

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.29245 of 2010

and

M.P.No.1 of 2010

Sugavaneswara Spinning Mills (P) Ltd.,
HT SC No.61, Belur Main Road,
Minnampalli Post,
Salem District - 636 106.
Rep.by its Managing Director,
V.Chandrasekaran. Petitioner

Vs

- 1.Tamil Nadu Electricity Regulatory,
Commission rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai - 600 008.
- 2.The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
Salem Electrical Distribution Circle,
Tamil Nadu Electricity Board,
Salem - 14. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus calling for the 3rd Respondent in his Bill No.61 dated 29.05.2010 in which under column No.16, it has been levied a penalty of Rs.15,25,083/-, Bill No.61 dated 29.06.2010 under column No.16 Rs.2,63,148/-, Bill No.61 dated 29.07.2010 under column No.14(f) Rs.62,010/-, column no.16 Rs.30,072/- Bill No.61 dated 30.08.2010 under column No.16 Rs.90,120/- totaling Rs.19,70,433/-, quashing the same insofar as it relates to the levy of excess charges/penalty for alleged excess demand and energy quota as illegal, arbitrary, without the authority of law and against the orders of the 1st Respondent made in Suo Motu Proceedings No.1 of 2009 dated 28.10.2009 and consequently direct the 3rd Respondent to refund above amount.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : M/s.S.K.Rameshwar
for R2 & R3

ORDER

Questioning the levy of penalty for the alleged excess consumption of demand and energy quota, the petitioner has come up with the present writ petition.

2.When the matter was taken up for consideration, the learned counsel for the petitioner as well as the learned standing counsel for the respondents fairly submitted that the issue involved herein is squarely covered by the order passed in the case of Chief Financial Controller/ Revenue Tamil Nadu Electricity Board v. Bannari Amman Spinning Mills Ltd [Civil Appeal No.8215 of 2015 decided on 25.10.2018], wherein, the Supreme Court upheld the view taken by the Regulatory Commission and the Appellate Tribunal for Electricity that the decision and methodology for charging excess energy and demand charges adopted by the Distribution Licensee is correct, but the date of collection of such charges would be from 2010 and not from 2008, when the Restriction and Control Measures were introduced.

3.In the light of the aforesaid order passed by the Supreme Court, the demand as well as interest levied on the petitioner does not survive and the petitioner is entitled to receive the excess charges paid to the third respondent, pursuant to the demands made against them, in order to avoid disconnection of power supply.

4.In such view of the matter, this writ petition stands allowed by setting aside the demands made by the third respondent. Consequently, the petitioner is directed to approach the respondent authorities with a fresh representation enclosing all the relevant materials, for refund of excess charges paid by them, within a period of two weeks from the date of receipt of a copy of this order. On such approach, the respondent authorities shall consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of

personal hearing to the petitioner, within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

jas/rk

To

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Salem - 14.

+1cc to Mr.R.S.Pandiyaraj, Advocate Sr.2219

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srg 20/02/2019

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