IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13324 of 2004

M/S Ganesh Cars (P) Ltd.,
32. New Bye-Pass Road,
Vellore- 632 004,
Vellore District .. Petitioner

Vs.

The Superintendent Engineer,
Vellore Electricity Distribution Circle,
Vellore. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in his Tariff card in respect of service connection No.PNB 114 demanding electricity consumption charges from the petitioner under commercial tariff and quash the same and consequently direct the respondent herein to collect electricity consumption charges under industrial tariff namely Tariff 3B instead of commercial Tariff.

For Petitioner : Mr.Prasanna Kumar for
Ms.R.Hemalatha

For Respondent : Mr.M.Varun Kumar

ORDER

The petitioner has come forward seeking to call for the records on the file of the respondent in his Tariff card in respect of service connection No.PNB 114 demanding electricity consumption charges from the petitioner under commercial tariff and quash the same and consequently to issue direction to the respondent herein to collect electricity consumption charges under industrial tariff namely Tariff 3B instead of commercial Tariff.

2. According to the petitioner, he is an authorised dealer for Maruthi Cars besides sales of spares and accessories at Vellore. The petitioner has obtained two electricity service connections namely PNB 114 & PNB 88 from the Tamil Nadu Electricity Board in the name of Ganesh Cars. The petitioner has also paid deposit for both service connections. The petitioner submitted that he has been paying the bi-monthly charges as per metre reading and there is no dispute with regard to service connection PNB 88, which has been classified as commercial tariff by the Tamil Nadu Electricity Board.

3. The petitioner submitted that his car servicing unit has been registered under the Factories Act and that there was a misclassification of service connection PNB 114 under commercial tariff instead of industrial tariff. It is not a dispute that PNB 88 is correctly classified under commercial tariff. According to the petitioner, classification of service connection PNB 114 under

commercial tariff is erroneous, on account of misclassification of the service connection under commercial tariff instead of industrial tariff and as a result, the petitioner has to pay a huge amount towards electricity consumption charges. He also submitted the details of various other servicing sets under low tension tariff III-B like coffee grinding, tea factory, Body building unit, saw mill, rice mill, prawn farming, poultry farming, battery charging unit and industries not covered under low tension tariff III-A. Even the Electricity Board itself classified the car servicing unit under low tension tariff III-A and that being the case, the respondent cannot fix and collect the tariff under commercial tariff and ought to have charged under industrial tariff namely III-B. The petitioner submitted that his car servicing unit has been registered under Factories Act.

4. In reply, learned counsel appearing for the respondent Electricity Board would submit that the service connection PNB 114 was renumbered as 226-004-357 under commercial tariff having connected load 45 KW and also submitted that in the premises mentioned by the petitioner, selling of car spare parts, car servicing works and repairing works, tinkering and painting works..etc., are being undertaken and there is no industrial activities like production or manufacturing activities.

5. As per the order on fixation of tariff for Tamil Nadu Electricity Board, low tension tariff is applicable to all commercial establishments and for consumers who are not covered in various categories like I-A(Domestic), I-B(Hut), I-C (bulk supply to Railway colonies etc), II-A (Public lighting), II-B (Recognized educational institute), II-C(Public worship), III-A(1) (cottage and Tiny industries where the connected load does not exceed 10 HP), III-A92) (power looms where the connected load does not exceed 10HP), III-B (all industries not covered under LT tariff - A(1) and III-A(2) and IV (Agricultural). The petitioner being an authorised Maruthi dealer, besides selling of spare parts and accessories at Vellore, whose service connection is in the name of Ganesh Cars and that as the petitioner's electricity consumption falls under commercial tariff, the petitioner is coming under the commercial establishment. But, the petitioner has not produced any documents to show that their establishment is for the purpose of business registered under Factories Act of 1948.

6. The learned counsel appearing for the respondent submitted that the tariff of LT SC.No.226-004-357 fixed under V, commercial tariff is perfectly is in order, more particularly in the absence of any document submitted by the petitioner. Whether the car servicing unit

comes under the commercial unit or not, has got to be established by the petitioner and the respondent Electricity Board has categorically submitted that in the absence of any petition, the two service connections in the name and style of Ganesh Cars Limited of the petitioner has been brought under commercial category.

7. It is not in dispute that the petitioner has not produced any document. However, the petitioner submitted that the petitioner's company Ganesh Cars is not able to get any bills. This writ petition has been adjudicated since July 2007 periodically and the matter is of the year 2004. This Court is not inclined to grant any further extension of time and adjourn the hearing and hence, decided to take up this writ petition on merits. Whether the service connection falls under Factory Act or not has got to be established by the petitioner and after producing necessary documents, the respondent Tamil Nadu Electricity Board shall consider the request of the petitioner with regard to extending the tariff under industrial tariff. The petitioner has also not produced any documents in support of the contentions before this Court. Since the service connection has been applied and obtained by the petitioner in the name and style of Ganesh Cars Private Limited, I find that there is no mistake on the part of the respondent in categorization. The petitioner has been running a

commercial unit and electricity consumption charges are levied on the petitioner on the basis of the said tariff. Hence, the relief sought for by the petitioner is not granted. This **Writ Petition stands dismissed.** No costs.

8. This will not preclude the petitioner from producing necessary records establishing his stand that the petitioner's servicing unit is only an industrial unit and they do not come under commercial unit and if such documents are produced the same can be considered by the Electricity Board and appropriate decision has got to be taken in accordance with law within a period of one month from the date of receipt of copy of this order and such request has to be accompanied by supporting documents.

23.08.2017

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Speaking order/non-speaking order : Yes / No
Index : Yes/no
Internet : Yes/no

To:

The Superintendent Engineer,
Vellore Electricity Distribution Circle,
Vellore.

S.VAIDYANATHAN, J

sts

Order in
W.P.No.13324 of 2004

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