

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.40165/2015 & MP.No.1/2015

S.Murugesan

.. Petitioner

V.

The Assistant Executive Engineer
O&M/TANGEDCO, Erode Electricity
Distribution Circle, Arachalur 638101.

.. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records in Letter No.AEE/O&M/ALR/F: Theft of Energy/D.No.677/2015 dated 18.11.2015 on the file of the respondent and quash the same.

For Petitioner .. Mr.V.Balamurugan

For Respondent .. Mr.S.K.Rameshwar

ORDER

Heard Mr.V.Balamurugan, learned counsel for the petitioner and Mr.S.K.Rameshwar, learned Standing Counsel accepting notice for the respondent and with their consent, the writ petition is taken up for final disposal.

2.The challenge in this writ petition is to the final order of Assessment dated 18.11.2015 based upon the provisional assessment made against the petitioner for theft of energy. Though the petitioner has challenged the impugned proceedings on several grounds, the petitioner would state that the respondent while passing the impugned order did not consider the objections given by the petitioner on 09.11.2015 to the order of provisional assessment.

3.The learned Standing counsel appearing for the respondent has produced the written instructions which is in the nature of a draft counter-affidavit and submitted that though the petitioner has submitted his objections, did not choose to appear in person and did not produce any documents and the order of provisional assessment was confirmed and the final

assessment order has been made. Further, it is submitted that the petitioner has paid the entire amount as demanded by the respondent Board and the Electricity service connection has been restored.

4.It may be true that the petitioner has not exercised the option given to him to appear in person or through the authorised representative with the relevant documents for enquiry. However, even if the petitioner has not appeared, the respondent should have considered the objections and should have assigned certain reasons as to why the objections/explanation is not tenable. However, in the impugned order, there is no such finding to that effect. However, for this reason, this Court is not inclined to set aside the impugned proceedings. But, it would be suffice if the matter is remanded back for fresh consideration to the respondent to take note of the objections given by the petitioner on 09.11.2015 and the petitioner is directed to appear before the respondent along with the records to substantiate his plea.

5.Accordingly, the Writ Petition is disposed of, by directing the petitioner to appear before the respondent with all records within a period of two weeks from the date of receipt of a copy of this order and the respondent shall consider the same and pass fresh orders on merits and in accordance with law within period of three weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

Sgl

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

The Assistant Executive Engineer
O&M/TANGEDCO, Erode Electricity
Distribution Circle, Arachalur 638101.

+ 1 cc to Mr.S.K.Rameshwar, Advocate Sr 1617 (29/3/16)
1 CC to Mr.V.Balamurugane, Advocate, sr.1472 (26.05.2016)

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