

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.4948 OF 2010

M/s.Chennai Fashions India Pvt.Ltd.

Rep by its Executive Director,  
Mr.Faizel Hashim,  
K-45, Apparel Park, Katrambakkam Road,  
Irungattukottai, Sriperumbudur,  
Kancheepuram District - 602 105.

...Petitioner

Vs.

1. Tamil Nadu Electricity Board,  
Rep by its, Chairman,  
No.800, Anna Salai,  
Chennai - 600 002.
2. Tamil Nadu Electricity Board,  
Rep by its Executive Engineer/O&M/Guindy,  
CEDC/South,  
K.K.Nagar, Chennai - 600 078.
3. Tamil Nadu Electricity Board,  
Rep by its Asst.Executive Engineer,  
Alandur Sub Division,  
Chennai - 600 016.
4. Tamil Nadu Electricity Board,  
Office of the Asst Accounts Officer,  
Revenue Branch,  
Represented by its Junior Engineer,  
Sriperumbudur Sub Division,  
Chennai - 602 105.

5.Mr.Y.Muthaiyan

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the communication under Ref:Lr.No.EE/O&M/Gdy/AE/CAUP/F Chennai fashions/D.799,

dated 04.04.2009 passed by the 2<sup>nd</sup> respondent and quash the same as illegal and void and consequently direct the respondent to refund the excess amount which is being unjustly held by them.

For Petitioner : Mr.Rishi S.Ahuja

For Respondents : Mr.S.K.Raameshuwar  
Standing Counsel for TNEB.

#### O R D E R

This petition has been filed seeking to quash the communication under Ref:Lr.No.EE/O&M/Gdy/AE/CAUP/F Chennai fashions/D.799, dated 04.04.2009 passed by the 2<sup>nd</sup> respondent and consequently direct the respondent to refund the excess amount, which is being unjustly held by them.

2.The petitioner is a small scale industry engaged in the business of manufacturing and exporting of garments ever since its inception in the year 2001 till 2008 at No.135, 3<sup>rd</sup> Street, Ganapathy Colony, St.Thomas Mount, Chennai. The petitioner company is a tenant under the 5<sup>th</sup> respondent in the above address. The Tamil Nadu Electricity Regulatory Commission (TNERC) in its tariff order dated 15.03.2003 revised the tariff rates with effect from 16.03.2003, wherein the commission ordered removal of lighting load based calculation restrictions thus bringing the petitioner company under industrial tariff-III B. But, the respondents failed to give effect with the latest tariff to the petitioner's company. After several representations to the respondent Board, the respondents gave effect with regard to the change in tariff from 15.02.2007 after a delay of four years. But, the 2<sup>nd</sup> respondent by its order dated 19.07.2007 refused to implement the order dated 16.03.2003 stating that the service agreement was between the Board and the 5<sup>th</sup> respondent, who is the landlord of the premises, where the petitioner company is running. Therefore, the petitioner filed a writ petition in W.P.No.37786 of 2007, wherein this Court by an order dated 25.08.2008 directed the petitioner to establish his tenancy and also directed to give fresh representation before the 2<sup>nd</sup> respondent. The petitioner submitted all the releavant proof to prove his tenancy and made a fresh representation before the 2<sup>nd</sup> respondent. Even thereafter, the respondents have not refunded the excess amount paid by the petitioner. Therefore, the petitioner caused legal notice on 18.03.2009, the respondents refused to refund the amount to the petitioner as he is only a tenant. Aggrieved against the same the petitioner has filed the present petition with the aforesaid prayer.

3.The learned counsel for the petitioner submitted that a counter affidavit has been filed by Y.Muthaiyan, 5<sup>th</sup> respondent, who is owner of the premises. He further submitted that though all the relevant documents were produced before the respondents, they have refused to refund the excess amount paid by the petitioner as he is only a tenant. The learned counsel on instructions submitted that he has no objection, if the excess amount is paid to the 5<sup>th</sup> respondent, viz., Y.Muthaiyan, the landlord of the premises and he has also made an endorsement to that effect in the court bundle.

