

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 7786 & 7787 of 2006

Madura Coats Ltd.,
by its Finance Director
New Jail Road
Madurai 625 001.

..Petitioner in both writ petitions

Vs.

1. Tamil Nadu Electricity Board
Anna Salai
Chennai
represented by its Chairman

2. Tamil Nadu Electricity Board
Tirunelveli Electricity Distribution Circle
Tirunelveli - 11
represented by its
Superintending Engineer ..Respondents in both writ petitions

Prayer in W.P.No. 7786 of 2006: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the second respondent's letter in Lr.No.Ao/Rev/HTS/AS/AI/HTSCNo.2/F.BOAB/2002-2003/R.79/D.889/ 05 dated 04.07.2005 as illegal, without authority of law, unconstitutional and ultra vires.

Prayer in W.P.No. 7787 of 2006: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to refund the petitioner the amount of Rs.11,81,620/-, along with appropriate commercial interest, paid by the petitioner pursuant to the second respondent's illegal demand in Lr.No.Ao/Rev/HTS/AS/AI/HTSC No.2/F.BOAB/2002-2003/R.79/D.889/ 05 dated 04.07.2005 as illegal, without authority of law, unconstitutional and ultra vires.

For Petitioners in both WP.Nos. : Mr.P.R.Raman

For Respondents in both WP.Nos. : Mr.S.K.Rameshwar

COMMON ORDER

Since the prayer in the above Writ Petitions are one and the same, they are clubbed together and a common order is passed.

2. The above Writ Petitions are filed for issuance of writ of Mandamus, to direct the respondents to refund the petitioner the amount of Rs.11,81,620/-, along with appropriate commercial interest, paid by the petitioner pursuant to the second respondent's illegal demand and to declare the letter illegal and without authority of law, unconstitutional and ultra vires.

3. The petitioner is a reputed manufacturer of textile and textile goods in the country and owns amongst and others a textile manufacturing unit known as "Interlining Facility" (IMF) at Papavinasam Main Road, Mela Ambasamudram, Tirunelveli District. The petitioner owns and operates other textile mills inter alia at Madurai, Ambasamudram and Tuticorn in Tamil Nadu.

4. The petitioner received a letter from the second respondent dated 05.06.2004 in respect of HT.SC.No.2 (Water Mill Papavinasam Mills Post) stating that a sum of Rs.11,81,620/- has been shortly assessed towards peak hour charges and the same had been found by them while reviewing the accounts. The petitioner replied to the second respondent vide letter dated 28.06.2004 stating that the second respondent had already billed the petitioner and also collected the peak hour consumption charges as per the tariff rates. The petitioner also wrote to the Chief Financial Controller of TNEB enclosing the copies of both the letters and the Chief Financial Controller of TNEB who rejected the petitioner's request via reply dated 31.07.2004. Thereafter, the petitioner received a letter dated 09.08.2004 from the Additional Chief Engineer, Tirunelveli stating that the arrears of peak hour charges would be included in the petitioner's CC bill for August 2004. Thereafter, the petitioner continued to write to the concerned officials however, the said amount was included in petitioner's CC bill. Therefore, the petitioner was once again forced to write to the second respondent, however the petitioner's plea was continuously rejected. Hence, the petitioner approached this court by filing the Writ Petition.

5. The learned senior counsel appearing for the respondents would submit that, as per the Government Order in G.O.Ms.No. 17 dated 14.02.1997, the respondent Board is entitled to collect 20% extra on the energy charges for the energy recorded during peak hours, provided they agree to be charged extra levy of ten paise per KWH, over and above the normal tariff for the entire energy consumed till they avail themselves with the supply at 33 KV.

6. The Government Order in G.O.Ms.No. 17 dated 14.02.1997, Clause 2(d) is extracted hereunder:

"For the High Tension industrial consumers, Time of the Day meter shall be provided. On installation of Time of the Day meters, the High Tension industrial consumers shall be billed at 20% extra on the energy charges for the energy recorded during peak load hours."

7. The learned Counsel appearing for the Electricity Board would submit that there was some error in the calculation arrived at by the Original authority and also prayed this Court to remand the matters for fresh consideration to the officials by applying the said G.O and relevant rules.

8. In view of the above, I am inclined to remand the matters back to the authority to rework the calculation charges and if any excess amount is collected, the same may be appropriated to the future charges and this process may be completed within a period of 12 weeks from the date of receipt of a copy of this order, after giving opportunity to the petitioner.

9. Accordingly, these writ petitions stand disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman, Tamil Nadu Electricity Board
Anna Salai, Chennai
2. The Superintending Engineer, Tamil Nadu Electricity Board
Tirunelveli Electricity Distribution Circle, Tirunelveli - 11

+1 cc to M/s.S.K.Rameshwar,Advocate Sr.No. 53710

AKM/14.09.19/3P-4C /

W.P.Nos. 7786 to 7787 of 2006