

In the High Court of Judicature at Madras

Dated : 11.12.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.40950 of 2015

KTV Health Foods (P) Ltd.,
Gummidipoondi rep.by its
Director Mr.B.Babu

...Petitioner

Vs

1.The Chairman, Tamil Nadu
Electricity Board, 800, Electricity
Avenue, Anna Salai, Chennai-2.

2.The Superintending Engineer,
Chennai EDC/North, 144,
Anna Salai, Chennai-2.

3. The Accounts Supervisor,
Tamil Nadu Electricity Board,
Chennai-2.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to
call for records and quash the impugned
Lr.No.SE/CEDC/N/AEE/DEV/AE/D2/F HT KTV 1931 Comp/ D2053/15 dated
09.12.2015 given by the second respondent herein and
consequently direct the second respondent to refund the penalty
levied and collected from the petitioner to the tune of
Rs.91,29,530/- or to adjust the amount in the running bills of
the petitioner company सत्यमेव जयते

For Petitioner :Mr.M.Arvind Subramaniam

For Respondents:Mr.P.R.Dilipkumar

ORDER

I have heard Mr.Arvind Subramaniam, learned counsel for the
petitioner and Mr.P.R.Dilipkumar, learned Standing Counsel for
the respondents.

2. The petitioner impugned the proceedings of the second
respondent dated 09.12.2015, by which, the request made by the
petitioner to refund the penalty amount remitted by them, was

stated to be not feasible of compliance as per the Rules in force.

3. The petitioner approached this Court on an earlier occasion by filing W.P.No.14993 of 2012, in which, the petitioner sought for sanction of additional HT supply of 250 KVA over and above the already sanctioned HT supply of 450 KVA in respect of the industrial plot in plot No.B-69, SIPCOT Industrial Complex, Gummidipoondi.

4. The petitioner purchased the said property through an auction conducted by the Debts Recovery Tribunal. It appears that the respondent - Board was refusing to sanction the additional loan on the ground that the original owner of the industrial unit namely M/s.Pearl Biscuits and Confectioneries Private Limited defaulted in payment of electricity consumption charges and that unless and until the same is cleared by the petitioner, the additional loan could not be sanctioned to the petitioner.

5. The petitioner also filed another writ petition in WP.No.6033 of 2014 challenging the proceedings of the respondent - Board dated 23.7.2012 and to consider their representation for changing all the over head HT/LT lines and over head lines or any other power to underground cable system, which runs through their premises at No.48, Karumbukuppam Village and their other lands in S.Nos.75, 77, 84, 85 and 90 at Karumbukuppam Village, Gummidipoondi.

6. Both the said writ petitions were allowed by a common order dated 17.4.2014 holding that the petitioner is not liable to pay the amount, which is due from the erstwhile lessee namely M/s.Pearl Biscuits and Confectioneries Private Limited. With regard to the request for change of all the over head lines to underground cable system, a learned Single Judge of this Court directed the Assistant Executive Engineer concerned to consider the request made by the petitioner.

7. It is seen that as against the order dated 17.4.2014 made in W.P. No.14993 of 2012, the respondent - Board preferred an appeal by filing W.A. No.720 of 2014. However, the said writ appeal was dismissed by judgment dated 27.1.2015 holding that the learned Single Judge was perfectly right in allowing W.P.No.14993 of 2012, as the petitioner is not liable to pay any amount, which is due from the erstwhile occupier. After dismissal of the said writ appeal, the petitioner submitted a representation dated 03.11.2015 seeking to refund the penalty amount that they had remitted, which, according to the petitioner, was remitted without prejudice to their rights and contentions. This representation has been rejected and the

petitioner was informed that their request is not feasible of compliance.

8. On a cursory reading of the impugned order, one gets an impression that the amount of penalty, which was remitted, was towards the dues payable by the erstwhile occupier. However, after hearing the submissions of the learned Standing Counsel for the respondent - Board and perusing the counter, it is seen that the said penalty amount is not on account of any default committed by the erstwhile occupier, but it was demanded for the usage of electricity over and above the demand and energy quota fixed. It has been stated that the petitioner exceeded the quota fixed from time to time and that they should exceed the demand quota until they were granted additional loan. Therefore, it is the submission of the learned Standing Counsel for the respondent - Board that the demand for penalty is fully justified.

