

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32885 of 2005

Madura Coats Ltd.,
by its Finance Director
New Jail Road
Madurai 625 001.

...Petitioner

Vs.

1. Tamil Nadu Electricity Board
Anna Salai
Chennai - 2
represented by its Chairman
2. Tamil Nadu Electricity Board
Tirunelveli Electricity Distribution Circle
Tirunelveli - 11
represented by its Superintending Engineer

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the second respondent in Lr.No.Ao/Rev/HTS/AS/A.2/F.HT.SC.No. 99/D.926/05 dated 19.07.2005 and received by the petitioner on 26.07.2005, quash the same and direct the respondents to revise the assessment of the petitioner's H.T. S.C.No.99 (Old No. 155) under H.T. Tf. I from the date of Service connection/wrong billing i.e 30.12.1994 to the date of correct billing under the correct tariff i.e.. 31.05.2003 and not just for the period 01.01.1998 to 31.05.2003, alongwith provision for payment of interest as demanded by the petitioner vide its letter dated 27.06.2003.

For Petitioner : Mr.P.R.Raman

For Respondents: Mr.S.K.Rameshwar

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O R D E R

The petitioner has filed this Writ Petition, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in Lr.No.Ao/Rev/HTS/AS/A.2/F.HT.SC.No.99/D/926/05 dated 19.07.2005, received by the petitioner on 26.07.2005 and to quash the same and to direct the respondents to revise the assessment of the petitioner's H.T. S.C.No.99 (Old No.155) under H.T. Tf. I from

the date of service connection/wrong billing i.e 30.12.1994 to the date of correct billing under the correct tariff i.e.. 31.05.2003 and not just for the period 01.01.1998 to 31.05.2003, along with the provision for payment of interest as demanded by the petitioner vide its letter dated 27.06.2003.

2. The petitioner / Madura Coats Limited, Madurai is a reputed manufacturer of textile and textile goods in the country and owns a textile manufacturing unit known as "Interlining Manufacturing Facility" (IMF) at Papavinasam Main Road, Mela Ambasamudram, Tirunelveli District. The petitioner owns and operates other textile mills inter-alia at Madurai, Ambasamudram and Tuticorin in Tamil Nadu. For the aforesaid facilities, the petitioner applied for and obtained high tension electricity service connections as under;

Location	HT SC No.	Maximum Sanctioned Demand (Present)	Applicable HT Tariff
83-88, Beach Road, Tuticorin.	33	3000KVA	I
Interlining Manufacturing Facility Mela, Ambasamudram.	99 (New No.HT SC 155)	550 KVA	I
Water Mill Papavinasam Mills Post, Tirunelveli District.	2	6500 kVA	I
Madura Textiles, New Jail Road, Madurai.	6 (New No.36)	5250 kVA	I
Centenary Mill, 8.	2 (New No.32)	3200 kVA	I (Surrendered Later)

3. The learned counsel appearing for the petitioner would submit that the said IMF unit has been continuously drawing high tension electricity supply from the Tamil Nadu Electricity Board since 30.12.1994 for the purpose of lighting and power under connection HT SC 155 (previously HT SC 99). The maximum sanctioned demand for contracted load for the said unit is 550 KVA. The petitioner uses electrical energy to run its motors,

pumps etc. which eventually run the machinery and also for lighting and other associated activities. The supply of electrical energy under the agreement is governed by the provisions of the Indian Electricity Act, 1910, Electricity (Supply) Act, 1948 (since repealed and replaced by the Electricity Act, 2003) and the provisions of the tariff, scale of miscellaneous and other charges and the terms and conditions of supply of electricity (since repealed and replaced by Electricity Distribution/Supply code).

4. The learned counsel appearing for the petitioner would also submit that the respondent Board, by letter dated 04.01.1995 informed the petitioner that the extension of HT supply has been effected on 30.12.1994 for a maximum demand of 400 KVA with HT SC No.155 and simultaneously issued a copy of a test report bearing No. 23583 indicating the connected load details and the applicable tariff as HT Tariff I.

