IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2018

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.20454 to 20457 of 2007
M.P.Nos.1,1,1 and 1 of 2007

Vinayaga Textiles (P) Ltd.,
Chinnakalayampatty,
Sukkamanayakkanpatty,
Palani Taluk, Repd.by it
Factory Manager, N.Elango
...Petitioner in WP.20454/2007

Sri Vakkira Kaali Amman Spinning Mills (P),
Silukkuvarpatty, Nilakottai Taluk,
Dindigul, Repd.by its Executive Director,
R.Jagadeeshwaran
...Petitioner in WP.20455/2007

Ramachandra Textiles,
Nagampatty Village,
Vedasandur - 624 710
Repd.by its Managing Director,
R.Mahesh
...Petitioner in WP.20456/2007

Krishnavijayam Spinning Mills Limited,
Palani-Udumalpet Road,
Palani - 624 621,
Repd.by its Managing Director,
S.K.Karthikeyan
...Petitioner in WP.20457/2007

Versus

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

2. The Superintending Engineer,
   Dindigual Electricity Distribution Circle,
   Tamil Nadu Electricity Board,
   Dindigul. ...Respondents in all WPs

Common Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare the levy, demand and collection of belated payment Surcharge on the electricity tax arrears by the respondent vide Nos.SED/DEDC/DGL/AO/R/AS/JA/F.E-Tax/D.No./07, dated 11.05.2007 as arbitrary, unlawful and ultra vires the Constitution of India.

For Petitioners : Mr.R.S.Pandiyaraj

For Respondents : Mr.P.R.Dilipkumar

C O M M O N O R D E R

The issue involved in these writ petitions is regarding the levy of interest on belated payment of Electricity Tax. According to the petitioners, the respondent Electricity Board has got no jurisdiction to impose any interest on the belated payment of the Electricity Tax.

2.When the matters were taken up for consideration, the learned counsel for the petitioners submitted that vide order dated 18.06.2009 in W.P(MD) No.254 of 2007 [Sivakasi Electrochemical Limited v. the Superintending Engineer, Virudhunagar Electricity Distribution Circle, Virudhunagar], this Court had decided the issue involved herein in favour of the petitioner therein; the said order was challenged by the respondent Electricity Board in W.A.(MD)No.1590 of 2011, which was dismissed by the Division Bench of this Court, by judgement dated 22.12.2011, holding that as the Electricity Tax is not the amount due and payable to the Board, it has no right to collect the surcharge on the belated payment of electricity and hence, the claim of the Board being the belated payment of surcharge for the non-payment of Electricity Tax in time, is unsustainable in law; and the further appeal in SLP (C) No.12282 of 2014 filed by the respondent Electricity Board before the Supreme Court, was also dismissed, vide order dated 01.03.2016. Thus, the learned counsel sought appropriate direction in these writ petitions.

3.The submissions so made by the learned counsel for the petitioners have been conceded by the learned counsel appearing for the respondents.

4.In the light of the aforesaid judgment, this writ petition stands allowed as prayed for. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Superintending Engineer,
   Dindigual Electricity Distribution Circle,
   Tamil Nadu Electricity Board,
   Dindigul.

W.P.Nos.20454 to 20457 of 2007

MR(CO)
SSM(24/01/2019)