

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2017

CORAM:

THE HON'BLE MR.JUSTICE **K.K.SASIDHARAN**

AND

THE HON'BLE MR.JUSTICE **P.VELMURUGAN**

**W.A No.181 of 2015 and**  
**M.P.No.1 of 2015**

1.The Chairman

Tamil Nadu Electricity Board,  
800, Anna Salai, Chennai - 600 002.

2.The Superintending Engineer,

Viruthunagar Electricity Distribution Circle,  
Tamil Nadu Electricity Board,  
Viruthunagar - 626 001.

...Appellants

Vs

1.M/s.Aruppukottai Sri Jayavilas Ltd.,  
(Cotton Spinning Mills) (HT.SC.No.68,)   
Melakandamangalam, 258  
Thiruchuli Road, Aruppukottai - 626 101.  
Rep.by its Chairman T.R.S.Vijayaram.

2.Tamil Nadu Electricity Regulatory Commission,

No.17, III Main Road,  
Seethammal Colony, Alwarpet,  
Chennai - 600 018  
Rep. by its Secretary.

...Respondents

**Prayer:-** Writ Appeal filed under clause 15 of Letters Patent, against  
the order made in W.P.No.12236 of 2007 dated 06.10.2014.

For Appellants : Mr.S.K.Rameshwar

For Respondents : Mr.K.Seshadri for R1

**K.K. SASIDHARAN,J.**

The demand raised by the appellants was challenged by the first respondent before the writ court on the ground that the exceeded demand will have to be charged under Section 5(2)(1) of the Supply Code and payment of extra levy of 10 paise per unit for the entire energy would not arise.

2. The learned single Judge without adjudicating the merits of the matter allowed the writ petition primarily on the ground that demand was made in violation of the principles of natural justice. The learned single Judge while quashing the demand observed that the amount shown in the impugned notice was not the amount indicated in the counter affidavit filed by the appellants herein. The order is under challenge in this intra court appeal.

3. The learned Standing Counsel for the appellants contended that there is a statutory remedy available to the first respondent by initiating proceedings before the OMBUDSMAN. The said ground is taken up by the appellants in the present appeal.

4. Sections 42(6) and 42(7) of the Electricity Act, 2003, provides

for initiating proceedings before the OMBUDSMAN or a redressal forum. In the subject case, the authority, who passed the order himself is a member of the redressal forum. The first respondent therefore would not be in a position to approach the redressal forum. The other remedy is to approach the OMBUDSMAN. Since the OMBUDSMAN is a statutory authority, the consumer would be in a position to approach the said authority for redressal of grievance.

5. We are therefore of the view that interest of justice would be sub-served by granting liberty to the first respondent to move the OMBUDSMAN. In case, appeal is filed before the OMBUDSMAN within a period of four weeks from today, the same shall be considered and disposed of by the said authority on merits and as per law. Status quo as on today shall be preserved for a period of four weeks so as to enable the OMBUDSMAN to pass further orders in the interest of justice.

6. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

**(K.K.SASIDHARAN.,J.) (P.VELMURUGAN.,J.)**  
**7 November 2017**

Note : Issue order by 13.11.2017

and  
**P.VELMURUGAN,J.**

(svki)

To

The Secretary.  
Tamil Nadu Electricity Regulatory Commission,  
No.17, III Main Road,  
Seethammal Colony, Alwarpet, Chennai - 600 018



**W.A No.181 of 2015**

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