

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.09.2018
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.15617 of 2013
and
M.P.No.2 of 2013

Hill Country Hotels and
Resorts India Ltd.,
Lovedale, The Nilgris,
rep.by its Managing Director,
Mr.George Koshy,
registered office at
No.22/9, Jaganathan Road,
Nungambakkam, Chennai 600 034. ... Petitioner
Vs

1.Tamil Nadu Generation and Distribution,
Corporation Ltd.,
Rep.By its Chairman,
No.144, Anna Salai,
Chennai-600 002.

2.Assistant Engineer (Electrical)
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Yellanalli Section,
Nilgiris Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Ooty. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Certiorari calling for the records relating to the impugned proceedings of the 2nd respondent herein bearing letter NO.AE/OIM/yellanalli/F.LTCT/D.No.46/2013 dated 31.05.2013 and quash the same.

For Petitioner : Mr.R.Gowri
For Respondents : Mr.S.K.Raameshwar
Standing Counsel for Electricity Board
for R1 & R2

O R D E R

The order dated 31.05.2013 in respect of short levy of electricity consumption charges arrived in respect of the premises of the writ petitioner and the payment of Rs.3,34,791/- towards electricity consumption charges is under challenge in this writ petition.

2. The learned counsel appearing for the petitioner states that the writ petitioner is a commercial establishment and running a hotel business. The main contention raised in respect of the impugned

order is that the multiplication factor of 30 initially taken into account by the respondent Board is erroneous and not in accordance with the Electricity Supply Code. Based on the erroneous calculation, the writ petitioner was directed to pay the excess amount of electricity consumption charges. Subsequently, the same was traced out and rectified by the authorities by adopting multiplication factor of 40 for calculating the amount as per the Supply code.

3. It is contended that on account of the error committed by the respondents, the petitioner suffered and already part amount of Rs.1,00,000/- has been deposited, based on the conditional interim order passed by this Court in the present writ petition.

4. The learned counsel appearing for the respondents states that as per Clause 12(1) of Chapter 2 of Electricity Supply Code, the respondent Board is entitled to claim the additional amount in case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging. Now, the question of refund does not arise at all, in view of the fact that the writ petitioner had deposited the part amount of Rs.1,00,000/-, pursuant to the interim order of this Court. It is further contended that the multiplication factor adopted has been changed by the authorities and accordingly, correct multiplication factor had been arrived and there is no infirmity in respect of the order passed by the respondents. Further, the impugned order relates to the period from the year 2009 to 2013. Therefore, the respondents are entitled to collect surcharge for the belated payments.

5. This Court is of an opinion that the calculation was initially made erroneously by the respondent Board. Thus, they are not entitled to collect the surcharge amount or penalty from the writ petitioner. When the initial calculation was erroneous and the same had been rectified subsequently, the respondents are not entitled to collect the surcharge amount or other penalty charges from the writ petitioner and however, the short fall amount can be collected, which relates to the consumption of electricity charges by the writ petitioner. The writ petitioner is liable to pay the consumption charges as rightly calculated by the respondents subsequently. In view of the fact that the part amount of Rs.1,00,000/- had already been deposited pursuant to the interim order, the writ petitioner has to pay the balance amount of Rs.2,34,971/-, without any further delay. Accordingly, the following orders are passed:

(i) The impugned order passed by the respondents in proceedings dated 31.05.2013 is confirmed.

(ii) The writ petitioner is directed to pay the balance electricity consumption charges of Rs.2,34,791/- within a period of six weeks from the date of receipt of a copy of this order.

(iii) In the event of not paying the balance amount within the time stipulated above, the respondents are empowered to initiate all further action by following the procedures as contemplated under the Regulations.

6. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.09.2018

sk/kak

Speaking Order/Non Speaking Order

Internet:Yes/No

Index:Yes/No

To

1.The Chairman,
Tamil Nadu Generation and Distribution,
Corporation Ltd.,
No.144, Anna Salai,
Chennai-600 002.

2.Assistant Engineer (Electrical)
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Yellanalli Section,
Nilgiris Electricity Distribution Circle,
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Ooty.

S.M.SUBRAMANIAM J.,

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