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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.12691 of 2012

And

MP No.1 of 2012

M/s.Saleh Estates,
An Association of Persons Represented by its
Power of Attorney Agent Mr.Shabbir,
138, Linghi Chetty Street,
Chennai - 600 001.

.. Petitioner

vs.

1. Chief Engineer,
(Distribution-Chennai),
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai.

2. The Assistant Executive Engineer, (O&M),
Tamil Nadu Electricity Board,
Pantheon Road,
CEDC/Central,
Chennai - 600 031.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to proceedings in Lr.No.AEE/O&M/Pn.rd/F.doc/D.no.55/12, dated 18/21.02.2012 passed by the second respondent, quash the same and direct the second respondent to refund the sum of Rs.42,807/- with interest @ 12% thereon with effect from 18.04.2012 till actual payment.

For Petitioner : Ms.Pooja Jain for
M/s.P.V.S.Giridhar and Sai.

For Respondents : Mr.L.Jaivenkatesh,
Standing Counsel for TANGEDCO.



O R D E R

The shortfall assessment made by the second respondent in proceedings dated 21.02.2012, is under challenge in the present writ petition.

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2. The petitioner owns Commercial Establishments and Electricity Service Connections are provided.

3. During the Field Inspection, the Authorities of the Electricity Board found that M/s.Extel Academy Consulting was functioning in the premises of the petitioner by using supply in LT Sc A/c.143-010-552 under tariff LT.IIIC.

4. In view of the wrong usage of Electricity Service Connection, for commercial purposes, the Authorities have made an assessment and issued demand notice to pay the shortfall assessment amount. The petitioner, challenging the said shortfall assessment order, filed the present writ petition on various grounds which all are factually incorrect. Such factual dispute cannot be adjudicated in the writ proceedings under Article 226 of the Constitution of India and the adjudication requires examination of documents in original and evidences. The High Court cannot conduct such roving enquiry and in this regard, the petitioner has to approach the Appellate Authority for effective adjudication.

5. The statutory remedy provided under the Act is to be exhausted in all circumstances and the importance of exhausting the alternate remedy at no circumstances be undermined by the High Court. The findings of the Appellate Authorities are of greater assistance for the High Court for exercise of the power of judicial review effectively under Article 226 of the Constitution of India.

6. Thus, exhausting the appellate remedy is important and the opportunity of the aggrieved persons need not be denied in the routine manner. In the event of such an adjudication in the writ proceedings, the aggrieved persons are deprived of their valuable opportunity for examination of original records and the evidences under the provisions of the Electricity Act.

7. This being the principles to be followed, the petitioner is at liberty to approach the Appellate Authority under the provisions of the Electricity Act for the purpose of redressal of his grievances. In the event of filing any such appeal where the Appellate Authority shall consider the same the period during which the writ petition was pending for the purpose of condoning the delay and if any condone delay petition is filed and decide the issues on merits and in accordance with law and by affording an opportunity to the parties concerned and decide



the issues as expeditiously as possible.

8. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Svn

To

1. Chief Engineer,
(Distribution-Chennai),
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Chennai.
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SRA(CO)
CT/03/01/2022