

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.402 and 447 of 2016,
CMP Nos.5915 and 6343 2016

- 1.The Chairman
Tamil Nadu Generation and Distribution
Corporation Ltd., Anna Salai,
Chennai - 600 002.
- 2.The Superintending Engineer,
Coimbatore Electricity Distribution,
Circle/North, TATABAD,
Coimbatore - 641 012. ...Appellants/Respondents in
both appeals
- Vs
- M/s.Talent Alloys (P) Ltd.,
Rep. by its Managing Director
S.F.No.475, Karegoundenpalayam,
Kariyapalayam, Pogalur, Annur,
Coimbatore - 641 653 ...Respondent /Petitioner in
W.A.No.402/2016
- M/s.Talent Steel Industries (P) Ltd.,
Rep. by its Director,
S.F.No.476, Karegoundenpalayam,
Kariyapalayam, Pogalur, Annur,
Coimbatore - 641 697. ...Respondent in
W.A.No.447/2016

Prayer:- Writ Appeals filed under clause 15 of Letters Patent,
against the orders made in W.P.Nos.23859 and 31149 2015
respectively dated 26.10.2015.

Prayer in WP.No.23859/2015:Writ petition filed under Article 226
of the Constitution of India praying for issue a Writ of
Certiorarified mandamus, to call for the records relating to the
order passed by the second respondent in
Lr.No.SE/CEDC/N/CBE/DFC/AO/Rev/AAO/HT/A.2/F.Talent Alloys/15
dated 16.07.2015 in respect of H.T.Service Connection No.180
and quash the same consequently direct the respondents to
restore service connection and to accept the Power Consumption
Charges being the arrears for the months of February to June

2015 in monthly installments payable by the petitioner together with belated payment surcharges.

Prayer in WP.No.31149/2015: Writ petition filed under Article 226 of the constitution of India, praying for issue a Writ of Mandamus to dispose of the representation dated 16.09.2015 seeking for payment of arrears of current consumption charges for the period from June 2015 to August 2015 in respect of H.T.Service Connection No.199 and direct the respondents to restore service connection and to accept the Power Consumption Charges being the arrears for the months of June to August 2015 in 10 monthly installments payable by the petitioner together with belated payment surcharges.

For Appellant in both WA's : Mr.S.K.Rameshwar
For Respondents in both WP's : Mr.G.Vasudevan

C O M M O N J U D G M E N T

K.K.SASIDHARAN, J.

Whether the Tamil Nadu Electricity Supply Code permits payment of arrears of consumption charges in instalments is the core issue raised in these intra court appeals filed by the Tamil Nadu Generation and Distribution Corporation Limited.

2. The learned single Judge taking into account the large number of workers employed by the respondent in the respective appeals permitted the industry to pay Rs.10,00,000/- in W.A.No.402 of 2016 and Rs.5,00,000/- in W.A.No.447 of 2016 at the first instance and the balance amount in 10 monthly instalments for reconnection of power supply. The order dated 26 October, 2015 is under challenge at the instance of the Chairman, Tamil Nadu Generation and Distribution Corporation Ltd., Chennai, primarily on the ground that there is no provision for payment of electricity consumption charges in instalments.

3. The respondent failed to pay the consumption charges regularly and the same resulted in disconnection of supply. When writ petitions were filed challenging the order disconnecting the supply, the learned single Judge directed the respondent to pay a sum of Rs.10,00,000/- at the first instance and the balance amount in 10 monthly instalments in W.P.No.23859 of 2015. Similarly, a direction was issued in W.P.No.31149 of 2015 to pay a sum of Rs.5,00,000/- at the first instance and the balance amount in 10 monthly instalments without fail.

4. The appellants have taken up a contention by placing reliance on the amendment made to the Tamil Nadu Electricity Supply Code (hereinafter referred to "Supply Code"). According

to the appellants, Regulation 22(4) of the Supply Code permitting payment of consumption charges in instalments was omitted subsequently by a Notification dated 3 June 2014. It is the further case of the appellants that on account of the deletion of Regulation 22(4) of the Supply Code, the learned single Judge was not correct in permitting the respondents to pay the arrears in instalments.

5. The Tamil Nadu Electricity Supply Code contained string of provisions relating to collection of electricity charges, disconnection of supply, restoration of supply and recovery of consumption charges. Regulation 22(4) of the Supply Code, as it stood originally permitted the consumer to pay the arrears of consumption charges in instalments. As per the said provision, the Licensee shall have the power to allow instalment payments of all arrears in deserving cases. The said provision was in the statute book till it was amended by notification dated 3 June, 2014. The Tamil Nadu Electricity Regulatory Commission deleted the said provision permitting payment of consumption charges in instalments.

6. There was another provision viz., Regulation 22 (6)(ii) of the Supply Code, which permits the Authorised Officer of the Licensee to permit the consumer to pay the outstanding in instalments and to avail reconnection on payment of 40% of the total arrears outstanding in accordance with sub-regulation (4) of Regulation 22 of the Supply Code.

7. The Tamil Nadu Electricity Regulatory Commission by notification dated 3 June 2014 amended sub-regulation 6(ii) of Regulation 22 of the Supply Code by deleting the word "in accordance with sub-regulation (4)". The amended provision reads thus:

"(ii) The authorized officer of the Licensee may permit such consumer to pay the outstanding in instalments and to avail reconnection on receipt of 40% of the total arrears outstanding after closing of account due to the licensee, which include-"

8. Sub-Regulation (6) (ii) of Regulation 22 of the Supply Code now permits the Authorised officer to permit the consumer to pay the outstanding in instalments and to avail reconnection on payment of 40% of the total arrears.

9. The amended provision has nothing to do with sub-regulation (4) of Regulation 22 of the Supply Code, which was deleted by notification dated 3 June, 2014. It is now an independent provision permitting the authorized officer of the Licensee to collect the arrears of consumption charges from the

consumer in instalments and give reconnection immediately on receipt of 40% of the total arrears.

10. The learned single Judge notwithstanding the amendment made to the Supply Code permitted the respondents to pay the arrears in 10 instalments after making initial payment, which would not meet the statutory requirement of 40%. The direction was not in accordance with sub-regulation (6) (ii) of Regulation 22 of the Supply Code. We are therefore of the view that the impugned order passed by the learned single Judge in the respective writ petitions deserves to be modified.

11. We direct the respondent in the respective appeals to pay 40% of the total arrears per connection within a period of eight weeks and pay the balance amount in 10 equal monthly instalments. The respondent shall also pay the current consumption charges. The appellants are directed to give re-connection forthwith on payment of 40% of the total arrears.

12. The intra court appeals are allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

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TO

1.The Chairman
Tamil Nadu Generation and Distribution
Corporation Ltd., Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Coimbatore Electricity Distribution,
Circle/North, TATABAD,
Coimbatore - 641 012.

+1cc to Mr.S.K.Raameshuwar, Advocate SR.No.84200

+2cc to Mr.G.Vasudevan, Advocate SR.No.84517 & 84518

W.A No.402 and 447 of 2016

NRJK (CO)
GN (05/01/2018)