

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NOS.15108 AND 15109 OF 2016

AND

WMP NOS.13160 AND 13161 OF 2016

C.Jeganathan ... Petitioner in both WPs'

Versus

1. The Chairman
TANGEDCO,
Anna Salai,
Chennai - 600 002.
2. The Secretary
Tamilnadu Electricity Regulatory Commission
Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer
O & M, TANGEDCO,
Erode Electricity Distribution Circle
Erode District.
4. The Executive Engineer
O & M, TANGEDCO,
Erode Electricity Distribution Circle
Erode District.
5. The Assistant Executive Engineer
O & M (West) TANGEDCO
Erode Electricity Distribution Circle
Erode District.
6. The Assistant Electricity Engineer
O & M, TANGEDCO
Nasiyanoor,
Erode Electricity Distribution Circle,
Erode District.

... Respondents in both WPs'

PRAYER: Writ petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records in respect of the impugned order passed by the sixth respondent vide his office proceedings No.Ka.No.U.Po./E&Pe/Nasiyanur/Ko.Ve.Ma/No. 076/15-16 dated 10.02.2016 changing the Tariff from LA3A2 to Tariff LN3B to the service connection bearing No.007 001 1207 and 007 001 1391 respectively, given to the petitioner's factory in R.S.No.283/10 of Sembampalayam, Villarasampatti Village, Nasiyanur, Erode District is concerned and quashes the same and consequently direct the sixth respondent to adjust the excess amount collected from the petitioner to his credit.

For Petitioner : Mr.A.R.L.Sundaresan
Senior Counsel
for Mr.I.C. Vasudevan

For Respondents : Mr.S.K.Raameshuwar
Standing Counsel
for TNEB / TANGEDCO

COMMON ORDER

Heard Mr.A.R.L.Sundaresan, learned Senior Counsel for Mr.I.C.Vasudevan, learned counsel for the petitioners and Mr.S.K.Raameshuwar, learned Standing Counsel counsel for the respondents.

2.With the consent of learned counsel appearing on either side, these writ petitions are taken up for final disposal, at the admission stage itself.

3.The petitioners are running Power Looms in Villarasampatti Village, Nasiyanur, Erode District. Each of the petitioners have been granted electricity service connection and they have been charged under Tariff LA3A2. According to the petitioners, they have been paying the consumption charges without any default. While so, by the impugned communication, the Tariff has been unilaterally changed to LN3B. This, according to them, is without affording an opportunity of personal hearing to them and without putting them on notice.

4.On a perusal of the impugned proceedings, it is seen that the authority has proceeded, without affording a reasonable opportunity to the petitioners, to contest the change of Tariff. Though the impugned order states that if the petitioners are aggrieved, they can file an appeal, such remedy will be illusory, since the impugned orders have been passed, without

notice to the petitioner and without assigning reasons. Unless and until the petitioners were afforded an opportunity to put forth their objections, and after considering the objections, if the sixth respondent had passed the orders, then there cannot be a justification for this Court to direct the petitioners to approach the appellate authority. Since the impugned orders passed by the original authority is vitiated on account of violation of principles of natural justice, this Court is inclined to direct the authority to issue notice to the petitioners and thereafter, proceed in accordance with law.

5. In the light of the above, the impugned orders are set aside and the matter is remanded to the sixth respondent, who shall issue show cause notices to the petitioners, clearly stating as to why they propose to change the Tariff from LA3A2 to LN3B and the petitioners may be afforded 10 days time to submit their reply and thereafter, the sixth respondent shall consider the reply and pass reasonable orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of such reply. Till the orders are passed by the sixth respondent, the petitioners shall be charged in terms of Tariff LA3A2. However, it is needless to state that the petitioners are entitled to raise all objections, in their reply to the show cause notice, which has been directed to be issued by this order.

6. Both the writ petitions are allowed with the above observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Chairman
TANGEDCO,
Anna Salai,
Chennai - 600 002.
2. The Secretary
Tamilnadu Electricity Regulatory Commission
Anna Salai,
Chennai - 600 002.

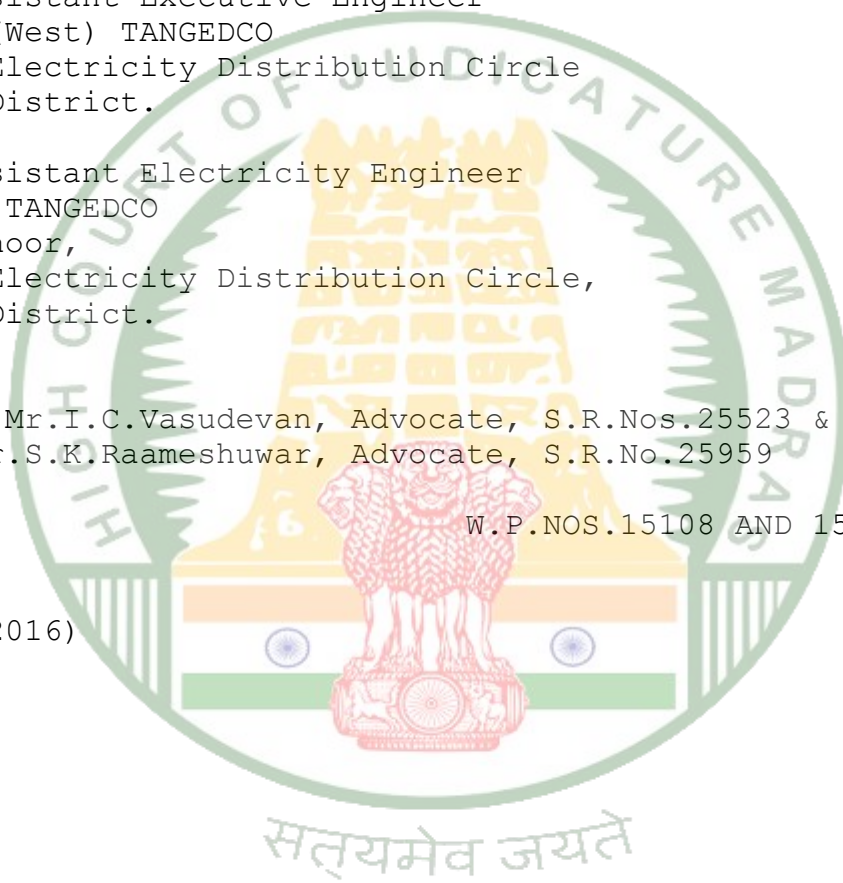
3. The Superintending Engineer
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Nasiyanoor,
Erode Electricity Distribution Circle,
Erode District.

+2cc's to Mr.I.C.Vasudevan, Advocate, S.R.Nos.25523 & 25524

+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.25959

W.P.NOS.15108 AND 15109 OF 2016

UG (CO)
CA(30/05/2016)



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