



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.5650 OF 2018

AND

W.M.P.NO.6991 OF 2018

Om Pipes and Tubes,
Rep. by its Partner,
V.Inder Singh.

... Petitioner

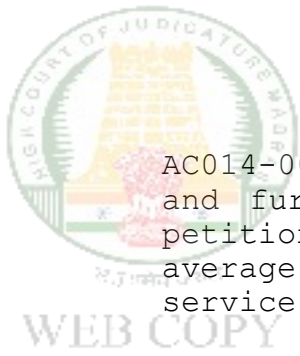
Versus

1. The Chairman,
Tamil Nadu Electricity Board,
(TANGEDCO)
No.222, Anna Salai,
Chennai - 600 002.
2. The Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
(TANGEDCO), Tondiarpet,
Chennai - 600 021.
3. The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
(TANGEDCO), Manali New Town,
Chennai - 600 103.
4. The Assistant Accounts Officer
for Executive Engineer,
Operation and Maintenance,
Tondiarpet, CEDC/North.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the fourth respondent i.e., the Assistant Accounts Officer for Executive Engineer O&M Tondiarpet /CEDC/North culminating in letter No.EE/O&M/TPT/AAO/RB/AS 2/



AC014-003-650 D.No.382/17 dated 26.09.2017 and quash the same and further direct the respondents 2 to 4 not to insist the petitioner to pay the alleged sum of Rs.2,96,311/- the revised average consumption charges in respect of the electricity service connection No.014-003-650 Tariff III-B of the petitioner.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel

O R D E R

This Writ Petition has been filed, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the fourth respondent i.e., the Assistant Accounts Officer for Executive Engineer O&M Tondiarpet/CEDC/North culminating in letter No.EE/O&M/TPT/AAO/RB/AS 2/AC014-003-650 D.No.382/17 dated 26.09.2017 and quash the same and further direct the respondents 2 to 4 not to insist the petitioner to pay the alleged sum of Rs.2,96,311/- the revised average consumption charges in respect of the electricity service connection No.014-003-650 Tariff III-B of the petitioner.

2. The case of the petitioner is that the petitioner Company is manufacturing pipes and tubes and they are paying the electricity consumption charges without any default. However, the respondents 2 and 4 alleged that the meter has become defective from 03/2017 to 05/2017 and the new meter has been fixed, therefore, revision is required based on the average consumption units for the months of 08/2016 to 11/2016 and an average short fall was worked out for a sum of Rs.2,96,311/-. Further, before arriving such consumption charges, the respondents 2 and 4 has not issued any show cause notice to the petitioner.

3. The learned counsel for the petitioner would submit that, according to the audit report, the meter has become defective and the same was replaced by the second respondent in the month of May 2017 itself. In such case, the revised average consumption charge should not be the earlier months consumption charges, but the second respondent has taken into account the meter reading of August 2016 to November 2016. The petitioner has paid the monthly electricity charges without any default, therefore, no question of arrears would arise. He would further submit that the fourth respondent issued the demand notice dated 26.09.2017, without hearing the claim of the petitioner. Hence, prayed to quash the impugned demand notice issued by the fourth respondent.



4. Per contra, the learned Standing Counsel appearing for the respondents would submit that the petitioner has not paid the shortfall for the period between 03/17 to 05/17 and therefore, the fourth respondent has rightly issued the demand notice by furnishing all the details. He would also submit that while revising the consumption units an average shortfall was found and the petitioner was due to pay the arrears and as per audit report, the demand has been made and without making the payment, the petitioner has approached this Court and hence, he prayed to dismiss the Writ Petition.

5. Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents and perused the materials available on records.

6. Perusal of the impugned demand notice dated 26.09.2017, makes it clear that, the audit department has made a demand to the petitioner to pay the difference sum. But, the details of the shortfall, fastening the petitioner to pay the left over current consumption charges for the period between 03/2017 to 05/2017 has not been incorporated in the impugned demand notice dated 26.09.2017. Even assuming there is shortfall, the petitioner ought to have given a reasonable opportunity to make his representation as against the audit shortfall. Without doing so, directly serving the demand notice on the petitioner is incorrect. Apparently, there is failure on the part of the respondents in adhering to the principle of natural justice.

7. In the light of the above discussion, the impugned demand made by the fourth respondent cannot be sustained and hence, the same is liable to be set aside.

8. In view of the above, this Writ Petition is allowed and the impugned order dated 26.09.2017, issued by the fourth respondent, insofar as the audit amount of Rs.2,96,311/- is quashed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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4. The Assistant Accounts Officer
for Executive Engineer,
Operation and Maintenance,
Tondiarpet, CEDC/North.

+1cc to Mr.K.Balakrishnan, Advocate, S.R.No.63143
+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.62859

W.P.NO.5650 OF 2018 AND
W.M.P.NO.6991 OF 2018

SV(CO)
PBS/31/01/2022