



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.37926 of 2005

Sri Parvathi Angalamman Mill (P) Ltd.,
Rep. by the Managing Director,
8, A.K.E. Street, No.2,
Tiruchengodu.

..Petitioner

vs

1. The State of Tamil Nadu
represented by the Secretary to Government,
Energy Department,
Fort St. George, Chennai - 9.

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

3. The Superintending Engineer,
TNEB - Mettur Distribution Circle,
Mettur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Declaration, declaring that the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (Act 12 of 2003) as ultra vires the Constitution of India, illegal, invalid and unenforceable relating to the levy of tax on the sale of electricity and consumption for own use out of own generator in so far as the petitioners are concerned regarding service connection number 243 and consequentially direct the respondents to refund the electricity taxes collected from the petitioners.

For Petitioner : Mr. S.Sivanandam

For Respondents: Ms.Bhuvaneswari AGP
for R1
Mr. P.R.Dhilipkumar
for R2 and R3



O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Declaration, to declare the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (Act 12 of 2003) as ultra vires the Constitution of India, illegal, invalid and unenforceable relating to the levy of tax on the sale of electricity and consumption for own use out of own generator in so far as the petitioners are concerned regarding service connection number 243 and consequentially direct the respondents to refund the electricity taxes collected from the petitioner.

2. The petitioner has filed the writ petition challenging the provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (Act 12 of 2003). Initially, the Division Bench of this Court in a case of Suryachakra Spinning Mills (P) Ltd Vs The State of Tamil Nadu & others reported in (2006) 3MLJ 1146 dated 13.07.2006 upheld the Validity of the said Act. However, in a case of Southern Petrochemical Industries Co. Ltd Vs Electricity Inspector & others reported in (2007) 3 CTC 273 dated 15.05.2007, the Hon'ble Apex Court has set aside the said order of this Court.

3. In view of the above, liberty is granted to the petitioner to file a fresh representation before the respective respondent and on receipt of such a representation, the authorities concerned shall consider the same and pass orders on merits and in accordance with law.

4. With these observations, the present writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The State of Tamil Nadu
represented by the Secretary to Government,
Energy Department,
Fort St. George, Chennai - 9.



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

3. The Superintending Engineer,
TNEB - Mettur Distribution Circle,
Mettur.

+lcc to Mr.Sivanandam, Advocate, S.R.No. 46602
+lcc to the Government Pleader, S.R.No. 46913

W.P.No.37926 of 2005

RSV(CO)
GN(07/08/2019)