



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :10.06.2019

CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.24158 of 2008

M/s. Attur Steels Pvt. Ltd
Represented by S.Sadasivam
Accounts Manager

..Petitioner

vs

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
Salem Electricity Distribution Circle,
Salem.

2. The Chairman
Tamil Nadu Electricity Board
800 Anna Salai
Chennai - 600 002.

.. 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 Certiorari, calling for the records of the 1st Respondent in letter No.SE/SEDC/SLM/AOR/HT/A2/F/HTSC 223/D/368/08 dated 26.08.2008/2.09.2008 to quash the same.

For Petitioner : Mr.C.S.Krishnamoorthy

For Respondents : Mr.S.K.Rameshwar

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in letter No.SE/SEDC/SLM/AOR/HT/A2/F/HRSC 223/D/368/08 dated 26.08.2008/02.09.2008 and quash the same.

2. The petitioner is a Steel Industry involved in manufacture of MS Rods, Angles, Channels Etc. The Electricity Service connection to their industry comes under the control of the 1st respondent. The Electricity Service Connection to the industry was given during August 1997. In order to encourage new industries in backward area, the Government of Tamil Nadu has given Tariff concession in G.O.Ms. 17 dated 14.02.1997 for



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Electricity consumption for all the new industries for a period of three years from the date of service connection. As per the above G.O, the petitioner is eligible for 40% Electricity Tariff concession for the first year, 30% for the second year and 20% for the third year.

3. The learned counsel appearing for the petitioner would submit that the above said Electricity Tariff concession was given in order to overcome initially tethering problem of Industry and also to encourage Industrialization in the State of Tamil Nadu. Even though the petitioner industry is fully eligible for the Electricity Tariff concession, the respondents have denied the same. Hence the petitioner industry has become sick. Anticipating that the Electricity Tariff concession will be given to the petitioner industry, the Federal Bank, Salem have also extended term loan to the tune of 2.47 crores to the petitioner industry.

4. However in the year 1999, the petitioner could not run the industry and the service connection was disconnected on 09.02.1999 and the Industry became sick. The agreement with the Electricity Board was also terminated on 22.12.1999 and the petitioner Industry was closed. Subsequently, the Electricity Board has come forward with a scheme for the petitioner to make the payment of arrears of consumption charges in installments. In fact, as per B.P.(F.B.No.22) dated 14.02.2001, High Tension consumers can avail reconnection on payment of forty percent of the total arrears and can pay the balance amount in ten installments. To recover the arrears, Tamil Nadu Electricity Board has recommended waiver of Belated Payment Surcharge (BPSC) (Interest) for the consumption arrears and issued a letter dated 12.12.2005.

5. However, contrary to the above said guidelines, the respondent Board passed an impugned order and directed the petitioner to pay the Belated Payment Surcharge of Rs.15,27,826/- (Rupees Fifteen Lakhs Twenty Seven Thousand Eight Hundred and Twenty Six only)

6. The learned counsel for the petitioner would further submit that the initial arrears was worked out to the tune of Rs. 40,68,523/- (Rupees Forty Lakhs Sixty Eight Thousand Five Hundred and Twenty Three only), out of which a sum of Rs.25,40,697/- (Rupees Twenty Five Lakhs Forty Thousand Six Hundred and Ninety Seven only) was paid with request to waive the above Belated Payment surcharge.

7. After collecting the above amount except the Belated Payment Surcharge, the HT new supply was effected on 07.11.2005 and HTSC assigned as HTSC 223 as per the instruction of Chairman's/TNEB dated 15.10.2005 by furnishing an under taking



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to make payment of Belated Payment surcharge. The Board did not consider their request for waiver and the same was dismissed by the Board stating that no order has been received from head quarters for waiver of Belated Payment Surcharge amount of Rs.15,27,826/- (Rupees Fifteen Lakhs Twenty Seven Thousand Eight Hundred and Twenty Six only) relating to the HTSC 172 M/s Attur Steels (P) Ltd.

