

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.Nos.19527 to 19530 of 2003

Pandian Textile Mills (P) Limited,
Kasipalayam Post - 624 711,
Dindigul Dt. Repd by its Director,
A.P.Ammasikutty

...Petitioner in W.P.9527/2003

Cheran Spinning Mills (P) Limited,
Minukkampatty Post,
Vedasandur - 624 711,
Dindigul Dist, Repd. by its Managing
Director A.P.Ammasikutty

...Petitioner in W.P.19528/2003

Meera Textile Mills (P) Limited,
Seethamaran Nal Road,
Vedasandur - 624 711,
Dindigul Dist, Repd by its
Director A.P.Ammasikutty

...Petitioner in W.P.19529/2003

Chola Textiles Private Limited,
Minikkampatty Post,
Vedasandur - 624 711,
Dindigul Dt. Repd by its Managing
Director A.P.Ammasikutty

...Petitioner in W.P.19530/2003

Vs.

1. Tamil Nadu Electricity Board
Rep. by its Chairman,
800, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Dindigul Electricity Distribution Circle/North,
Dindigul - 624 002.

...Respondents in all W.Ps.

Prayer in all W.Ps.:— Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the third respondent relating to his letter No.SE/DEDC/DGL/AO/R/A5/D.No.2225/2003 dated 18.06.2003 in respect of levy of Belated Payment Surcharge to the tune of Rs.17,682/-, Rs. 36,256/-, Rs.12,768/- and Rs.31,062/- respectively to the petitioner and quash the same.

For Petitioner in all W.Ps. : Mr.R.S.Pandiyaraj

For Respondents in all W.Ps.: Mr.P.R.Dhilip Kumar
Standing Counsel TNEB.

COMMON ORDER

The petitioner is challenging the identical impugned order passed by the second respondent, demanding the petitioner to pay an amount called as Belated Payment Surcharge in short BPSC with effect from 01.12.2001.

2. I have heard Mr.R.S.Pandiyaraj, learned counsel for the petitioner and Mr.P.R.Dhilip Kumar, learned Standing Counsel for the respondents.

3. Mr.R.S.Pandiyaraj, the learned counsel for the petitioner would fairly submit that similar demand made by the respondents has already been justified by this Court and in this regard, the learned counsel has also produced the order passed in W.P.No.31671 of 2003 in the matter of "Kanishk Steel Industries Limited Vs Tamilnadu Electricity Board and another". In the said judgment, the learned Judge of this Court after having considered the merits of the case has ultimately concluded as follows :

"13. From this, it is very clear that as per the clause 19.14 of the terms and conditions of supply of electricity of Tamil Nadu Electricity Board, the surcharge is not leviable, if the amount is paid in instalment basis. But the case on hand is completely different and therefore, the said clause is not applicable to him. Further the judgment of the Hon'ble Supreme Court in case of THE ADONI GINNING FACTORY AND OTHERS V. THE SECRETARY, A.P. ELECTRICITY BOARD AND OTHERS cited supra is squarely applicable to the present case.

14. Under such circumstances, I am of the view that the impugned letter of the respondents Board is in accordance with law and hence, it does not require any interference.

15. In the result, the writ petition is dismissed. No costs."

4. The learned counsel for the petitioner would submit that, in the said order passed by this Court, the said demand of BPSC has become final and it reached its finality. Therefore, the learned counsel for the petitioner submits that since in these writ petitions also similar demand i.e., Belated Payment Surcharge is under challenge, the said order will squarely apply to these cases also.

5. In view of the said submission made by the learned counsel for the petitioner that similar orders were passed, that

the respondents are entitled to claim Belated Payment Surcharge and accordingly, the respective impugned order in these batch of writ petitions are unassailable and hence no interference is required from this Court.

6. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The Chairman,
Tamil Nadu Electricity Board
800, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Dindigul Electricity Distribution Circle/North,
Dindigul - 624 002.

+1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.90408

W.P.Nos.19527 to 19530 of 2003

RRK(30/01/2018)

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