

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.06.2019

CORAM

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.22238 of 2008

S.L.O.Industries Ltd.,
403/D, T.H.Road,
Thiruvottiur,
Chennai – 600 019
rep. By its Managing Director,
Anil Kumar Ojha

..Petitioner

Vs

The Superintending Engineer
Chennai Electricity Distribution
Circle/North,
791, Annasalai,
Chennai – 600 002

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of respondent in Bill No.1816 dated 29.04.2008 and quash that portion of the amount included in Item No.19, namely, other adjustment as illegal, arbitrary and against Regulation of Tamilnadu Electricity Supply Code 2004 and consequently, direct the respondent to adjust or refund the excess amount collected towards monthly minimum charges with current consumption charges of April 2008.

For Petitioner : Mr.K.Seshadri

For Respondent : Mr.P.R.Dhilipkumar

ORDER

The present Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of respondent in Bill No.1816 dated 29.04.2008 and quash that portion of the amount included in Item No.19, namely, other adjustment as illegal, arbitrary and against Regulation of Tamilnadu Electricity Supply Code 2004 and consequently, direct the respondent to adjust or refund the excess amount collected towards monthly minimum charges with current consumption charges of April 2008.

2. The petitioner is a Mill represented by its Managing Director and the Industry is involved in the manufacturing of steel rolling rods having factory at S.No.67/1, 2A Part 67/2B part and 70/7 Part, Chinnambedu village, Ponneri Taluk, Thiruvallur District. The respondent has sanctioned High Tension Service Connection in H.T.S.C.No.1816 with maximum demand of 1000 K.V.A. The Petitioner- Mill has been providing employment of about 400 persons living in and around ponneri.

3. Further, the petitioner / Mill has applied for a new H.T.Service Connection to the steel rolling Mill with sanctioned maximum demand of 1000 K.V.A to the respondent. Based on the application of the petitioner, the respondent, by way of a letter dated 05.08.2006 has requested to pay Rs.500/- towards Registration fee and Rs.8,00,000/- as earnest money deposit. Accordingly, the petitioner/Mill paid the amounts on 19.08.2006 and the respondent has also assigned H.T.Application Registration Number as AN 22/06-07.

4. It is represented on behalf of the petitioner / Mill that on 07.09.2006, the respondent has requested them to pay Rs.3,50,000/- towards development charges, Rs.40,000/- towards meter caution deposit and Rs.4,720/- towards service connection charges and all the said amounts are requested to be paid within 7 days from the date of receipt of the letter and further, the petitioner was asked to execute an agreement within a period of 7 days failing which their H.T. Application will be cancelled and all charges were paid by the petitioner, except meter caution deposit will be forfeited. Also the petitioner was informed by the respondent to keep the CEIG Safety Certificate before the probable date of effecting supply and monthly minimum charges will be levied on the

petitioner from the very next day onwards for the first three months and for a further three months extended period.

5. Apart from the above, it is contended on behalf of the petitioner that the petitioner/Mill had paid the said amounts on 12.09.2006 within the period specified by the respondent and obtained safety certificate of CEIG on 27.10.2006 after completing Board side work in laying supply lines from their sub station to petitioner/Mill. Though the respondent / Board claim that they have completed the work on or before 18.10.2006, however, the respondent had not completed any work in the above said station and the same was informed to the Respondent / Board on 27.10.2006 and 31.10.2006 and requested the Board to complete the work and effect supply to the petitioner and on completing the formalities, H.T.Supply was effected to the petitioner/Mill on 01.11.2006, after executing the agreement on the same day.

6. While being so, after lapse of 1 ½ years, the respondent vide letter dated 24.04.2008, claimed a sum of Rs.1,40,000/- towards monthly minimum charges for the period from 18.10.2006 to 01.11.2006 based on the Audit Party Report, challenging the same, the present Writ Petition is filed.

7. The learned counsel for the petitioner would submit that though the respondent claims that the entire line works were completed on 08.01.2006, the fact remains that the work was not completed till 26.10.2006 and on 01.11.2006 H.T. Supply was effected to the petitioner-Mill, however, after execution of the agreement. While so, the representations/requests dated 06.05.2008 and 14.05.2008 for the revision of future bills by adjusting the excess amount collected namely, Rs.1,40,000/- did not yield any fruitful results, hence pleaded to allow the Writ Petition. He also relied on Regulations 31(2) to 31(5) in Tamilnadu Electricity Distribution Code, 2004.

8. The learned counsel for the respondent would submit that in the present case, CEIG certificate was obtained on 26.10.2006 and H.T. Supply was effected on 01.11.2006, which is well within a period of three months and the same is duly in accordance with law. He also drew the attention of this Court to Regulation 31 of Tamilnadu Electricity Laws, which deals with **'Inspection, Testing and Effecting Supply'**, particularly 31(2) and 31(5). As per Regulation 31(5) of Tamilnadu Electricity Laws, only the minimum charges were collected from the petitioner, i.e., 14 days from the date of first notice, viz., 18.10.2006 to 01.11.2006 and the said

minimum charges is in accordance with the Regulation of 31(5). Hence he prays for dismissal of the Writ Petition.

9. On hearing the submissions of the learned counsel on either side and on perusal of the records, the undisputed facts are:

(i) Petitioner applied for H.T. Service connection 1000 KV to the respondent and on 05.08.2006, the respondent issued a letter demanding Registration Fees and Earnest Money Deposit.

