

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.13983 of 2013

G.V.Murali

.. Petitioner

-vs-

1.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
TANGEDCO, Villupuram.

2.The Executive Engineer (O&M),
TANGEDCO, Tindivanam,
Villupuram District.

3.The Assistant Engineer,
(O&M)/Town-1,
TANGEDCO, Tindivanam,
Villupuram District.

.. Respondents

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the Audit Assessment Order issued by the third respondent in his office ref.Ka.No.Vu.Mi/Po./Town 1/Tindivanam/Ka.No.145/11, dated 21.10.2011 and the proceedings of the second respondent in his office ref:Ka.No. / E.E./O&M/Tindivanam/Ko.Kattu/A.No.010/2013, dated 29.04.2013 and quash the same.

For Petitioner :: Mr.P.Mani
For Respondents:: Mr.M.Varunkumar,
Standing Counsel

ORDER

The writ petition has been filed challenging the impugned Audit Assessment Order issued by the third respondent in Ref.Ka.No. Vu.Mi/Po./Town1/Tindivanam/Ka.No.145/11 dated 21.10.2011 and the proceedings of the second respondent in his office ref:Ka.No./E.E./ O&M/Tindivanam/Ko.Kattu/A.No.010/2013 dated 29.04.2013.

2.Learned counsel appearing for the petitioner would submit that the electricity consumption has to be computed by taking the average of the electricity supplied during the preceding four months or succeeding four months after installation of the correct meter, provided that there is no change in the conditions of supply. Since the respondents have calculated the amount on the basis of two months average, the impugned order is liable to be set aside. Referring to para 4 of the counter affidavit filed by the respondents, learned counsel appearing for the petitioner would submit that the respondents have calculated the meter period between April 2008 and December 2009 and arrived at Rs.167,303/- with 4610 units as bimonthly average by taking average consumption of December 2007 and February 2008 namely, 5520 and 3710 units. Learned counsel appearing for the petitioner would further submit that in case of supply of electricity without meter/defective meter, the respondents have to compute the electricity consumption by taking the average of the electricity supplied during the preceding four months or succeeding four months after installation of the correct meter, but, the procedure has not been followed by the respondents. Therefore, the impugned order is liable to be quashed by allowing the writ petition.

3.A counter affidavit has been filed by the respondents. Learned Standing Counsel appearing for the respondents would submit that bimonthly average is nothing but average of four months consumption preceding or succeeding from the date of installation of the new meter.

4.A perusal of para 4 of the counter affidavit shows that the respondents have taken the average consumption between December 2007 and February 2008, namely, 5520 and 3710 units. Therefore, this Court is unable to agree with the reasons given in the impugned order and the same is set aside. Accordingly, the writ petition stands allowed and the matter is remanded back to the Executive Engineer/ Operation and Maintenance, the second respondent herein for fresh consideration as per law.

5.Needless to say that the second respondent shall issue notice to the petitioner and call for explanation and after receiving the same, he can pass orders. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

vga

To

1.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
TANGEDCO, Villupuram.

2.The Executive Engineer (O&M),
TANGEDCO, Tindivanam,
Villupuram District.

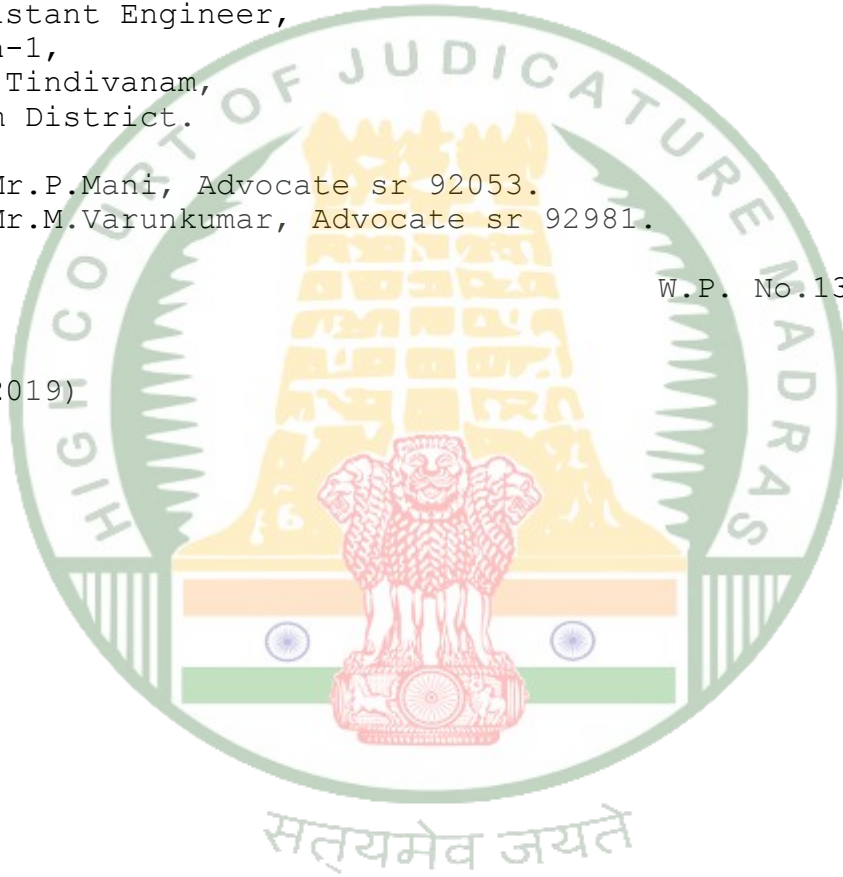
3.The Assistant Engineer,
(O&M)/Town-1,
TANGEDCO, Tindivanam,
Villupuram District.

+1 CC to Mr.P.Mani, Advocate sr 92053.

+1 CC to Mr.M.Varunkumar, Advocate sr 92981.

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PP(CO)
SP(18/12/2019)



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