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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.20154 and 20155 of 2016
and

W.M.P.Nos.17338, 17339, 17340 and 17341 2016

1.Kulandasamy ... Petitioner
in W.P.No.20154 of 2016

2.D.Sivakumar ... Petitioner
in W.P.No.20155 of 2016

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation
Limited,
Anna Salai,
Chennai - 600002.
2. The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Kangeyam
Tiruppur - 6378701
3. The Assistant Engineer (O & M),
Tamil Nadu Generation and Distribution
Corporation Limited,
Palayakottai, Nathakadaiyur,
Tiruppur - 638108.
4. The Accounts Officer / Revenue Supervisor,
Tamil Nadu Generation and Distribution
Corporation Limited,
Kangeyam, Tiruppur - 638701.

...Respondents in both W.Ps

Prayer in W.P.No.20154 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the file of third respondent in Lr.No.AE/O&M/ Palayakottai/F.Doc/ D-232/16, dated 10.05.2016 and consequential communication issued by the third respondent in Lr.o.AE/O&M/ Palayakottai/F.Doc/ D-276/16, dated 08.06.2016 and quash the same.



Prayer in W.P.No.20155 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the file of third respondent in Lr.No.AE/O&M/ Palayakottai/F.Doc/ D-233/16, dated 10.05.2016 and consequential communication issued by the third respondent in Lr.o.AE/O&M/ Palayakottai/F.Doc/ D-277/16, dated 08.06.2016 and quash the same.

For Petitioner : Mr.P.Kannankumar
(in both W.Ps)

For Respondents : Mr.L.Jai Venkatesh
[For TANGEDCO]
(in both W.Ps)

COMMON ORDER

In the orders impugned dated 10.05.2016, levy of excess demand charges and change of tariff and consequential orders passed by the 3rd respondent dated 08.06.2016 are under challenge in these present writ petitions.

2.The petitioners got license from the Government of Tamil Nadu on 06.07.2009 for starting Micro Industry for manufacturing of Cotton Fabrics. The unit was duly registered with the Government of Tamil Nadu Industries and Commerce Department as Micro Enterprises. Electricity service connection was provided to the petitioner. The petitioner is consuming the electricity and paying the charges regularly. While so, the respondents have issued a demand based on change of tariff. Earlier the petitioner filed writ petitions in W.P.Nos.28273 and 28274 of 2015, this Court passed an order granting liberty to the petitioner to submit objections and the officials are directed to consider the said objection and take a decision. Accordingly, the respondents have elaborately considered the claim of the petitioner and passed an order, which is impugned in the present writ petition. The order states that the petitioner has utilized the electricity over and above the maximum contracted demand and accordingly, calculated the consumption charges and raised the demand. In view of additional usage, change of tariff was adopted and accordingly, the demand is made.

3.However, such disputes cannot be adjudicated in a writ proceedings with reference to the original documents and evidences. The usage ratio, change in tariff with reference to the actual consumption of the electricity by the petitioner, all require an elaborated adjudication by scrutinizing the original documents and evidences.



4. The respondents also disputed the contention raised on behalf of the petitioner by stating that the objections were elaborately considered and therefore, the petitioner is liable to pay the demanded amount.

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5. Under these circumstances, the petitioner is at liberty to approach the Consumer Grievances Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code for adjudication of issues. Exhausting the Statutory remedy is of paramount importance as such original issues deserves an adjudication based on the documents and evidences. In the event of filing any such appeal by the petitioner, the period during which the writ petition was pending is to be taken into consideration for the purpose of condoning the delay if any issues are to be adjudicated on merits and in accordance with law.

6. With these liberty, these writ petitions stand disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Jeni/Cse

To

1. The Chairman,
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Limited,
Anna Salai, Chennai - 600002.
2. The Executive Engineer,
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Kangayam, Tiruppur - 6378701
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+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.65619

W.P.Nos.20154 and
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CP(CO)
SU(23/12/2021)