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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.4040 OF 2010

AND

M.P.NO.2 OF 2010

M/s.T.K.S.Spinning Mills (P) Ltd.,
Rep. by the Director,
12-B, Bazaar Street,
Salem - 636 001.

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by the Secretary,
Department of Energy,
Fort.St.George,
Chennai - 600 009.
2. Tamil Nadu Electricity Board,
Rep. by its Chariman,
New 114 (Old 800), Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TNEB - Salem Electricity Distribution Circle,
Salem - 636 014.
4. Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary,
19-A, Rukmani Laskmipathy Salai,
(Marshalls' Road),
Egmore, Chennai - 600 008.
5. The Assistant Executive Engineer,
Operation and Maintenance,
Karaipatti,
Salem - 636 106.

...Respondents



PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the third respondent in Lr.No.SE/SEDC/AOR/HT/F.Penal charges/D.No.436-1/10 dated 09.02.2010 and quash the same in so far as it relates to the levy of penalty for allegedly exceeding quota during evening peak hours from 12/2008 to 08/2009 as illegal, arbitrary, without the authority of law and against the orders of the fourth respondent made in Miscellaneous Petition No.42 of 2008 dated 28.11.2008.

For Petitioner	:Mr.P.Mohanasundaram
For Respondents	:Mr.M.Rajendran, Additional Government Pleader, For R1. Mr.Jaivenkatesh, For TANGEDCO, For R3 & R5. No appearance - R4.

O R D E R

The demand notice dated 09.02.2010 issued by the third respondent, 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. The learned counsel appearing for the respondents 3 & 5 would submit 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;



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"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

//True Copy//

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Sub Assistant Registrar



To

1. The Secretary,
State of Tamil Nadu,
Department of Energy,
Fort.St.George,
Chennai - 600 009.
2. The Chairman,
Tamil Nadu Electricity Board,
New 114 (Old 800), Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TNEB - Salem Electricity Distribution Circle,
Salem - 636 014.
4. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmani Laskmipathy Salai,
(Marshalls' Road),
Egmore, Chennai - 600 008.
5. The Assistant Executive Engineer,
Operation and Maintenance,
Karaipatti,
Salem - 636 106.

+2ccs to Mr.S.Sivanadam, Advocate, S.R.No.66576
+1cc to the Government Pleader, S.R.No.67049

W.P.No.4040 of 2010

NRL (CO)
PM/12/01/2022