



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.05.2015
CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WEB COPY

W.P. (MD) No. 7919 of 2015
and
M.P. (MD) No. 1 of 2015

M/s. Sri Shanmuga Polymers (P) Ltd.,
A A 1/2, SIPCOT Industrial Complex,
Trichy Road,
Pudukottai - 622 002.
Rep. by its Authorized Signatory. : Petitioner

Vs.

The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Pudukkottai, E.D.C.,
TNEB/3074, East Main Street,
Pudukottai - 622 001. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari calling for the records relating to the impugned demand made by the respondent in his proceedings Lt. No. SE/PEDC/AO/R/HT/D 897/2015 dated 15.04.2015 and quash the same as illegal and pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner : Mr. M.E. Ilango

For Respondent : Mr. Johnny Basha
Standing Counsel for TNEB

ORDER

Heard Mr. M.E. Ilango, learned counsel appearing for the petitioner and Mr. Johnny Basha, learned Standing Counsel appearing for the respondent Board, accepting notice on behalf of the respondent and with the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2. The petitioner has challenged the demand dated 15.04.2015 issued by the respondent. The primary ground on which the impugned demand has been challenged by contending that the respondent failed to take into consideration that the petitioner was a lessee of SIPCOT for a period of 99 years and the petitioner company has put up its construction of the factory and the petitioner is the owner. Further, it is submitted that the issue involved in this Writ Petition is no longer *res integra*, in the light of the decision of this Court in a batch of cases in W.P. Nos. 15238 to 15241 of 2012, etc., batch, dated 23.07.2012 [In A.R.S. Metals Pvt.

Ltd., Vs. The Chairman, Tamil Nadu Electricity Board, Chennai - 600 002 and another].

3. The learned counsel appearing for the respondent Board submitted that the entire demand has been questioned and it is not clear as to whether the petitioner is entitled to waiver of the entire demand on the ground that he is entitled to refund of the security deposit.

4. In my view, this issue need not be gone into at this stage and it is for the respondent Board to consider as to whether the petitioner is entitled for refund or not. However, with regard to the legal issue, which has been raised before this Court, as to whether the petitioner is the owner of the premises, on the strength of a lease deed executed by the SIPCOT, the issue is squarely covered by the earlier decision of this Court dated 23.07.2012. In the said batch of cases, identical issue was considered and the Writ Petitions were disposed of by a common order dated 23.07.2012 and the operative portion of the order reads as follows:

"46. In view of the above, the respondent electricity Board is not entitled to demand additional current consumption deposit in terms of amended Regulation 5(5)(vii)(a) from the HT industries who are owners of the premises, namely, building or structure put up on the plots developed by SIPCOT and leased out to the petitioners on a 99 years lease with a further clause for renewal for a further period of 99 years. The amended regulation does not apply to the petitioners. However, as already pointed out wherever the building or structure is leased or parted to a different person by the owner the amended Regulation as above will be attracted automatically. The respondent electricity Board is entitled to proceed as per law against the occupier or lessee. Insofar as HT industries, the petitioners herein, who are actual owners of the premises, namely, building or structure are concerned and covered by lease agreement for a period of 99 years executed by the SIPCOT, the impugned demands in terms of amended Regulation 5(5)(vii)(a) of the Tamil Nadu Electricity Supply Code, 2004 will not be applicable. The petitioners, however, are liable to pay additional current consumption deposit as per the earlier provision, namely, Regulation 5(5)(ii)(a) of the Tamil Nadu Electricity Supply Code, 2004.

47. Petitioners in all these cases are directed to pay the additional Current Consumption Deposit as per Regulation 5(5)(ii)(a) of the Tamil Nadu Electricity Supply Code, 2004 forthwith. The respondent Board is directed to adjust the excess deposit, if any, towards monthly current consumption charges, which as rightly pointed out by the learned counsel for the respondent Board, is stated in para 11 of the counter. The respondent Board is entitled to adjust the excess amount in deposit under Regulation 5(5)(v) of the Tamil Nadu Electricity Supply Code."

5. This Writ Petition stands disposed of in the light of the order passed by this Court referred to supra. In respect of all other



matters, such as refund, etc., it is open to the respondent Board to pass appropriate orders on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

VACATION OFFICER,

\\True copy\\

WEB COPY

Sub Assistant Registrar

To,

The Superintending Engineer, Tamil Nadu Generation and Distribution Corporation Limited, Pudukkottai, E.D.C., TNEB/3074, East Main Street, Pudukottai - 622 001.

+1CC TO MR.M.E.ILANGO, ADVOCATE SR.NO.25229

Order made in
W.P. (MD) No.7919 of 2015
and M.P. (MD) No.1 of 2015
Dated:- 13.05.2015

SES/SML

NA/KBM/14/05/2015/P3/3C