(ii) The Entire payment towards development charges, meter caution deposit and service connection charges were demanded by the respondent on 07.09.2006 and the petitioner/Mill paid the same on 12.09.2006.

(iii) The petitioner obtained CEIG certificate on 26.10.2006 and the notice was effected on 18.10.2006 and HT Service connection was effected on 01.11.2006.

10. Now, the question arises before this Court for consideration is, whether the respondent / Board is entitled to claim the minimum charges from 18.10.2006 to 01.11.2006. For ready reference, the relevant provisions of Tamilnadu Electricity Distribution Code 31(1), 31(2) and 31(5) are as follows:

'31. Inspections, testing and effecting supply – (1) After

completion of the wiring, notice must be sent to the Engineer by the intending consumer (upon printed test report form obtainable free of cost from the offices of the Licensee) that the installation has been completed and the tested and that the same is complete and ready for inspection and test by the Engineer. Notice of the Engineer's intention to inspect and test the installation will be sent to the intending consumer who must be present or his/her competent representative at the time fixed to give information that may be necessary concerning the installation. Inserted by Commission's notification No.TNERC/DC/8-8 dated 08.02.2008 (w.e.f.27.02.2008) [Upon executing / signing of the test report, a copy of the test report shall be given to the consumer].

(2) The intending consumer shall avail himself of the supply within three months in the case of HT and one month in case of LT from the date of issue of notice in writing, informing him that supply is available.

(5) If the intending consumer avails supply during the notice period of availability of supply he shall pay the monthly minimum charges at the notified tariff rate for the period from the date of issue of first notice of supply availability till the date of availing supply.'

11. A perusal of the aforesaid relevant provisions makes it clear that if the intending consumer avails supply during the notice period of availability of supply, he shall pay the monthly minimum charges at the notified tariff rate for the period from the date of issue of first notice of supply availability till the date of availing supply. Further, the respondent / Board has also given calculation dated 23.04.2008 in

Lr.No.SE/CEDC/N/HT/AAO /R/A.5/F.1816/D.955 /08, which is as follows:

'On review of HT bill file for the period 2006-07 by BOAB Audit Party, it is pointed out that monthly minimum charges for the period 18.10.06 to 01.11.2006 has not been levied in respect of your HTA/C No.1816.

Hence the monthly minimum charges amounting to Rs.1,40,000/- may be included in your 04/08 current consumption bill for realization. (1000 KVA X 14/30 X300 = Rs.1,40,000/-)'

12. Taking note of the relevant provisions and the claim made by the respondent board, which is the minimum charges calculated for a period from 18.10.2006 to 01.11.2006 (14 days) this Court is of the view that the same is in accordance with the provisions of 31(5) of Tamilnadu Electricity Distribution Code, 2004.

13. In view of the above, I do not find any error or illegality in Bill No.1816 dated 29.04.2008 warranting interference in the hands of this Court. Hence the Writ Petition is dismissed. No costs.

11.06.2019

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
ssd

M.DHANDAPANI.J.,

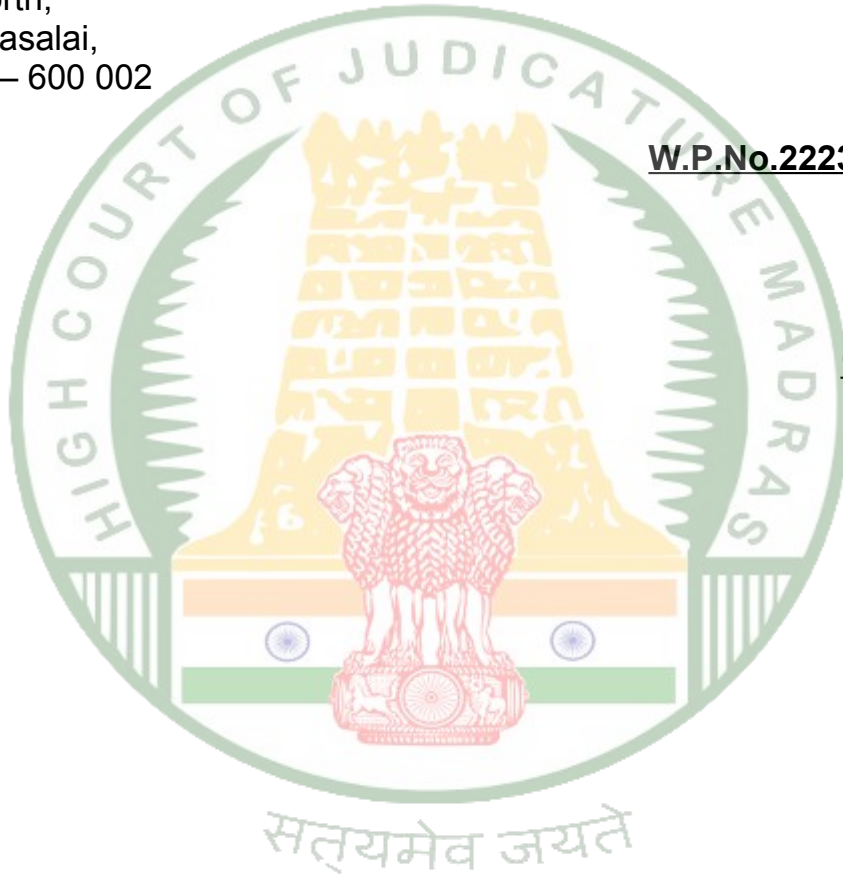
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To

The Superintending Engineer
Chennai Electricity Distribution
Circle/North,
791, Annasalai,
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