

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :21.11.2019
CORAM
THE HON'BLE Mr.JUSTICE M.DHANDAPANI
W.P.No.23735 of 2011

M/s.Millennium Software Productions (India)
Pvt. Ltd.,
Rep. by its Manager D.Vethamuthu,
No.1, Kuppuswamy street,
T.Nagar,
Chennai - 600 017.

... Petitioner

Versus

1.The Tamilnadu Electricity Board,
Represented by its Chairman,
Mount Road,
Chennai.

2.The Executive Engineer,
Tamilnadu Electricity Board,
T.Nagar, CEDC/Central,
Nungambakkam,
Chennai - 600 034.

3.The Assistant Engineer,
Tamilnadu Electricity Board,
CEDC/Central,
Thanikachalam Road,
T.Nagar, Chennai - 600 017

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified, calling for the records on the file of the respondents relating to the impugned order dated 03.09.2011 of the third respondent in Lr.No.AE/OXM/TN/NORTH/2009-2010/BOAD-AUDIT in respect of the service connection number 221-095-57 and quash the same.

For Petitioner : Mr. Gopika Nambiar
for M/s.T.Saikrishnan

For Respondents : Mr. P.R.Dilipkumar

O R D E R

This Writ Petition is filed for the issuance of the Writ of Certiorari calling for the records on the file of the respondents relating to the impugned order dated 03.09.2011 of the third respondent in Lr.No.AE/OXM/TN/NORTH/2009-2010/BOAD-AUDIT in respect of the service connection number 221-095-57 and quash the same.

2. According to the petitioner, the electricity meter attached to the premises of the petitioner was defective and the same was replaced with new meter on 04.01.2011. The second respondent issued order dated 18.01.2011, stating that there was short fall in the average levy for the period from 11/2009 to 11/2010 and directed the petitioner to pay a sum of Rs.108662/-. After receipt of the said order, the petitioner approached the second respondent and sought for permission to pay the said amount of Rs.108662/- in installments and accordingly, the petitioner paid the same in five installments and thereafter, the petitioner has been regularly making the consumption charges to the respondents. While so, surprisingly, the third respondent issued demand notice dated 03.09.2011, referring to the same, calling upon the petitioner to pay a sum of Rs.10,37,191/- being short fall for the period 2009 and 2010. Aggrieved by the same, challenging the demand notice dated 03.09.2011, the petitioner is before this Court.

3. The petitioner would submit that on earlier occasion, the third respondent issued demand notice, dated 05.10.2010, directed the petitioner to pay a sum of Rs.1037191/- towards the short fall as per the audit report for the period from 11/2008 to 07/2010. Further, learned counsel for the second respondent issued proceedings dated 18.01.2011 calling for the petitioner to pay short fall for a sum of Rs.108662/- for the very same period (i.e) 11/2009 - 11/2010 which was already paid by the petitioner. However, again for the very same period, the petitioner was issued demand notice dated 03.09.2011, which was arbitrary and cannot be sustained.

4. Learned counsel for the respondent would submit that the second respondent found additional short fall of Rs.108662/- for the period from 11/2009 to 11/2010 which was paid. However, the earlier short fall for Rs.1037191/- has not yet been paid by the petitioner and hence, a reminder notice which is impugned in the Writ Petition has been issued by the third respondent which has to be complied with by the petitioner.

5. Pursuant to the direction of this Court dated 13.10.2011, it appears that the petitioner has paid 50% of the short fall amount. A perusal of the proceedings of both the third and second respondent, it appears that there is discrepancy in regard to quantifying their short fall and assessing the amount to be paid by the petitioner. It is not in dispute that the petitioner, pursuant to the proceedings of the second respondent dated 18.01.2001 towards short fall for the period from 11/2009 to 11/2010, a sum of Rs.108662/- has been paid by the petitioner. However, the third respondent issued impugned demand notice dated 03.09.2011 calling upon the petitioner to pay a sum of Rs.1037191/- for the period from 11/2008 to 07/2010.

6. In such circumstances, the matter requires re-adjudication. Accordingly, the matter is remitted to the third respondent for afresh adjudication. The third respondent is directed to adjudicate the matter and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order, after affording an opportunity to the petitioner. The third respondent shall keep in mind the amount already paid by the petitioner as well as 50% of the demand notice as per the direction of this Court. Consequently, the impugned order dated 03.09.2011, issued by the third respondent is set aside.

7. The Writ Petition is allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Tamilnadu Electricity Board,
Represented by its Chairman,
Mount Road,
Chennai.

2. The Executive Engineer,
Tamilnadu Electricity Board,
T.Nagar, CEDC/Central,
Nungambakkam,
Chennai - 600 034.

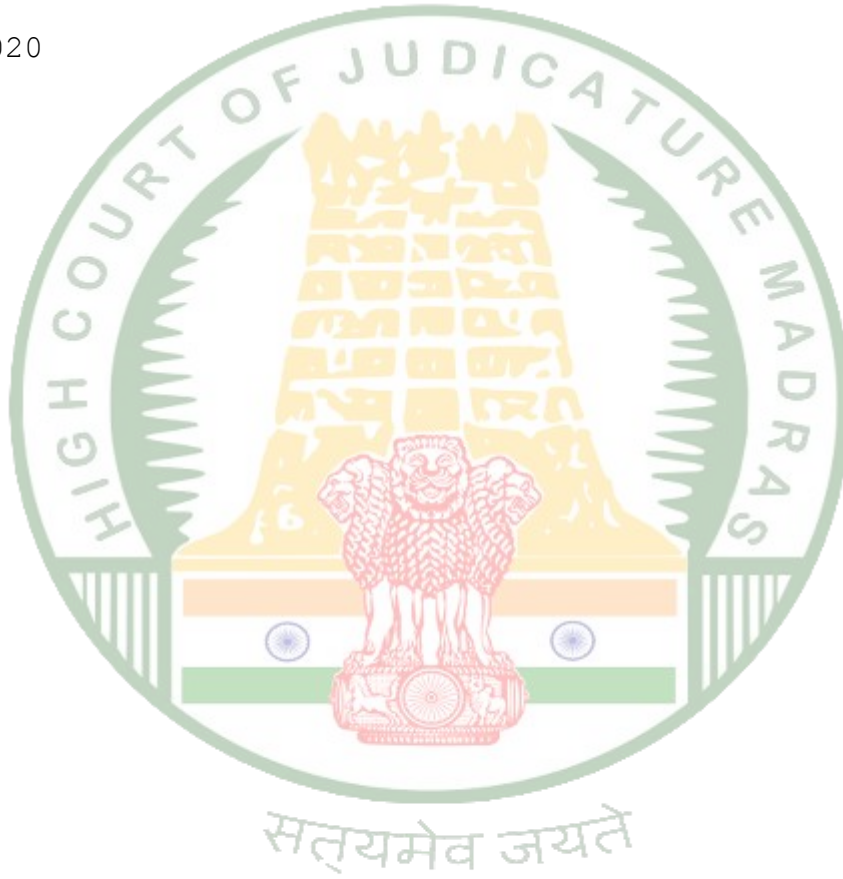
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3.The Assistant Engineer,
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T.Nagar, Chennai - 600 017.

+1 cc to M/s.Sai & Bharath Advocate sr97745

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