5. The learned counsel appearing for the petitioner further submitted that the respondents started billing the petitioner for its electricity consumption under HT Tariff VII/III instead of HT Tariff I which resulted in huge financial loss and a year after the said incident, the rate difference between HT Tariff I and Tariff VII/III grew even wider over the years. The petitioner, by letter dated 04.03.1999 furnished relevant documents to the respondents indicating that the petitioner is a textile industry and accordingly requested for billing under HT Tariff I and also for consequent adjustment of amounts paid in excess against future bills. As there was no response, the petitioner, by letters dated 17.02.2000, 25.04.2001 and 09.11.2001 reminded the respondents to pass suitable orders.

6. Thereafter, the 2nd respondent Board issued a letter dated 24.01.2002, asking the petitioner to submit further documents, which were duly submitted by the petitioner on 21.02.2002. On 28.02.2002, the respondents handed over copies of their internal correspondences, dated 02.11.2001, 04.12.2001 and 10.12.2001 and the petitioner was asked to submit further documents such as Town Panchayat approval, copy of test report and letter issued by the Factory Inspectorate classifying the petitioner's unit as a registered factory. The petitioner submitted those documents on 01.03.2002. Thereafter, by letter dated 19.07.2002, the 2nd respondent asked the petitioner to produce the certificates issued by the Industries Department along with connected documents. Even though those documents had already been furnished, the petitioner once again gave the same under the cover of its letter dated 31.07.2002. The second respondent, by another letter dated 22.08.2002, returned the documents and asked the petitioner to re-submit the documents through the Executive Engineer, Kallidaikurichi, along with

their attestation.

7. Aggrieved by the inaction on the part of the respondents, the petitioner filed W.P.No. 10064 of 2003 praying for issuance of a Writ of Mandamus to direct the respondents to pass orders on the petitioner's representation dated 04.03.1999, requesting change of HT Tariff from Tariff III to Tariff I in respect of the petitioner company's service connection in HT SC No. 155 (Old No.99). The said writ petition came to be disposed of by this Court on 01.04.2003, wherein, the 2nd respondent therein was directed to consider the petitioner's representation dated 04.03.1999 and pass orders on merits and in accordance with law. The petitioner was also directed to co-operate for the same and the entire exercise was directed to be completed within a period of two months.

8. Thereafter, the petitioner received a letter dated 20.04.2003 from the second respondent demanding Rs.1,15,960/- as additional Current Consumption Deposit (CCD) over and above the existing CCD of Rs.10.53 Lakhs, on the ground that the average amount of consumption charges during the year 2002 had gone up. This alleged increased amount of consumption charges itself was on the wrong application of the said higher tariff. The petitioner replied on 23.05.2003 and it was brought to the notice of the said authority that there will not be any requirement for the petitioner to pay additional CCD. At any rate, the petitioner enclosed the receipt for the first installment of Rs.38,654/-, which fell due on 26.05.2003 which was paid under protest. Thereafter, the petitioner received a letter from the second respondent dated 10.06.2003, stating that the petitioner's request for change in tariff has been considered and the same being changed to HT Tariff I and it also was stated therein that the assessment of Current Consumption C.C.Bill from June 2003 will be made under HT Tariff I in respect of HT SC No.99.

9. The petitioner also enclosed detailed work sheets and demanded refund of a sum of Rs. 50,71,527/-, which was the amount assessed and recovered in excess during the period January 1995 to May 2003, being the difference between the rate applicable for HT Tariff III paid and HT Tariff I actually payable, together with interest payable thereon, as against which, the present writ petition is filed.

10. It is pertinent to point out that earlier in W.P.No. 10064 of 2003, by an order dated 01.04.2003, this Court issued a direction to the 2nd respondent to consider the representation of the petitioner. However, the respondent Board have not passed any orders on the representation.

