



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.9979 of 2021

M/s.Ashvika Spinning Mills,
A Registered Partnership Firm,
Represented by its,
Partner P.Jagadeesh Permual,
No.9/29A, Maranna Goundenpudur,
Karamadai, Mettupalayam Taluk,
Coimbatore-641 104.

.. Petitioner

vs.

1.Tamil Nadu Electricity Board,
Represented by its
Superintending Engineer,
Coimbatore Distribution System,
North Power House,
Coimbatore.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Mettupalayam.

3.The Assistant Engineer,
Tamil Nadu Electricity Board,
Karamadai.

4.The Assistant Executive Engineer,
Anti-Power Theft Squad,
Ootacamund.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent to disconnect the service connection permanently in SC 147-010-451 and consequently to direct the respondent to refund the caution deposit of Rs.7,19,205/-.

For Petitioner : Mr.P.Saravanan

For Respondents : Mr.N.Damodharan

Standing Counsel



O R D E R

The case of the petitioner is that it is a partnership firm engaged in the business of running spinning mills for production of cotton yarns, for which the second respondent had given electricity service connection of 105 H.P. load vide SC.No.147-010-451 with caution deposit of Rs.7,19,205/-. The petitioner spinning mill had applied for additional load and at present, the sanctioned load is 150 HP. While that being so, the third respondent issued a Show Cause Notice dated 21.06.1999 on the ground that the petitioner mill has violated the terms and conditions of supply of electricity. Challenging the same, the petitioner filed a Suit for Declaration in O.S.No.115 of 1999 before the District Munsif Court, Mettupalayam and the Suit was decreed in favour of the petitioner, vide judgment and decree dated 02.11.2005. The respondents Board filed an appeal in A.S.No.138 of 2005 before the District and Sessions Court at Coimbatore, which was also decreed in favour of the petitioner on 23.01.2007. Challenging the same, the respondent Board filed a Second Appeal before this Court in S.C.No.1121 of 2008, which was dismissed for default on 08.11.2019. In the meantime, the petitioner mill was closed during November 2016 and they submitted a representation dated 08.02.2021 to the third respondent seeking to disconnect the electricity supply permanently and refund the caution deposit and since no orders came to be passed, the petitioner has filed the present writ petition.

2. According to the learned counsel appearing for the respondents Board, the respondents have already moved an application before this Court for restoration of the Second Appeal in S.C.No.1121 of 2008 and it is yet to be numbered and efforts are being taken to number the said application and restoration of the aforesaid Second Appeal.

3. The grievance of the writ petitioner is that they have closed the mill during 2016 and they have requested the respondents Board to disconnect the electricity supply from 06.01.2018. The Suit filed by the petitioner in O.S.No.115 of 1999 as against the Show Cause Notice issued by the third respondent was decreed in favour of the petitioner and so also the Appeal Suit in A.S.No.138 of 2005 filed by the respondent Board. The Second Appeal in S.A.No.1121 of 2008 filed by the respondents Board before this Court was dismissed for default on 08.11.2018 and the respondents have moved an application for restoration and it is yet to be numbered. In such circumstances, the petitioner has submitted the representation dated 08.02.2021 to the third respondent seeking refund of the caution deposit.



4. Considering the above facts and circumstances, this Court directs the third respondent to consider the representation of the petitioner dated 08.02.2021 and shall pass orders positively, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. It is also made clear that the decision taken will be subject to the outcome of the Second Appeal before this Court and the petitioner shall also submit an undertaking to that effect before the respondents Board.

5. This Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

Jvm

To

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Superintending Engineer,
Coimbatore Distribution System,
North Power House,
Coimbatore.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Mettupalayam.

3.The Assistant Engineer,
Tamil Nadu Electricity Board,
Karamadai.

4.The Assistant Executive Engineer,
Anti-Power Theft Squad,
Ootacamund.

+1cc to Mr.P.Saravanan, Advocate, S.R.No.29218

W.P.No.9979 of 2021

PL(CO)
SB(15/07/2021)