

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.s 18900 & 18901 of 2011

and

M.P.s 2 of 2011

W.P. 18900 of 2011

Dr.R.Gurusamy

... Petitioner

Vs

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

2. The Assistant Engineer,
Tamil Nadu Electricity Board,
CIT Nagar-1,
Saidapet, Chennai-15.

3. Zylog Systems Limited,
155, Thiruvalluvar Salai,
Kumaran Nagar,
Sholinganallur,
Chennai-119.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling upon the entire records of the 2nd respondent in Ka.No.U.Po./E & PARA/C.I.T. Nagar-I/KO.RIS/No.-nil-, dated 24.03.2011 relating to the entry in the white meter card in respect of the service connection in 271-014-230 stands in the name of the petitioner and quash the said endorsement made calling upon the petitioner to pay a sum of Rs.2,27,728/- and consequently directing the respondents to receive the amount payable for monthly current consumption charges.

W.P. 18901 of 2011

G.Sasikala

... Petitioner

Vs

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

2. The Assistant Engineer,
Tamil Nadu Electricity Board,
CIT Nagar-1,
Saidapet, Chennai-15.

3. Zylog Systems Limited,
155, Thiruvalluvar Salai,
Kumaran Nagar,
Sholinganallur,
Chennai-119.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling upon the entire records of the 2nd respondent in Ka.No.U.Po./E & PARA/C.I.T. Nagar-I/KO.RIS/No.-nil-, dated 24.03.2011 relating to the entry in the white meter card in respect of the service connection in 271-014-183 stands in the name of the petitioner and quash the said endorsement made calling upon the petitioner to pay a sum of Rs.2,19,961/- and consequently directing the respondents to receive the amount payable for monthly current consumption charges.

For Petitioner(in both) : Mr.M.Sriram

For Respondents(in both) : Mr.P.R.Dilipkumar,
Standing Counsel for R2

Mr. Su.Srinivasan for R3

C O M M O N O R D E R

These Writ Petitions have been filed challenging the impugned order of the 2nd respondent dated 24.03.2011 relating to the entry in the white meter card in respect of service connection stand in the name of petitioners and quash the same and consequently directing the respondents to receive the amount payable for monthly current consumption charges.

2. The case of the petitioners is that the petitioners are owners of the property bearing Old Door No.40, New No.84-A, 1st Main Road, C.I.T.Nagar, Nandanam, Chennai-600 035. The petitioners have obtained electricity connection for the first floor and they have been using for commercial purpose through its occupiers. After the occupation, the 3rd respondent has applied to the 1st and 2nd respondents seeking exemption towards electricity consumption in respect of I.T. Industry. Such exemption has been availed by the 3rd respondent after proper

scrutiny and as such, there is no dispute in the exemption granted by the official respondents in favour of 3rd respondent. The 3rd respondent has been in possession of the property till March 2008 and after vacating the premises, the 3rd respondent also shifted their business and had been duly intimated to the respondents Board and also a communication has been sent to the petitioners. The petitioners have also ascertained from the 3rd respondent as well as official respondents that there is no arrears of electricity consumption charges.

3. Thereafter, the petitioners have allowed the 3rd respondent to vacate the premises. After vacating the premises, the 2nd respondent has issued a demand notice to the petitioners on the ground that there was an audit objection and there was a shortfall of a sum of Rs.2,27,728/- and a sum of Rs.2,19,961/- respectively. Against which, the present Writ Petition has been filed.

4. Mr.M.Sriram, learned counsel appearing for the petitioner would submit that though the 3rd respondent has availed exemption for payment of electricity service charges under Tariff III-B, the I.T. Service is entitled for such benefit. However, after the 3rd respondent vacated the premises, the 2nd respondent arbitrarily issued a notice as if the 3rd respondent has to pay Tariff -V instead of Tariff III-B, which is unsustainable one. However, the petitioner has paid 50% of the conditional amount and the remaining amount has to be paid by the 3rd respondent for the year 2010 and 2012. The learned counsel has further submitted that though the 3rd respondent has vacated the premises during March 2008, after lapse of three years, the impugned demand was made only in the year 2011, which is illegal and unsustainable one. Accordingly, he prayed to allow this Writ Petition.

5. Mr.P.R.Dilipkumar, learned standing counsel appearing for the respondents Board 1 and 2 would submit that I.T. Industry is entitled for the benefit of Tariff III-B, however, it was not entitled to the benefit of Tariff -V. In the present case, the service connection stands in the name of petitioners, in which the 3rd respondent has applied for exemption in order to avail I.T. Sector benefit. Initially, the benefit was granted in favour of 3rd respondent. However, during the audit objections, the shortfall amount was demanded against the 3rd respondent, in which the notice was served on the landowners/petitioners. Hence, the petitioners have filed the present Writ Petition before this Court. If any due in the service connection charges, the service holder has to pay consumption charges to the Electricity Board. Therefore, he prayed to pass appropriate orders.

6. Considering the facts and circumstances of the case, the undisputed fact in the present case is that the petitioners are the owners of the property let out the first floor premises to the 3rd respondent for I.T. Industry and it is also undisputed

fact that the 3rd respondent has availed exemption under Tariff III-B under I.T. Sector category and the 3rd respondent has vacated the premises in the year 2008. Subsequently, based on the audit objections stating that there is a shortfall, the 2nd respondent has issued a demand notice against the 3rd respondent and the same was served on the petitioners. It is also undisputed fact that there is no dispute on the fact that the core I.T. Sector is entitled for exemption to pay current consumption charges under Tariff III-B. In the present case, after three years, the 2nd respondent has issued a demand notice claiming the 3rd respondent to pay tariff-V instead of paying Tariff III-B. This Court perused the impugned demand orders dated 24.03.2011 respectively and found that without issuing any show cause notice and without complying the principles of natural justice, directly the demand order was passed against the petitioners as well as the 3rd respondent, which is unsustainable one. It also appears that subsequently, the Electricity Regulatory Commission issued an order dated 01.04.2012, wherein the I.T. Sector is treated as industry and accordingly, they were directed to pay Tariff III-B. In the present case, it appears that the 3rd respondent is running I.T. Service in the petitioners' premises. In such circumstances, I am inclined to remand the matter back to the authorities for fresh consideration. Accordingly, the impugned orders passed by the 2nd respondent in Ka.No.U.Po./E & PARA/C.I.T. Nagar-I/KO.RIS/No.-nil-, dated 24.03.2011 respectively are set aside and remanded the matters back to the authorities. If any amount is inadvertently collected from the petitioners, it may be adjusted in the future bill.

7. With the above direction, both the Writ Petitions are allowed. No costs. Consequently, the Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Assistant Engineer,
Tamil Nadu Electricity Board,
CIT Nagar-1,
Saidapet, Chennai-15.

+2cc to Mr.M.Sriram, Advocate, S.R.No. 75745

+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No. 75066

W.P.s 18900 & 18901 of 2011
and
M.P.s 2 of 2011

EV(CO)
GN(14/10/2019)



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