

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.23587 of 2008

M/s.Salem Kanda Textile Mills (P) Ltd.,
Rep. by the Director,
50, New Trichy Branch Road,
Gugai,
Salem - 636 006. ...Petitioner

vs

1. The State of Tamil Nadu,
Rep. by the Secretary,
Department of Energy,
Fort St.George,
Chennai - 600 009.
2. The Tamil Nadu Electricity Board,
Rep. by the Chairman,
800, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TNEB - Salem Electricity Distribution Circle,
Salem. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Mandamus, directing the respondents one to three to follow the Supreme Court decision in Civil Application 2551/2007 etc. batch cases dated 15.5.2007 etc. batch reported in 2007 (3) CTC 273 and refund

the electricity tax collected on Maximum Demand Charges in HTSC No. 145 from the petitioners for the period from July 94 to May 2003 with 18% interest from the date of collection till the date of refund.

For Petitioner : Mr.S.Sivanandam
For Respondents: M/s.K.Bhuvaneshwari AGP
for R1
P.R.Dhilipkumar (TNEB)
for R2 & R3

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Mandamus, directing the respondents one to three to follow the Supreme Court decision in Civil Application 2551/2007 etc. batch cases, dated 15.05.2007 etc., reported in 2007 (3) CTC 273 and refund the electricity tax collected on Maximum Demand charges in HTSC No. 145 from the petitioner for the period from July 1994 to May 2003 with 18 % interest from the date of collection till the date of refund.

2. The case of the petitioner is that they are having Electricity Service Connection in HTSC No. 145 and have paid the Electricity Tax under the Electricity Act on Maximum demand charges on demand by the respondents with the threat of disconnection of the above said

electricity connection. The respondent Board collected Electricity Tax based on the Tamil Nadu Tax on Consumption or sale of Electricity Act, 2003. The Validity of the Provisions of the said Act was questioned before the Division Bench of this Court and the same came to be dismissed on 13.07.2006. Aggrieved over the same, the parties preferred an appeal before the Hon'ble Apex Court. The Hon'ble Apex Court was pleased to set aside the order of Division Bench of this Court in the decision in Southern Petrochemical Industries Co. Ltd Vs Electricity Inspector & others reported in (2007) 3 CTC 273 dated 15.05.2007.

3. In order to get refund of the tax already paid from the year 1994-2003, the petitioner made a representation to the Electricity Board on 17.11.2007. Since the respective respondent did not take any action, the petitioner filed the present Writ Petition before this court.

4. The learned counsel appearing for the petitioner contended that the petitioner is entitled to get tax refund for the respective years in view of the above mentioned Judgment of the Hon'ble Supreme

Court. He would further submit that the representation made by the petitioner was not considered by the respective authorities for the past 12 years. Therefore, he prays this court shall give a direction to the respondents to consider the representation made by the petitioner on 17.11.2007 and the pass appropriate orders on merits and in accordance with law.

5. The learned counsel for the respondent Board would submit that the respondents would consider the representation made by the petitioner.

6. In the facts and circumstances, I am inclined to issue a direction to the respondents to consider the representation made by the petitioner on 17.11.2007 and pass appropriate orders on merits and in accordance with law. The petitioner is also directed to send a copy of the representation dated 17.11.2007, along with this order to the respective 3rd respondent, which would enable the 3rd respondent to pass orders.

7. Accordingly, the present writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Secretary,
Department of Energy,
Fort St.George,
Chennai - 600 009.
2. The Tamil Nadu Electricity Board,
Rep. by the Chairman,
800, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TNEB - Salem Electricity Distribution Circle,
Salem.

+1cc to Mr.S.Sivanandam, Advocate, S.R.No. 46661

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NRL (CO)
GN(22/07/2019)