

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.26673 of 2003

W.P.M.P.32597 of 2003

M/s. Senthil Oxygen Pvt. Ltd.,
Represented by its Managing Director,
Mr.M.Jagannathan,
Thirukkanurpatti,
Thanjavur District.Petitioner

Vs.

1. The State of Tamil Nadu,
Secretary to Government,
Energy Department,
Fort St. George,
Chennai.
2. The Tamil Nadu Electricity Board,
rep. By its Chariman,
800, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Thanjavur Electricity Distribution
Circle,
Thanjavur.

...Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of declaration, declaring that the levy and demand of peak hour charges at 20% extra on the total consumption of electricity from the petitioner is illegal, unconstitutional and null and void and consequently directing the respondents to refund to the petitioner the total amount collected illegally from the petitioner till the date towards peak hour charges at 20%.

For Petitioner : Mrs.P.T.Rama Devi

For Respondents : Mr.P.Gunaraj
Standing Counsel TNEB

ORDER

The prayer sought for in this writ petition is for a Writ of declaration, declaring that the levy and demand of peak hour charges at 20% extra on the total consumption of electricity from the petitioner is illegal, unconstitutional and null and void and consequently directing the respondents to refund to the petitioner the total amount collected illegally from the petitioner till the date towards peak hour charges at 20%.

2. The petitioner is a private limited company engaged in manufacturing of Oxygen and Nitrogen gas for industrial purposes as well as medical purposes. The petitioner industry utilized the HT power supply with 210 KVA with sanctioned load of 265 horse power and had been paying the consumption charges. While so, the respondent department has imposed an additional charge i.e., 20% extra from the industries, like the petitioner, for consuming power during the peak hours, which is otherwise known as the time between Morning 6.00 a.m. to 9.00 a.m., and evening 6.00 p.m. to 9.00 p.m.

3. These extra demand of 20% peak hour charges quoted by the respondent department were questioned in the batch of cases before this Court and ultimately by the Division Bench Judgment of this Court in the matter of "BMR Beltings Limited Vs Chairman, Tamilnadu Electricity Board" by order dated 14.11.2006, the issue was concluded in favour of the Board and those writ petitions were dismissed by observing that the move of the respondent to demand 20% as extra charges as peak hours charges was justified.

4. Following the said Division Bench Order, number of cases were disposed of and one of such case in W.P.No. 20091 of 2004 also was disposed by a learned Judge of this Court in the matter of "M/s. G.T.V.Spinnners Ltd., Vs. The Tamilnadu Electricity Board and another" by order dated 22.07.2017.

5. Mr.P.Gunaraj, learned Standing Counsel appearing for the respondents by relying upon the decisions, would submit that, the issue raised in this writ petition is covered by the said decision of the Division Bench, where a number of cases were disposed of in favour of the department, which is subsequently followed in number of cases.

6. This legal position is not in contravention. In view of the said fact that, the issue raised in the writ petition has already been decided and it is no more res integra, in the aforesaid judgement which was subsequently being followed in a number of cases, this Court has no hesitation to hold that

this writ petition is deserved to be rejected as the issue raised in the writ petition is also covered by the Division Bench judgement.

7. In view of the above, the writ petition is dismissed with no order as to Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The Secretary to Government,
State of Tamil Nadu,
Energy Department,
Fort St. George,
Chennai.
2. The Chariman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Thanjavur Electricity Distribution Circle,
Thanjavur.

+1cc to Mr.P.T.RAMADEVI Advocate, S.R.No. 87599

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TR(05/01/2018)

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