

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.07.2018

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.13032 of 2004

South Arcot Diocesan Corporation,
Rep by its Secretary,
Father A.J. Philomindoss,
S/o Antony,
St.Agnes Seminary,
No.4, Beach Road,
Cuddalore - 607 001

.... Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
Rep by its Chairman,
Anna Salai, Chennai

2. The Junior Engineer,
Operation and Maintenance,
T.N.E.B.,
Sankaranpanthal,
Nagapattinam District

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the communication dated 16.04.2004 bearing க.எண்.இந்.பொ.இ.ப.ச.பந்தல்.கோ.வழக்குஎண்.6.04 passed by the Second Respondent and quash the same and consequently direct the Respondents to re-calculate the charges on 'non-commercial basis in respect of the demand raised therein.

For Petitioner : Mr.R. Venkatachalam for
Mr.Usharaman

For Respondents: Ms.Sharmila Gunaraj for
Mr.P. Gunaraj

ORDER

The Petitioner has challenged the Order dated 16.04.2004 issued by the First Respondent applying commercial tariff to the electricity service connection provided to the Petitioner Corporation and sought for consequential direction to treat the service connection as per clause 38 Schedule Part-II under Tariff-IV of the Terms and Conditions of Tamil Nadu Electricity Board.

2.Ms.Sharmila Gunaraj, learned Standing Counsel, appearing for the Respondents submits that a Memo No.CE/Comm1.EE.1/AEE.2/D.400/2004, (Technical Branch), dated 24.7.2004 has been issued in which it has been mentioned that the Tamil Nadu Electricity Regulatory Commission by order dated 25.06.2003 had directed that if electricity is used for agriculture and service was obtained for agricultural purpose, the service shall be billed under Tariff-IV-Agriculture, irrespective of ownership of the land, which has taken effect from 01.07.2003. It has also been stated that the Tamil Nadu Electricity Regulatory Commission in its letter dated 14.04.2004 has conveyed that it has no objection in applying the aforesaid benefit even for earlier period i.e., prior to 01.07.2003, if the Tamil Nadu Electricity Board desires and directions to that effect have been given therein. It is also stated in the Memo that in view of the direction issued by Tamil Nadu Electricity Regulatory Commission all cases have to be re-worked and any excess payment adjusted or refunded and audit objections pending can be arranged to be dropped.

3.In view of aforesaid submissions made by the Respondents, the impugned proceedings dated 16.04.2004 is set aside and the liability of the Petitioner for paying the electricity charges shall be re-worked in accordance with the aforesaid directions in the Memo produced by the Respondents.

4.The Writ Petition is disposed of on the aforesaid terms. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Tamil Nadu Electricity Board,
Rep by its Chairman, Anna Salai,
Chennai
2. The Junior Engineer,
Operation and Maintenance,
T.N.E.B., Sankaranpanthal,
Nagapattinam District

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BM 25/07/2018