



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31421 of 2013
and
M.P.Nos.1 & 2 of 2013

A.Selvi

...Petitioner

Vs.

The Assistant Executive Engineer,
Operation & Maintenance,
TANGEDCO (Tamil Nadu Electricity Board),
CEDC / North / TNEB, Sembium,
Chennai - 600 011.

...Respondent

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari calling for the records pertaining to the impugned order Lr.No.AEE/O&M/Sembium/F.Apts/D.492/13, dated 31.10.2013.

For Petitioner : Mr.M.Arunkumar
for M/s.Sampathkumar and Asso.

For Respondent : Mr. L.Jaivenkatesh for TANGEDCO

O R D E R

The Final Assessment Order for the theft of energy under Section 135 of the Electricity Act, 2003, dated 31.10.2013 passed by the respondent / Assistant Executive Engineer is under challenge in the present Writ Petition.

2. In respect of the electricity service connection provided in the premises of the petitioner, the authorities competent conducted an inspection and found theft of energy. Thus, the Authorities initiated action for assessing the consumption charges to be levied. Based on the records, assessment is made and accordingly, the Final Assessment Order for Theft of Energy was issued under the provisions of Section 135 of the Electricity Act, 2003.

3. The Writ Petitioner, earlier filed a Writ Petition in W.P.No.29014 of 2007 and this Court has passed an order on 25.02.2013, directing the authorities to consider the objections submitted by the Writ Petitioner. Accordingly, in response to the show cause notice, the petitioner has submitted an



objections / representation and thereafter Final Assessment Order was passed. The Final Assessment Order is passed by the Assistant Executive Engineer, O & M / Sembium, Chennai, and under Section 127 of the Electricity Act, the petitioner has to prefer an appeal before the Appellate Authority. The petitioner raised several grounds with reference to the allegation of theft and pleads innocence.

4.The authorities competent considered the issues based on the records as well as by considering the explanation / objection submitted by the petitioner. Under these circumstances, the learned counsel for the petitioner made a submission that the objections submitted in entirety had not been considered by the respondent. The learned counsel for the petitioner further submitted that the petitioner had already deposited 50% of the amount.

5.This being the factum, preferring an appeal is necessary in view of the fact that the Appellate Authority is empowered to consider the objections / explanations submitted by the Writ Petitioner. The Appellate Authorities are empowered to call for the original records, scrutinize the same and adjudicate the issues on merits and in accordance with law.

6. Contrarily, such an elaborate adjudication cannot be done in a Writ Petition under Article 226 of the Constitution of India. In the event of considering the merits in the Writ Petition, the petitioner is also losing an opportunity before the Appellate Authority for effective adjudication of the issues on merits.

7. This being the facts and circumstances, the petitioner is at liberty to prefer an appeal before the competent authorities under Section 127 of the Electricity Act and in the event of filing any such appeal, the Appellate Authority shall condone the delay, if any, considering the period during which the Writ Petition was pending before this Court and decide the issues on merits and in accordance with law, as expeditiously as possible.

8. With these directions, the Writ Petition stands **disposed of**. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

shr/kan



To

The Assistant Executive Engineer,
Operation & Maintenance,
TANGEDCO (Tamil Nadu Electricity Board),
CEDC / North / TNEB, Sembium,
Chennai - 600 011.

+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.64440

+1cc to Mr.Sampathkumaar Associates, Advocate, S.R.No.64253

W.P.No.31421 of 2013

RSV(CO)
RGA(20/12/2021)