

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2016

Coram

The Hon'ble Mr. Justice K.K.SASIDHARAN

W.P.No.15594 of 2016

and

W.M.P.No.13563 of 2016

Supreme Cot-Spin Mills (India) Pvt.
Ltd., rep. by its
Managing Director Gopalasamy ... Petitioner

Vs.

- 1.The Chairman,
TANGEDCO, No.144, Anna Salai,
Chennai - 2.
- 2.The Superintending Engineer,
Coimbatore Elec. Distribution
Circle South,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the second respondent in Lr.No.SE/CEDC/S/CBE/DFC/AO/REV/AS/F.HT 377/D.1432/15 dated 14.12.2015 and quash the same and consequently direct the respondent to permit the petitioner to pay the arrears of Rs.60,58,498/- in 10 equal monthly instalments along with restoration charges and other charges and restore supply on payment of the first Instalment

For Petitioner .. Ms.P.T.Asha
for Mr.U.Vishal Kumar

For Respondents .. Mr.S.K.Rameshwar

ORDER

This writ petition is posted today pursuant to the permission given by the learned judge on 28.04.2016 to post the matter before the first vacation court on 04.05.2016.

2.By consent, the writ petition is taken up for final disposal.

BRIEF FACTS:

3.The petitioner availed HT service connection bearing No.377 for the purpose of operating a spinning mill at No.419-1A, 1C, Vadugapalayam Road, Thekkalur Post, Avinashi, in the District of Coimbatore. The petitioner failed to pay the current consumption charges for the months of September 2015 and October 2015. The second respondent therefore disconnected the supply to the mill. The petitioner discontinued the operation and is stated to be before the B.I.F.R. now.

4.The petitioner took efforts to reopen the mill and to resume production. The petitioner therefore submitted a representation to the second respondent to permit them to pay the arrears in instalments. The representation was considered by the second respondent pursuant to the order passed by this Court in W.P.No.38595 of 2015.

5.The second respondent rejected the representation on the ground that there is no provision in The Tamil Nadu Electricity Supply Code, 2004 (in short "The Electricity Code") for payment of regular monthly current consumption charges in instalments. Feeling aggrieved by the said order, the petitioner is before this Court.

SUBMISSIONS:

6.The learned counsel for the petitioner, by placing reliance on Clause 22 (4) of the Electricity Code contended that the second respondent was not correct in denying the facility of instalments on the ground that there is no provision. According to the learned counsel, the Electricity Code provides payment of arrears in instalments in deserving cases. The second respondent was therefore not justified in rejecting the request made by the petitioner.

7.The learned counsel for the petitioner further contended that the second respondent is having a sum of Rs.95,63,925/- deposited by the petitioner as security deposit and as such, there will not be any difficulty to recover the amount from the company.

8.The learned standing counsel for the TANGEDCO opposed the writ petition. According to the learned counsel, in case Sub Clauses (2) to (5) of Clause 22 are read together, it would be clear that the provision for payment of instalments is not applicable to HT service connections. According to the learned counsel, the arrears is of the year 2015 and as such, the petitioner should pay the entire amount in lumpsum for the purpose of reconnection.

DISCUSSION:

9.The petitioner was given an HT service connection by the second respondent vide No.377. It is not in dispute that the petitioner has been paying the electricity charges without default right from the inception. According to the petitioner, in view of the recession in the textile industry, heavy power cut and labour problems, considerable loss occurred and the same contributed for the delay in paying the consumption charges. The service connection of the petitioner was disconnected on account of the non-payment of current consumption charges for the months of September and October 2015. It is also an admitted position that only now the petitioner is taking steps to reopen the mill.

10.The representation submitted by the petitioner for permission to pay the arrears in instalments was rejected primarily on the ground that there is no provision in the Electricity Code permitting such payments. I am not in a position to agree with the views expressed by the second respondent in the order impugned in the writ petition.

11.Clause 22 of the Electricity Code is a self-contained provision with regard to payment of current consumption charges, disconnection of supply in case of keeping arrears and for reconnection on payment of the arrears either in lumpsum or in instalments. Sub Clause (4) of Clause 22 of The Electricity Code permits the licensee to pay the amount in instalments in deserving cases. It is therefore clear that there is a specific provision to permit payment of arrears in instalments. The only aspect to be considered is as to whether the subject case is a deserving case for exercising the discretion to permit the consumer to pay the amount in instalments.

