



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20319 of 2018

and

W.M.P.(MD)Nos.18080 and 18081 of 2018 and 15822 of 2019

K.S.Sundaram

... Petitioner

Vs.

1.The Chairman,

Tamil Nadu Generation and Distribution Corporation Ltd.,
Chennai.

2.The Chairman,

Tamil Nadu Electricity Regulatory Commission,
Chennai.

3.The Executive Engineer,

Tamil Nadu Electricity Board,
Tirunelveli.

4.The Assistant Engineer,

Distribution
Tamil Nadu Electricity Board,
Near Sub Registrar's Office,
Kallidaikurichi-627 416
Tirunelveli District.

5.The Assistant Electrical Engineer,

Distribution,
Tamil Nadu Electricity Board,
Kallidaikurichi 627 416,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in letter No.Asst.Elec.Eng./V/Kallidai D.Juris.Kattu/A No.013/17, dated 20.01.2017, on the file of the fifth respondent and quash the same as illegal, incompetent, void and consequently direct the respondents to classify the power tariff assessment for power connection No.050-019-1185 from commercial tariff to domestic tariff and for consequential reliefs.

For Petitioner

: Mr.S.Ramesh

For Respondents

: Mrs.M.Rajeswari

for Mr.S.M.S.Johnny Basha
Standing Counsel



O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondents.

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2.The petitioner is presently enjoying the petition mentioned electricity service connection for his car shed. The service connection was obtained in the year 2011 under tariff V Commercial Category. The petitioner sent a representation to the respondents that since the car shed is being used only for personal purpose and it is not being put to any kind of commercial use, the service connection ought to be reclassified under tariff I-A i.e. Domestic Category. The said request was rejected by the fifth respondent, vide order dated 20.01.2017. Questioning the same, this writ petition has been filed.

3.The learned counsel for the petitioner contended strongly that in as much as the car shed in question is being used only for personal purposes (i.e.,) parking the vehicle of the writ petitioner, the electricity connection in respect of the said premises ought not to be under tariff V Commercial Category. He placed reliance on the decision of the Hon'ble Supreme Court reported in 2005 (7) SCC 283 [*Chairman, M.P. Electricity Board Vs. Shiv Narayan and another*]. The Hon'ble Supreme Court referring to an earlier decision, held that the terms "domestic" and "commercial" not having been defined in the statute ought to be given the common parlance meaning and must be understood in their natural, ordinary and popular sense. The petitioner's counsel drew my attention to the definition set out in *Ramanatha Aiyar's Law Lexicon*. He would contend that the expression "domestic" should be understood in contradistinction with expression "commercial". If the building in question is not a public building and if it is not put to commercial use, then, in his contention, it ought to be considered only as domestic.

4.Though the said contention of the petitioner's counsel, is persuasive, I am afraid that in the facts and circumstances of the case, I cannot accede to the same. The stand of the respondents is that when the petitioner applied for providing electricity connection, he applied only under tariff V category. The application is said to have been made some time in 2011. In fact, the writ petitioner is not in a position to deny the aforesaid assertion of the learned Standing Counsel. Even according to the writ petitioner, there is no change in circumstance between the date of application and the date of passing of the impugned order. Thus, it was the writ petitioner who invited grant of service connection under tariff V category.



5.I find considerable force in the contention of the learned Standing Counsel that if the petitioner or anyone is residing in the premises in question, certainly the service connection will have to be under tariff I-A Domestic Category. Even according to the petitioner, he is not residing there. In fact no one is residing in the said premises. It is remaining only as a car shed spread over 2000 sq.ft. There is no building with toilet and kitchen. Since it is not a place where anyone is residing, the respondents are justified in taking the stand that it cannot be considered under the domestic category.

6.Of course, the contention of the petitioner's counsel that the car shed is being used only for the personal use cannot be disputed. In fact, the respondents also do not challenge the said assertion of the petitioner. They are only stating that tariff V should be considered in the present case, as a residual category. Merely because, the service connection is classified under tariff V, it is not meant that the petitioner is using the place for commercial purpose. The petitioner ought to take it that since the respondents are not in a position to treat the connection under the domestic category, they are treating it as a residual category under tariff V. The case on hand, should be understood not as a commercial category, but as a residual category. I am able to appreciate the principled position taken by the writ petitioner. But the writ petitioner, in my view, ought not to be too rigid. The writ petitioner appears to be a man of considerable social standing and he should not mind these small issues.

7.With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

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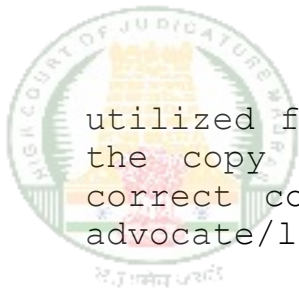
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Sub Assistant Registrar (CS)

sjj

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utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Chennai.

2.The Chairman,
Tamil Nadu Electricity Regulatory Commission,
Chennai.

3.The Executive Engineer,
Tamil Nadu Electricity Board,
Tirunelveli.

+1 CC to Mr.V. RAGHAVACHARI, Advocate (SR-13349
[F] dated 30/07/2020)

W.P. (MD)No.20319 of 2018
29.07.2020

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