

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:28.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11284 of 2016 &

W.M.P.No.9782 of 2016

M/s Pothigai Mineral Water Products

rep. by its Managing Partner

Cuddalore District.

.. Petitioner

Versus

1.The Assistant Executive Engineer (O & M)

Tamilnadu Generation and Distribution

Corporation Limited (TANGEDCO)

Thittakudi 606 106

Cuddalore District.

2.The Assistant Engineer

J741, Sub-Sation

Tamilnadu Generation and Distribution

Corporation Limited (TANGEDCO)

Thittakudi 606 106

Cuddalore District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to forbear the respondents and their subordinates from in any manner disconnecting or disturbing the electricity connection of the petitioner company in SC. No.081-013 426 of Keezhacheruvai Distribution Section of 2nd respondent and consequently direct the 2nd Respondent to consider the explanation of the petitioner dated 15.06.2015 to waive the audit shortfall amount.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.M.Varunkumar
Standing Counsel

O R D E R

Heard Mr.M.R.Jothimanian, learned counsel appearing for the petitioner and Mr.M.Varunkumar, learned Standing Counsel accepting notice for the respondent Corporation and with the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The petitioner is a manufacturing Unit engaged in the manufacture of Mineral Water Product. They were served with a demand notice for payment of Rs.1,46,338/-, stating that the same is due and payable based on audit report for the period from May 2008 till November 2009.

3.The definite case of the petitioner is that they were not carrying on business during the relevant period and they had produced the Sales Tax Assessment under the provisions of the Tamil Nadu Value Added Tax, 2006, which shows that there was no production. On receipt of the said document, once again a notice was issued to the petitioner stating that they had produced Assessment order only in respect of the assessment years 2007-2008 and 2008-2009 and they have not produced the Assessment Order during year 2009-2010 and 2010-2011. Therefore, the petitioner immediately sent those Assessment Orders along with their representation dated 21.07.2015. Admittedly, that representation has not been considered and no orders have been passed by the second respondent.

4.That apart, the petitioner has raised two other contentions viz. that even assuming that the respondents are entitled for demanding the audit shortfall, the same was barred by limitation. The other contention is that the respondents are estopped from demanding any amount for the said period since during the relevant time, the respondents were aware of the fact that as the Unit was not operating, minimum charges were only collected. In this regard, the learned counsel has drawn the attention of this Court to the 'Consumer Ledger' for the period from May 2008 to May 2015.

5.In the light of the above, the second respondent is directed to take note of the petitioner's representation/reply dated 21.07.2015, consider all the objections raised by the petitioner, afford an opportunity of personal hearing to the petitioner's authorised representative and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Till orders are passed, the amount mentioned in the demand notice shall not be demanded from the petitioner nor the second respondent is entitled to disconnect the electricity supply on the said ground. Needless to state that so far as the current consumption charges are concerned, the petitioner shall continue to remit the same.

The Writ Petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Executive Engineer (O & M)
Tamilnadu Generation and Distribution
Corporation Limited (TANGEDCO)
Thittakudi 606 106
Cuddalore District.

2.The Assistant Engineer
J741, Sub-Sation
Tamilnadu Generation and Distribution
Corporation Limited (TANGEDCO)
Thittakudi 606 106
Cuddalore District.

+1cc to Mr.M.R.Jhothimanian, Advocate, S.R.No.18965
+1cc to Mr.M.Varunkumar, Advocate, S.R.No.19751

W.P.No.11284 of 2016

vgi (CO)
srg (07/04/2016)

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