



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11091 of 2010

and

M.P.No.1 of 2010

M/s.Luk India Private Limited
Post Box No.20,
Rayakottai Road,
Hosur, Rep.by Head Finance & Accounts

... Petitioner

Vs

The Superintending Engineer
Dharmapuri Electricity D Circle,
Dharmapuri - 5.

...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the respondent connected with Lr.No.SE/DEDC/DFC/RCS/HT/A1/F.HT/SC.No.47 of 2010 dated /.03.2010 dated 06.04.2010 and quash the same.

For Petitioner :Mr.P.Raghunathan
For T.S.Gopalan and Co.

For Respondent :Mr.Jaivenkatesh
For TANGEDCO.

O R D E R

The demand notice dated 06.04.2010, levying compensation charges for exceeding the quota is under challenge in the present writ petition.

2. The learned counsel for the petitioner states that the petitioner was exempted and therefore is entitled for the relief as the demand is per se untenable. However, the fact remains that it is a demand notice which requires an adjudication with reference to the documents and evidences.

3. From the counter filed by the respondent, it reveals that the consumer was permitted to run the industry with optimum demand of 700 KVA for 24 days in a month with evening peak hour



restriction. Therefore, the quota intimation had been confirmed that the petitioner should restrict his consumption during the evening peak hours within 5% of the quota fixed for lighting and security purposes. However, the petitioner had not restricted his consumption during the peak hours i.e. from 18.00 Hrs to 22.00 Hrs for the period from December 2008 to July 2009 as per the quota intimation and hence, the demand notice has been issued towards demanding charges for exceeding the quota fixed for the evening peak hours duly furnishing the drawal details.

4. The Tamilnadu Electricity Regulatory Commission (TNERC) in its order dated 04.12.2012 in M.P.Nos..4 & 7 of 2010 held as follows;

"The M.P.No.4 of 2010 and M.P.No.7 of 2010 are dismissed. While raising the bill for excess demand and energy charges, the TNEB is directed to furnish month wise figures of the excess demand and excess energy recorded by the meter of the consumer between 06.00 p.m., and 10.00 p.m., and indicate the excess demand and excess energy charges for that month"

5. From the above it is clear that the demand made by the respondent is a legally sustainable one, as the respondent had furnished the consumption details as directed by the TNERC along with demand intimation to the petitioner.

6. In respect of the said order passed by the Tamil Nadu Electricity Regulatory Commission, the learned counsel for the petitioner states that National Regulatory Commission has passed final order and accordingly, the case of the petitioner has to be considered.

7. This Court is of the considered opinion that the adjudication requires examination of documents and evidences. The respondents made a submission that the Tamilnadu Electricity Regulatory Commission passed an order and therefore, the demand is in consonance with the procedures contemplated and in accordance with the rules. This being the dispute, it is left open to the petitioner to approach the competent forum for the purpose of resolving the issues.

8. Admittedly, the petitioner had already settled the entire demanded amount and therefore, the issues are to be adjudicated with reference to the documents and evidences. This being the factum, the petitioner is at liberty to do so. In the event of filing any such appeal or application, the time during which the writ petition was pending before the High court is to be taken into consideration for the purpose of condonation of delay, if any application is filed to that effect. The grounds



raised by the parties are to be adjudicated on merits and in accordance with law and as expeditiously as possible.

9. With these directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

kmm

To

The Superintending Engineer
Dharmapuri Electricity D Circle,
Dharmapuri - 5.

+1cc to Mr.L.Jaivenkatesh, Advocate SR.No.66864

W.P.No.11091 of 2010

CA (CO)
GMY (04/01/2022)