8. The petitioner company was taken over by one Sadasivam and a total sum of Rs.13,40,197/- (Rupees Thirteen Lakhs Forty Thousand one Hundred and Ninety Seven only) was due towards consumption arrears. He approached the Additional Chief Engineer, Salem Electricity Distribution Circle for waiver of Belated Payment of a sum of Rs.15,27,826/- (Fifteen Lakhs Twenty Seven Thousand Eight Hundred and Twenty Six only). The Additional Chief Engineer has agreed for waiving of Belated Payment surcharge and directed him to pay the consumption arrears only and he agreed to treat the Industry as a new Industry. Hence, he paid the Current Consumption Charges for the Industry totalling a sum of Rs.13,40,197/- (Rupees Thirteen Lakhs Forty Thousand One Hundred and Ninety Seven only) for effecting new service connection. The petitioner paid Application Fee, Registration Fee, Earnest Money Deposit, Meter Caution Deposit, Development charges and for extension of supply of Rs.12,00,500/- totalling to Rs.25,40,697/-. Thereafter, a new service connection was effected on 07.11.2005 and the service connection No. is HT SC No.223. The Chief Engineer has recommended waiver of Belated Payment Surcharge to the 2nd respondent in the year 2005 itself. Earlier in a writ petition No. 24526 of 2005 filed by the petitioner to restore the electricity supply for the closed Industry, this Court by its order dated 01.08.2005 has directed the petitioner to pay Rs.20,00,000/- (Rupees Twenty Lakhs only) within 4 weeks for reconnection of disconnected service and the petitioner complied with the order of this Court and even then the service connection 172 was not restored. The petitioner state that subsequently the Additional Chief Engineer has suggested to treat it as a new service connection and he has also assured waiver of Belated Payment Surcharge. In view of the above and categorical assurance by the Additional Chief Engineer, the petitioner paid another sum of Rs.5,40,697/- totalling Rs.25,40,697/- to the Electricity Board. The petitioner state that the 1st respondent all of a sudden by letter dated 02.09.2008, directed to pay the Belated Payment Surcharge of Rs.15,20,826/- (Fifteen Lakhs Twenty Thousand Eight Hundred and Twenty Six only).

9. The learned counsel for the petitioner would submit that the respondent Board has waived BPSC in respect of a Mill namely, M/s.Dhanalakshmi Mills Ltd., vide order dated 12.12.2005. Hence, he would contend that the petitioner shall be



permitted to make a fresh representation to the concerned respondents, which may be considered in accordance with law.

10. On a perusal of records, it is evident that the Electricity Board has no bar to collect the BPSC for every belated payment. Admittedly, the petitioner industry's electricity service connection was disconnected for non payment of consumption charges and consequently, one Sadasivam took charge over the Industry and got new service connection and further, he has paid the amount as per the order of this Court and restored the old service connection. In the circumstances, the respondent Board have issued orders to collect the Belated Payment Surcharges.

11. The learned Standing Counsel appearing for the Electricity Board would concede to the limited request made by the petitioner for fresh consideration.

12. In view of the above, I am inclined to set aside the impugned order and direct the respondents to comply with the guidelines, which may applicable to the petitioner industry in accordance with law. Liberty is granted to the petitioner to make a fresh representation along with all the records before the Chief Engineer and on receipt of any such representation, the Chief Engineer has to pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of the representation without perusing the above said impugned order dated 26.08.2008/20.09.2008.

13. In view of the above, the present writ petition stands allowed. After following the procedures contemplated, the Chief Engineer has to dispose of the same within a period of six weeks, if the petitioner is eligible to avail the benefit of the above said procedures.

Sd/-

Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintending Engineer/Chief Engineer,
Tamil Nadu Electricity Board,
Salem Electricity Distribution Circle,
Salem.



2. The Chairman
Tamil Nadu Electricity Board
800 Anna Salai
Chennai - 600 002.

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+1cc to Mr.C.S.Krishnamoorthy, Advocate, S.R.No.46473

W.P.No.24158 of 2008

BP (CO)

RRS (06/08/2019)