

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.38092 of 2004

Spictex Cotton Mills (P) Ltd.,
SF.No.624, Kannivadi Post,
Chinnadharapuram Via,
Dharapuram Taluk 639 202,
Erode District
represented by its General Manager,
Thiru.R.Pitchaimani.

...Petitioner

Versus

The Superintending Engineer,
Tamil Nadu Electricity Board,
Udumalpet Electricity Distribution Circle,
Udumalpet.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Prohibition, prohibiting the respondent from levying, demanding and collecting Belated Payment Surcharge (BPSC) to the tune of Rs.1,39,496/-vide their bill No.HT 221 dtd 30.11.2004.

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.S.K.Raameshuwar,
Standing Counsel for TNEB.

O R D E R

This Writ Petition has been filed seeking to prohibit the respondent from levying, demanding and collecting Belated Payment Surcharge (BPSC) to the tune of Rs.1,39,496/-vide their bill No.HT 221 dtd 30.11.2004.

2.The Petitioner Mill is a private limited Company registered under the Companies Act, 1956, running at Kannivadi Post, Chinnadharapuram, Erode District and it is engaged in the manufacture of Yarn and the employees of the mill are from the villages in and around the Mill. Initially, the respondent did not charge any peak hour charges to the petitioner immediately and allowed to accumulate the same for almost eleven months. But, all of a sudden, the respondent has raised a demand calling

upon the petitioner to pay the entire amount of accumulated arrears of Rs.15,79,377/- in one payment on or before 25.10.2004 failing which the same would be included in October 2004, current consumption charges bill, failing which the electricity connection would be disconnected. Hence, the petitioner filed a writ petition in W.P.No.31372 of 2004 and this Court has passed an order in favour of the petitioner to pay the arrears amount in 10 equal installments for payment of this accumulated arrears of peak hour charges for the period from 09/2003 to 09/2004. In compliance to the order, the petitioner has paid the above said amount in equal installments. Even after payment by the petitioner, the respondent has sent a bill bearing No.HT221 dated 30.11.2004 calling upon the petitioner to pay a huge amount to the tune of 1,39,496/- as belated payment surcharge (BPSC). Aggrieved by the same, the petitioner has filed the present writ petition with the aforesaid prayer.

3.Heard Mr.R.S.Pandiyaraj, learned counsel appearing for the petitioner and Mr.S.K.Raameshuwar, learned standing counsel for the Tamil Nadu Electricity Board.

4.The learned counsel for the petitioner submitted that though the respondent Board have the power to allow the consumer to pay arrears by way of installments and if the consumer also paid the arrears in installments as per clause 19.14 of the Terms and Conditions of Supply of Electricity, in the very same Terms and Conditions, Clause 20.05 provides as follows

Clause 20.05:Where the charges are levied only in installments under Clause 19.14, no surcharge is payable on the installments remitted according to the schedule of payment. Surcharge is payable on installments paid belatedly. This surcharge will be calculated from the date immediately following the due date of payment of the defaulted installment."

The learned counsel for the petitioner further submitted that, it is the respondent who has delayed the matter by not including the peak hour charges in the monthly current consumption charges for the period from 09/2003 to 09/2004 and hence, the petitioner is not liable to pay any belated payment surcharge for the above amount and is entitled for the benefit of Clause 20.05 of the terms and conditions. The learned counsel for the petitioner submitted the impugned bill dated 30.11.2004 does not contain any details. Hence, he prays for allowing the petition.

5.The learned counsel for the respondent submitted that since the impugned order is not in clear terms, whether the amount of Rs.1,39,496 is mentioned as Bleated Payment Surcharge or penalty for belated payment surcharge, this Court may remand the matter back to the authority concern for fresh

consideration.

6. On perusal of records, no doubt the petitioner has paid the arrears of amount as per the directions of this Court and thereafter the impugned bill came to be passed by the respondent board. However, on perusal of the impugned order, the respondent Board demanded to pay an amount to the tune of Rs.1,39,496/- towards old energy charges and no details were furnished in the impugned bill.

7. In view of the above, the impugned bill No.HT 221 dated 30.11.2004 passed by the respondent is hereby set aside and the matter is remanded back to concern authority/respondent, for passing fresh orders. However, this Court observes that the petitioner has already paid the arrears of Rs.15,79,377/- in installments as per clause 19.14 of the Terms and Conditions of Supply of Electricity, the petitioner is entitled for the benefit of clause 20.05 of the Terms and Conditions.

8. With the above observations, this writ petition stands disposed of. No costs.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

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To

The Superintending Engineer,
Tamil Nadu Electricity Board,
Udumalpet Electricity Distribution Circle,
Udumalpet.

SP(29/08/2019)

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