

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8547 of 2017
and WMP.Nos. 9335 and 9336 of 2017

M/s. N.G.A. Steels (Pvt.) Ltd.,
H.T.Sc.No.161,
Pappankadu,
Karukkampalayam Village,
Morur - 637 304,
Sankari Taluk,
Salem District,
Represented by its
Managing Director, A. Rajarajan .. Petitioner

-vs-

1. The Tamil Nadu Electricity Regulatory Commission, Rep. by its Secretary, No.19A, Rukmini Lakshmipathy Salai, Egmore, Chennai - 600 008.
2. The Chairman and Managing Director, Tamil Nadu Generation and Distribution Corporation Ltd., 144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer, Namakkal Electricity Distribution Circle, TANGEDCO, Namakkal. .. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the 3rd respondent from collecting the Meter Rent from the petitioner against the directions of the 1st respondent dated 31.03.2016 in M.P.No.34 of 2014 and the instructions dated 30.10.2015 of the Director Distribution/TANGEDCO and consequently direct the 3rd respondent to refund the Meter Rent collected from the petitioner.

For Petitioner : Mr.K.Seshadri

For Respondents : Mr.N.Damodharan

ORDER

The petitioner, who is an open access customer, has filed this writ petition praying for a direction to forbear the 3rd respondent from collecting the meter rent from the petitioner and consequently direct the 3rd respondent to refund the meter rent collected by including a sum of Rs.2,000/- (Rupees Two Thousand only) in the current consumption charges bill from September 2015 to March 2017.

2. Mr.K.Seshadri, learned counsel for the petitioner submitted that a sum of Rs.2,73,700/- (Rupees Two Lakhs Seventy Three Thousand and Seven Hundred only) has been collected towards installation of the ABT meter and the cost has been paid by the petitioner, yet a sum of Rs.2,000/- is added to the monthly consumption bill terming it as meter rent. Therefore, it is submitted that the excess amount collected should be refunded.

3. The learned Standing counsel appearing for the respondent Board referred to the communication of Superintending Engineer dated 26.09.2015 stating that a sum of Rs. 45,970/- (Rupees Forty Five thousand and Nine hundred and seventy only), which is the cost of the meter, has already been refunded and adjusted in the current consumption bill for the month of September 2015.

4. The learned counsel for the petitioner submitted that the said amount is incorrect and amount, which was collected from the petitioner is Rs.2,73,700/- (Rupees Two Lakhs Seventy Three Thousand and Seven Hundred only), which needs to be refunded.

5. From the counter affidavit, it is seen that the respondent seeks to justify their action by contending that the cost of the meter as per latest cost data was Rs.45,970/- (Rupees Forty Five thousand and Nine hundred and seventy only) and this has been refunded.

6. The learned counsel appearing for the petitioner submitted that the submission made by the respondent is totally incorrect. It is not known as to what basis such a calculation has been made and the direction issued by the Electricity Regulation Commission has to be implemented and meter rent shall not be collected from the open access customers, who are willing to pay or paid the cost of the meter. It was further submitted that on 07.02.2017, the 3rd respondent was requested by the petitioner to refund a sum of Rs.2,27,730/- (Rupees Two lakhs twenty seven thousand seven hundred and thirty) being the cost of the ABT meter together with Rs.28,000/- (Rupees Twenty eight thousand only) paid by the petitioner towards calibration and testing charges or desist from collecting meter rent of Rs.2,000/- (Rupees Two thousand only) along with CC Bill. However, this request was not considered by the respondent, which has necessitated the petitioner to approach this Court by way of this writ petition.

7. At the time of admission, the writ petition was entertained and an interim order was granted on 18.04.2017 forbearing the respondent from collecting a sum of Rs.2,000/- (Rupees Two thousand only) every month towards meter rent alone. This interim order is in force till now. Considering the nature of the dispute between the parties, it is seen that the dispute is fully factual. As per the directions issued by the Electricity Regulatory Commission, the new form of meter had to be installed and if the cost is paid, the same has to be reimbursed. The dispute is what is the amount that is to be refunded. Both parties are disputing the respective figures.

8. In such circumstances, a writ Court cannot adjudicate such a dispute question of fact. However, the petitioner is unable to dispute the correctness of the stand taken by the respondent Board. The respondent Board has not given the particulars as to how they are of the view that the petitioner is entitled to only Rs.45,970/- (Rupees Forty Five thousand and Nine hundred and seventy only) whereas the petitioner claims Rs.2,27,730/- (Rupees Two lakhs twenty seven thousand seven hundred and thirty) together with Rs.28,000/- (Rupees Twenty Eight thousand only) towards paid calibration charges.

9. In the light of the above, the writ petition stands disposed of by directing the 3rd respondent to furnish a working sheet to the petitioner clearly indicating the amount, which according to the petitioner is liable to be paid. On receipt of the details, the petitioner is directed to submit his objections to the same, which shall be considered in accordance with law. If there is any further dispute in this matter, it is always

open to the petitioner to approach the first respondent Electricity Regulatory Commission for appropriate direction.

10. This exercise shall be completed within a period of three(3) weeks from the date of receipt of a copy of this order. Till then no further amount shall be recovered from the monthly current consumption.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The Tamil Nadu Electricity Regulatory
Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.
2. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Namakkal Electricity Distribution Circle,
TANGEDCO, Namakkal.

+1cc to Mr.K.Seshadri, Advocate sr.100765
+1cc to Mr.N.Damodharan, Advocate sr.100803

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