed to be penalty duly prescribed under sub-section (2) of section 3 :

Provided further that the notice of demand for such arrears of dues and such penalty as contemplated by section 4, or as the case may be, a certificate as required by sub-section (2) of section 6 may be issued after the commencement of this Act.

9. Extension of period of limitation.- Notwithstanding anything in the Indian Limitation Act, 1908 (Central Act No. 9 of 1908), or any other law for the time being in force, the period of limitation in respect of any suit filed or that may be filed by or on behalf of the Board-

- (a) by virtue of sub-section (1) of section 60 of the Electricity (Supply) Act, 1948 (Central Act No. 54 of 1948) for the recovery of any dues which have accrued before the date of the first constitution of the Board shall be, and shall always be deemed to have been six years from the date of the first constitution of the Board;
- (b) for the recovery of any dues accruing after the date of the first constitution of the Board, shall be and shall always be deemed to have been three years from the time from which the period of limitation began or would begin to run under the said Act against a like suit by a private person or five years from the date of the first constitution of the Board, whichever period expires later.