IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1630 of 2008
and
M.P.No. 1 of 2008

Sarmangal Synthetics Ltd
SF No.136/2, Mettupalayam Post,
Kovilpalayam Via, Pollachi Taluk
Coimbatore District
Rep. by its Managing Director B.Nirmal Jain ...Petitioner

Vs.

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

2.The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the levy, demand and collection of belated payment surcharge on the electricity tax arrears by the respondent vide letter No.SE/UEDC/UDT/AO/REV/HT/AS1/F.BOAB/2007, dated 20.12.2007 as arbitrary unlawful and ultra vires the constitution of India.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.M.Varunkumar
Standing Counsel

ORDER

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

2.When the matter was taken up for consideration, the learned counsel for the petitioner 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 this writ petition.

3.The submissions so made by the learned counsel for the petitioner has 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 Petition is closed.

19.11.2018

Index: Yes/ No
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To

1.The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai - 600 002.

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

R.MAHADEVAN, J.

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