

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.35144 of 2004

and

W.P.M.P.No.42366 of 2004

Nallam Textiles(P) Ltd.,
Rep.by its Managing Director
S.F.No.31, Karur Main Road
Vellamada
Olappalayam Post
Kangayam Taluk
Erode District
Pin:638 701.

..Petitioner

vs

1. The Chairman
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai-600 002.
2. The Superintending Engineer
Erode Electricity Distribution Circle
Tamil Nadu Electricity Board
946, E.V.N.Road, Erode.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in its proceedings in Lr.No.A/CS.Br/HT/A1/F.HTSC.106/R.1404/2004 dated 16.11.2004 and quash the same and permit the petitioner to pay the accrued the peak hour consumption charges alone as on date by 30 monthly installments.

For Petitioner : Mr.M.Kamalanathan

For Respondents : Mr.S.K.Rameshwar

O R D E R

The petitioner has filed the present Writ Petition for issuance of a Writ of Certiorarified Mandamus, to call for the

records of the 2nd respondent in its proceedings in Lr.No.A/CS.Br/HT/A1/F.HTSC.106/R.1404/2004 dated 16.11.2004, quash the same and permit the petitioner to pay the accrued peak hour consumption charges alone as on date by 30 monthly installments.

2. The case of the petitioner is that the petitioner is a Private Limited Company having High Tension Service Connection No.106, within the jurisdiction of the second respondent. The petitioner is engaged in the manufacture of cotton yarn and other allied items. The petitioner initially challenged the peak hour charges before this Court. The peak hour has been introduced by amending Section 3(d) to Section 4 of Indian Electricity Supply Act by G.O.Ms.No.17 dated 14.02.1997. However, a batch of writ petitions have been filed before this Court challenging the amendment. All the writ petitions were taken up for hearing and by a common order dated 06.11.2003, the writ petitions were dismissed. The 1st respondent had presented a petition in T.P.No.1 of 2002 putting forth a charter of demand. One such demand is peak hour charges existing at the time of filing the T.P.No.1 of 2002. The State Regulatory Commission by its order dated 15.03.2003, has confirmed the levy of peak hour charges. Therefore the respondent Board was permitted to collect the peak hour charges from 16.03.2003. Subsequently, the second respondent has called upon the petitioner to pay the Peak Hour charges for the period from 08/2003 to 10/2004 amounting to Rs.6,09,669/- on 16.11.2004. However, without prejudice, the petitioner undertakes to pay the sum of Rs.6,09,669/- being the arrears of peak hour charges in thirty equal monthly installments. Aggrieved against the same, the present writ petition is filed.

3. The learned counsel for the petitioner submitted that based on the decision of this Court dated 06.11.2003, the petitioners are bound to pay the Peak hour charges. However, the 2nd respondent in an arbitrary manner, ignoring the provisions of the terms and conditions of supply of electricity, has unilaterally raised a supplementary demand dated 16.11.2004 for Rs.6,09,669/-. Therefore, the 2nd respondent having failed to include the peak hour charges in regular every month bill cannot suo moto raise a supplementary bill for Rs.6,09,669/- in a single bill.

4. The learned counsel appearing for the respondents would submit that the petitions against the levy of peak hour charges were dismissed by this Court in a batch of Writ Petitions. Accordingly, the respondent board is entitled to collect the peak hour charges. The petitioner has paid the peak hour charges of Rs.3,65,829/- for six installments regularly and then, he has not paid the remaining amount. Then only, the respondent

board disconnected the service connection on 07.06.2005 and balance 4 installments were collected Rs.2,43,840/- vide PR.No.5420/07.06.2005. The learned counsel for the respondents submitted a letter dated 12.06.2019 wherein it is mentioned that as per the High Court orders in W.P.No.35144 of 2004, the petitioner has paid the peak hour charges amount of Rs.6,09,669/- in installments as follows:

Installment No.	Amount	Receipt No/Date	Remarks
1	61,029	426E003630/7.12.2004	
2	60,960	426E003876/7.1.2005	
3	60,960	426E004130/7.2.2005	
4	60,960	426E004289/7.3.2005	
5	60,960	426E004741/7.4.2005	
6	60,960	426E005011/7.5.2005	
7	60,960	Service Disconnected on 07.06.2005 and Balance 4 installments collected Rs.2,43,840/- vide PR No.5420/7.6.2005.	
8	60,960		
9	60,960		
10	60,960		

5. From the above submissions, it is clear that the petitioner has paid the entire arrears amount of Rs.6,09,669/- and the respondent board has no intention to disconnect the service. Therefore, no further adjudication needs to be entertained in this writ petition. Accordingly, the writ petition stands closed. Consequently, connected miscellaneous petition is also closed.

ssb

Sd/-

सत्यमेव जयते Assistant Registrar

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Sub Assistant Registrar

To

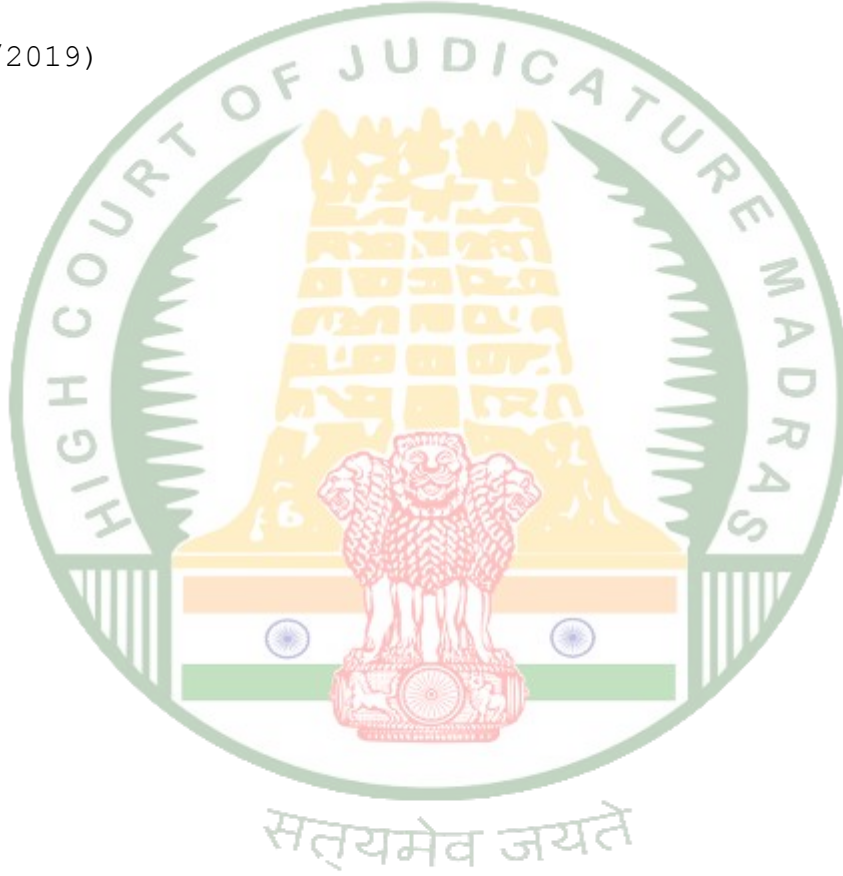
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+1cc to Mr.M.Kamalanathan, Advocate, SR.No.47451

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Kak (18/07/2019)



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