



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.22750 of 2019
& W.M.P.No.22280 of 2019

M/s.Fipola Retail India Pvt Ltd.,
Rep. by its Managing Director,
Mr.Sushil Kanugolu,
Having Office at,
No.28, Door No.AC5, 2nd Floor,
2nd Avenue, Anna Nagar,
Chennai - 600 040. Petitioner

/verus/

1. The Assistant Executive Engineer,
Operation and Maintenance,
Chennai Electricity Distribution Circle/West,
TANGEDCO, Puzhal,
Chennai - 600 066.
2. K.Premavathy,
W/o.Kumar,
P.No.55,56,57,58, Ramakrishna Nagar,
Kosapur, Chennai - 600 060. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the records of the 1st respondent in final assessment order in Lr.No.:AEE/O&M/PZL/F.FA/D.No 254/19, dated 17.07.2019 and to quash the same.

For Petitioner : Mr.A.Selvendran

For R1 : Mr.P.R.Dhilip Kumar,
Standing Counsel

For R2 : No appearance

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the respondents.

2. The order impugned in the Writ Petition is the final assessment passed by the TANGEDCO in respect of unauthorised usage of Electricity for commercial purpose instead of Industrial purpose. In the impugned order itself, the Assistant Executive Engineer, O&M, Chennai, has informed the petitioner that if he is aggrieved by the final assessment order, as a Appellate remedy before the Appellate Authority (viz., EE/SE/Operation/Alamathy), within 30 days from the date of receipt of this order on deposit of half of the assessment amount with the board as per Section 127 (2) of the Electricity Act, 2003, along with an appeal fee of Rs.100/- by Demand Draft.

3. The petitioner instead of exhausting the appeal remedy has approached this Court on the ground that the 1st respondent has failed to consider the fact that the petitioner is running only Industrial carrying on commercial activities in his factory and therefore, he is liable to pay tariff as per Industrial Tariff-III B only and not under the Commercial Tariff.

4. It is contended by the petitioner is that, being a small scale Industry registered under Micro, Small and Medium Enterprises Development Act, 2006, the usage of electricity ought to have been under Industrial Tariff III-B only. The contention of the petitioner is that, the facts are disputed and only the Appellate Authority can be the competent person to consider those facts based on material evidence. When there is an alternate remedy, this Court cannot entertain the Writ Petition and go into the disputed facts. Hence, the Writ Petition is disposed, With liberty to the petitioner to approach the Appellate Authority as mentioned in the impugned order and the time consumed for approaching this Court, shall be taken note by the Appellate Authority to condone the delay, if any.

5. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm

To,

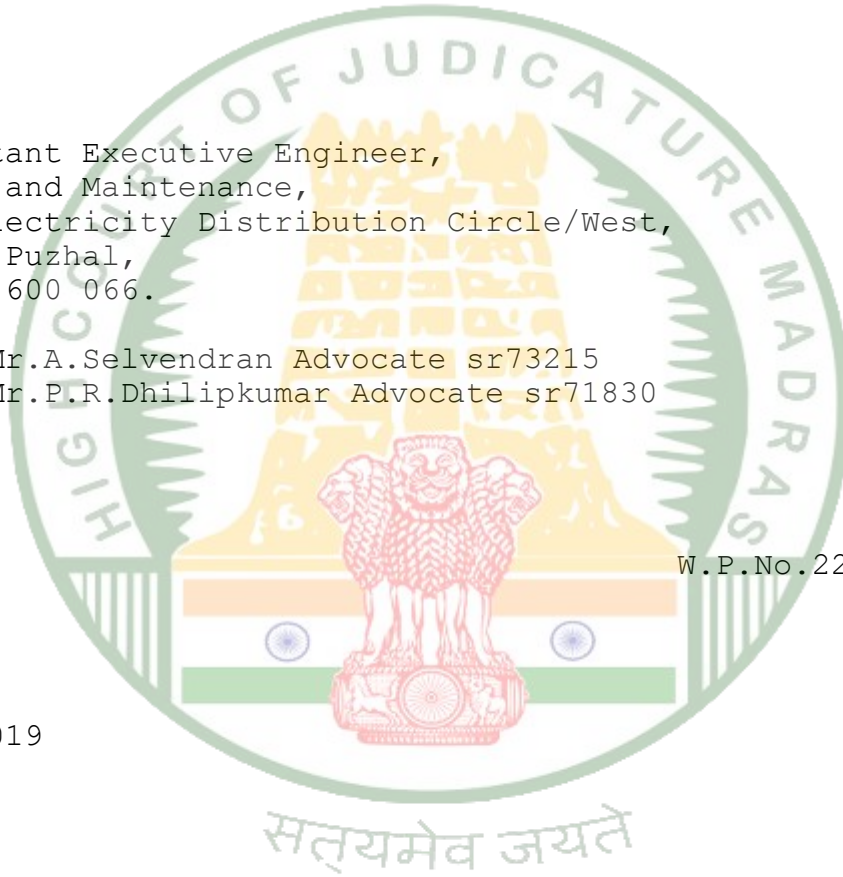
The Assistant Executive Engineer,
Operation and Maintenance,
Chennai Electricity Distribution Circle/West,
TANGEDCO, Puzhal,
Chennai - 600 066.

+1 cc to Mr.A.Selvendran Advocate sr73215

+1 cc to Mr.P.R.Dhilipkumar Advocate sr71830

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sj(co)
aa16/09/2019



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