4.The learned standing counsel for the respondent Board submitted that they have no hesitation to refund the excess amount paid by the petitioner company to the owner of the premises/5<sup>th</sup> respondent viz., Y.Muthaiyan.

5.Heard both sides.

6.In view of the above submission and the endorsement made and also the learned counsel for the respondent acceded for the same, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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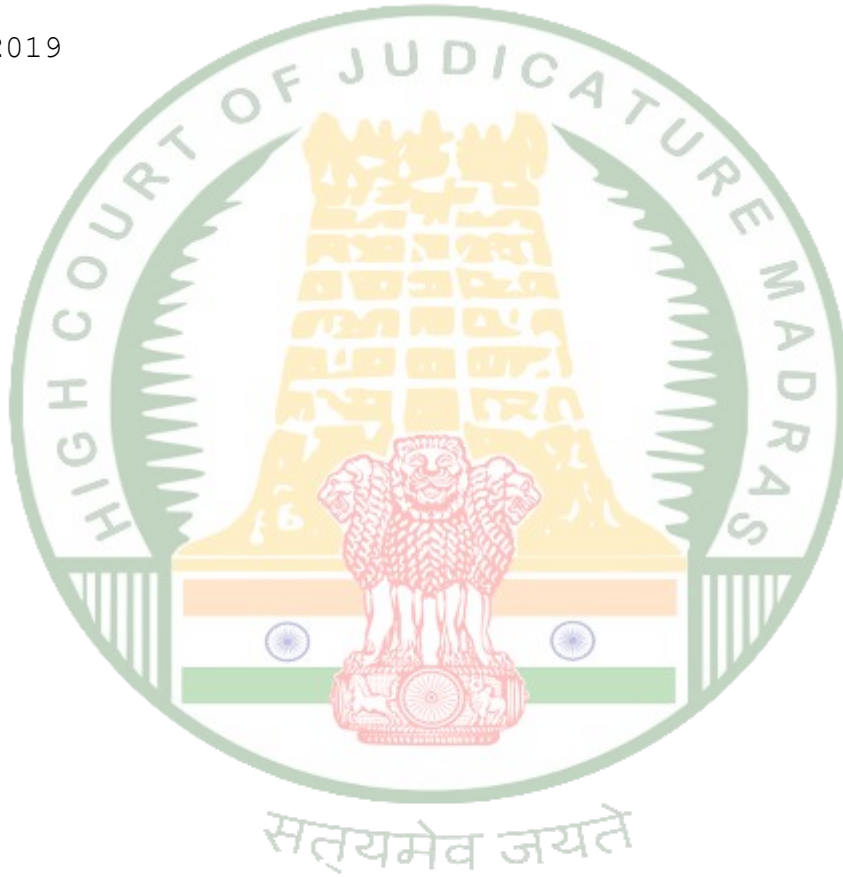
1. The Chairman,  
Tamil Nadu Electricity Board,  
No.800, Anna Salai,  
Chennai - 600 002.
2. The Executive Engineer/O&M/Guindy,  
CEDC/South,  
Tamil Nadu Electricity Board,  
K.K.Nagar, Chennai - 600 078.
3. The Assistant Executive Engineer,  
Tamil Nadu Electricity Board,  
Alandur Sub Division,  
Chennai - 600 016.

4. The Junior Engineer,  
Tamil Nadu Electricity Board,  
Office of the Asst Accounts Officer,  
Revenue Branch,  
Sriperumbudur Sub Division,  
Chennai - 602 105.

+2cc to Mr.Rishi S.Ahuja, Advocate, S.R.No.62500  
+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.62636

W.P.No.4948 of 2010

PPA (CO)  
CS/18/09/2019



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