9. Though the above submission has been made by the respondent - Board in the counter, the same was not reflected in the impugned order.

10. Further, the learned counsel for the petitioner submits that the petitioner also established wind energy generators, that they generated electricity and that the same should be reckoned while computing the demand.

11. In the considered view of this Court, there is no error in the impugned order. However, it does not give the full details as to how the penalty has been computed. Therefore, this Court is of the considered view that the petitioner should be given an opportunity to know as to how the computation was done and in all probabilities, the petitioner, being a high tension consumer, should be aware of this position. Nevertheless the impugned order does not give the full details. This Court is inclined to remand the matter to the second respondent to enable him to furnish the break-up details of the penalty, which has been levied and collected from the petitioner and on receipt of the break-up details, it is for the petitioner to submit a representation, if they are still aggrieved.

12. In the light of the above, while refusing to interfere with the impugned proceedings, there will be a direction to the second respondent to furnish the full details to the petitioner as to how the penalty was computed within a period of 30 days from the date of receipt of a copy of this order. On receipt of the details, it is open to the petitioner to submit a representation, if they are, in any manner, aggrieved.

13.The writ petition is accordingly disposed of. No costs.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

RS

To

1.The Chairman, Tamil Nadu Electricity Board, 800, Electricity
Avenue, Anna
Salai, Chennai-2.

2.The Superintending Engineer, Chennai EDC/North, 144, Anna
Salai,
Chennai-2.

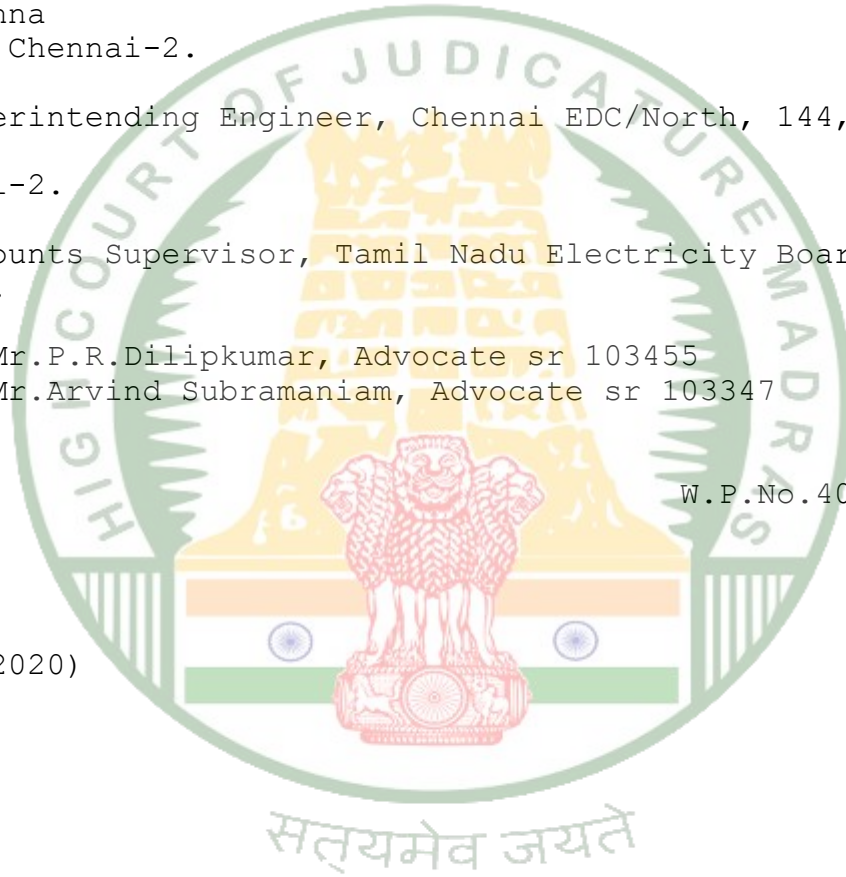
3.The Accounts Supervisor, Tamil Nadu Electricity Board,
Chennai-2.

+1 CC to Mr.P.R.Dilipkumar, Advocate sr 103455

+1 CC to Mr.Arvind Subramaniam, Advocate sr 103347

W.P.No.40950 of 2015

GMR(CO)
SP(22/01/2020)



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