

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13022 of 2003

The Bombay Burmah Trading Corporation Ltd.,
Mudis, Valparai,
Coimbatore District,
rep. by its Head-Legal & Personnel,
Divakaran Moorkath

... Petitioner

Vs.

1.Tamil Nadu Electricity Board,
rep. by its Chairman,
800, Anna Salai,
Chennai-2.

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

.... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the levy of electricity consumption charges under H.T.Tariff-III for the petitioner's service connection HTSC.No.85, Tirunelveli Electricity Distribution Circle, from 15.2.1997 is illegal and consequently direct the respondents to apply the Tariff under H.T. Tariff-I to the petitioner with effect from 15.2.1997 and refund the excess amounts collected by the first respondent from the petitioner from 15.2.1997 with interest or adjust the same towards future bills.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.K.Raameshuwar
for R1 & R2

O R D E R

Heard Mr.S.Doraisamy, learned counsel for the petitioner and Mr.S.K.Rameshwar, learned counsel for respondent Nos.1 and

2.The prayer in the writ petition is as follows:-

"For the reasons stated in the accompanying affidavit it is therefore prayed that this Hon'ble Court may be pleased to issue a Writ of Declaration or any other appropriate writ, order or direction declaring that the levy of electricity consumption charges under H.T.Tariff-III for the petitioner's service connection HTSC.No.85, Tirunelveli Electricity Distribution Circle, from 15.2.1997 is illegal and consequently direct the respondents to apply the Tariff under H.T. Tariff-I to the petitioner with effect from 15.2.1997 and refund the excess amounts collected by the first respondent from the petitioner from 15.2.1997 with interest or adjust the same towards future bills and render justice."

3. In respect of another H.T. Service Connection bearing No.33, the petitioner has approached this Court and filed the writ petition in W.P.No.11809 of 2003 for an identical relief and this Court, by order dated 22.01.2011, disposed of the said writ petition. The operative portion reads as follows:-

"9. In the result, the writ petition is disposed of permitting the petitioner to make a fresh representation to the 2nd respondent marking a copy to the 1st respondent, on such representation, the 2nd respondent shall consider the matter afresh in the light of G.O.Ms.No.17 dated 14.2.1997 by affording sufficient opportunity to the petitioner and also to consider whether the H.T.s.C.No.33 has been bonafidely used for the domestic consumption and to dispose of the representation in accordance with law. It is made clear that this court has not expressed any opinion on the merits. The writ petitioner shall make a fresh representation to the respondents by enclosing a copy of this order within a period of four weeks from the date of receipt of copy of this order. On receipt of such representation, the respondents shall afford sufficient opportunity to the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of copy of the representation. Till decision is taken on such representation, the respondents shall not proceed to recover the amount of Rs.4,12,279/- claimed in the impugned letter. However, there is no order as to costs."

4.The learned counsel appearing for the petitioner has submitted that similar direction may be granted in the instant case also and the petitioner is ready and willing to submit a fresh representation. The learned counsel appearing for the respondents does not oppose the prayer made by the learned counsel for the petitioner.

5. In the light of the above, the writ petition is disposed of permitting the petitioner to make a fresh representation to the second respondent marking a copy to the first respondent, on such representation, the second respondent shall consider the matter afresh in the light of G.O.Ms.No.17 dated 14.2.1997 by affording sufficient opportunity to the petitioner and also to consider whether the H.T.S.C.No.85 has been bonafidely used for the domestic consumption and to dispose of the representation in accordance with law. It is made clear that this Court has not expressed any opinion on the merits. The petitioner shall make a fresh representation to the respondents by enclosing a copy of this order within a period of four weeks from the date of receipt of the copy of the order. On receipt of such representation, the respondents shall afford sufficient opportunity to the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of the representation. No costs.

BBR

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-2.
 - 2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.
- + 1 CC TO Mr.S.Doraisamy, ADVOCATE SR 65677.
- + 1 CC TO Mr.S.K.Raameshuwar, STANDING COUNSEL FOR TNEB
SR 66101.

GJ/CO
KR/28/12

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