IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27251 of 2005
and
W.M.P.No.29685 of 2005

Darani Sugars & Chemicals Ltd.,
Rep. by its Legal Executive
No.57, Sterling Road
Nungambakkam
Chennai 600 034 ...Petitioner

Vs.

1.The Chairman
Tamil Nadu Electricity Board
800, Anna Salai
Chennai 600 002

2.The Superintending Engineer
Tamil Nadu Electricity Board
Tirunelveli Electricity Distribution Circle
Tirunelveli
Tirunelveli District ... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the second respondent culminated in and by his Lr.No.AO/Rev/HTS/AS/A.1/F HTSC No.HTSC.No.74D-05 dated .7.2005 quash the same and consequently directing the respondents to continue the billing of power consumption under HT Tariff 1A.

For Petitioner : Mrs.P.T.Ramadevi
For Respondents : Mr.S.K.Rameshwar

O R D E R

The petitioner filed this Writ Petition, to issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent culminated in any and by his Lr.No.AO/Rev/HTS/AS/A.1F HTSC.No.74D-05 dated Nil .7.2005 quash the same and consequently directing the respondents to continue the billing of power consumption under HT Tariff 1A.

2.The case of the petitioner is that the petitioner is having two sugar mills one at Vasudevanallor in Nellai District and another at Polur at Thiruvannamalai District. The petitioner has been running the said mills successfully by getting the investment from non Indian Residents thereby catering to the needs of the general public apart from providing employment to the people of Tamilnadu. The petitioner's mill situated in Vasudevanallur in Nellai District and its operation commissioned in the year 1988. However, since its operation, electricity has been charged for the said mill under Tariff 1A (Industries). It is also submitted that in the year 1993, the said mill has put up a distillery in the same place attached to the Mill. In the said Distillery, the molasses produced from the waste sugar is converted into rectified spirit which is used for various purpose. In the year 1988 itself, a captive power plant was also established producing power from the sugar cane. Accordingly, the mill itself through its captive power plant has been producing and generating power. The said power is also used by the mill apart from the electricity through the respondent Board. The operations of the mill are three fold. The first is the sugarcane brought into the mill has been converted into sugar, secondly raw sugar imported from other countries is converted into sugar and thirdly the distillery, the molasses gets converted into rectified spirit. The conversion of molasses into rectified spirit is done throughout the year. The conversion of sugarcane into sugar is done during the seasonal time. The sugar mill is in operation throughout the year in so far as conversion of molasses into rectified spirit and conversion of raw sugar into sugar are concerned. While that being so, the respondent board issued an impugned order of demand notice dated Nil.07.2005 informed the petitioner mill that if the consumers availing of HT supply under HT TF IA does not for any reason utilise the power load for more than thirty days then the CC charges for the power load utilised and the service for lighting and non industrial load purpose shall be billed under HT TF III (Commercial) and further the billing during non crushing period should also be made under HT TF III. Aggrieved by the said impugned order, the present writ petition has been filed.

3.The learned counsel for the petitioner would submit that the operations of the mill are three fold, that sugarcane has been converted into sugar, raw sugar imported from other countries is converted into sugar and the distillery, the molasses gets converted into rectified spirit. Apart from crushing, the conversion of sugarcane into sugar is done during the seasonal period. Hence, the order of impugned order is liable to be set aside and the impugned order issued is not applicable to the petitioner.

4.The learned counsel appearing for the respondent Board would submit that as per the letter dated 26.11.1981, the superintending Engineer / Trichy Electricity System has informed that as per the tariff condition, if the H.T. Consumer availing supply under H.T. Tariff I, should not for any reason utilise the power loads for more than 30 days, if they do so, then the energy utilised in the service for lighting and non-industrial purposes will be billed under H.T. Tariff V i.e. Commercial tariff. However, in the present case, the petitioner mill activities are non crushing. Accordingly, prays for dismissal of the petition.

5.On a perusal of the records, it is seen that the petitioner industry started in the year 1988. The activities of the petitioner is that the sugarcane brought into the mill has been converted into sugar, the raw sugar imported from other countries is converted into sugar and the distillery, the molasses gets converted into rectified spirit. Hence, the impugned order passed by the respondent board is non application of mind and without any basis. The petitioner's industrial activities are three fold as stated supra. However, as per the impugned order, the respondent has converted industrial tariff as commercial tariff on the ground that the non cane crushing period is not an industrial activity. Hence, the impugned order is liable to be interfered.

6.The writ petition is allowed accordingly. The impugned order passed by the 2nd respondent is hereby set aside. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman
Tamil Nadu Electricity Board
800, Anna Salai
Chennai 600 002

2.The Superintending Engineer
Tamil Nadu Electricity Board
Tirunelveli Electricity Distribution Circle
Tirunelveli
Tirunelveli District

+1cc to Mr.P.T.Ramadevi, Advocate, S.R.No. 56764
+1cc to Mr.S.K.Rameshuwar, Advocate, S.R.No. 56658

W.P.No.27251 of 2005
and
W.M.P.No.29685 of 2005

NA(CO)
GN(29/07/2019)