11. The learned counsel appearing for the respondent Board would submit that at the time of passing the order, the petitioner produced the letter, and Revenue Records of the year 1998 onwards which were only produced before this Court and the same was returned back to the authority for fresh consideration.

12. On a perusal of the application of the petitioner submitted on 04.03.1999, it is seen that there is a change of tariff. Admittedly, the respondent Board has produced the documents before the Authority.

13. The learned counsel appearing for the respondent Board have perused the documents and considered the certificate, from 1998 onwards.

14. In view of the above, undoubtedly, the respondent Board has not considered the application in a proper perspective though the necessary documents were produced by the petitioner.

15. Hence, this Court is inclined to remit the matter back to the authority, for fresh consideration. The authority is directed to consider the application dated 04.03.1999 and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. If the certificate says that the petitioner obtained industrial license from the year 1993 onwards, there is no impediment for the respondent Board to extend the benefit from 1994 onwards.

16. With the above observations and directions, the present writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

To

1. Tamil Nadu Electricity Board
Anna Salai
Chennai - 2
represented by its Chairman

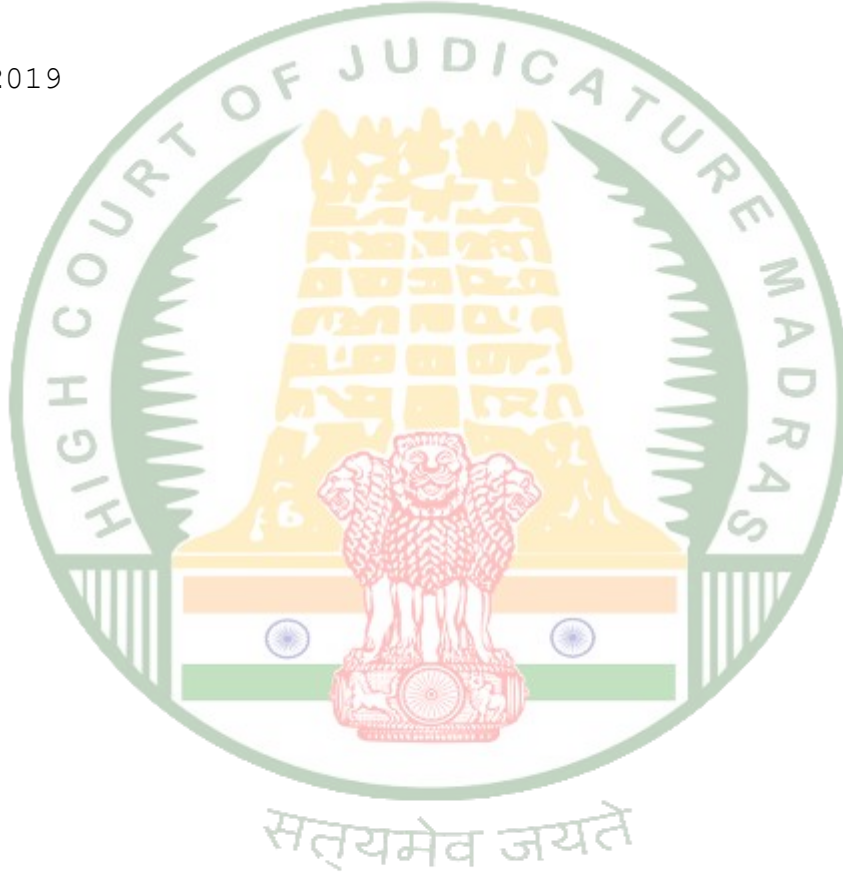
2. The Superintending Engineer
Tamil Nadu Electricity Board
Tirunelveli Electricity Distribution Circle
Tirunelveli - 11

+1cc to Mr.C.Seethapathy, Advocate sr.62137

+1cc to Mr.S.K.Rameshwar, Advocate sr.62295

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