12.The very fact that the company is before the B.I.F.R. would indicate that the financial condition of the petitioner is bad. The property where the mill is situated belongs to the company. There is a security deposit of Rs.95,63,925/- with the second respondent now. Therefore, there will not be any difficulty for the second respondent to recover the arrears from the petitioner.

13. Even after permitting the petitioner to pay the arrears in instalments, the second respondent should be satisfied with regard to safety and security of the installation.

14. In view of Clause 22 (4) of the Electricity Code, the order passed by the second respondent is liable to be set aside.

DISPOSITION:

15. The impugned order dated 14.12.2015 is set aside. The petitioner is directed to pay 25% of the arrears within a period of four weeks from today. The remaining amount shall be paid in five equal monthly instalments commencing from July 2016. The petitioner is directed to execute a bond in Form No.V undertaking to pay the arrears in instalments. In the event of depositing 25% of the arrears, the second respondent is directed to inspect the premises of the petitioner and reconnect the supply after satisfying with the safety and security of the installation. It is made clear that in case a single instalment is not paid within the permitted time, the entire arrears would be ripe for payment and it is open to the second respondent to disconnect the supply once again. The current consumption charges shall be paid in addition to the instalments.

16. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Vacation Officer/Assistant Registrar

True Copy

सत्यमेव जयते
Sub-Assistant Registrar

To

1. The Chairman,
TANGEDCO, No.144, Anna Salai,
Chennai - 2.

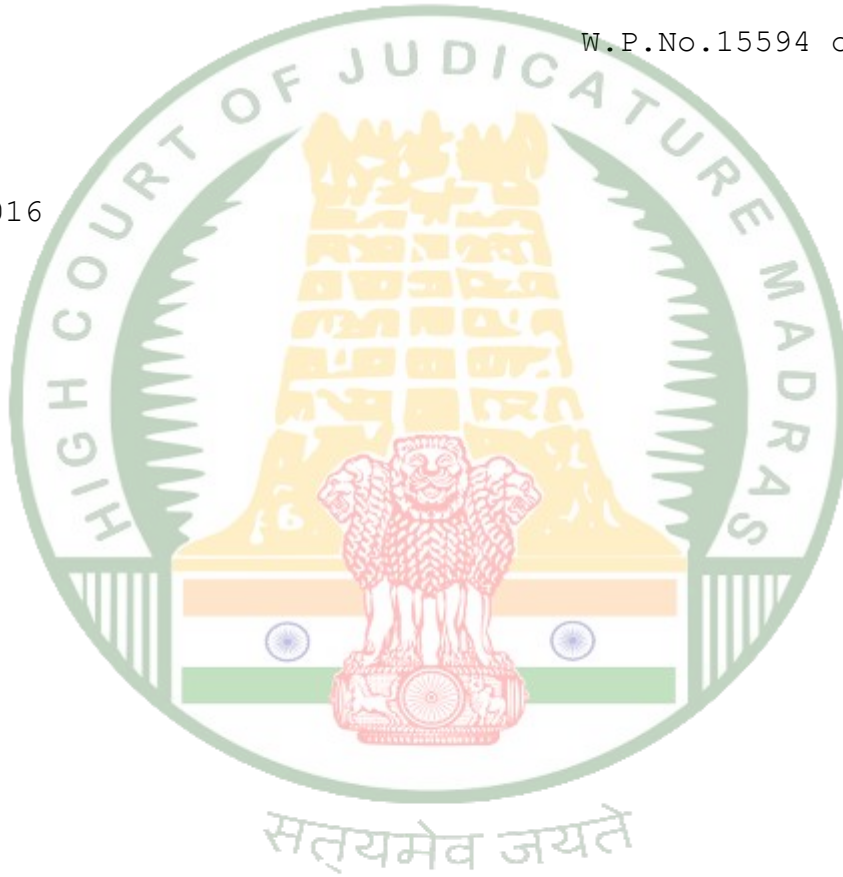
WEB COPY

2.The Superintending Engineer,
Coimbatore Elec. Distribution
Circle South,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Coimbatore.

+1 cc to M/s.U.Vishal Kumar Advocate sr.28147
+1 cc to M/s.S.K.Rameshwar Advocates sr.28185

W.P.No.15594 of 2016

aa09/05/2016



WEB COPY