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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.15555 OF 2018

AND

W.M.P.NO.18455 OF 2018

Azeez Badsha Charities

Represented by its President,

Mr.Abdul Jabbar Suhail

No.4.New No.9, Leith Castle North Street,  
Santhome, Chennai - 600028.

...Petitioner

Vs.

1.Tamil Nadu Generation and Distribution Corporation Ltd.

Represented by its Chairman,

NPKRR Maaligai, 144, Anna Salai,  
Chennai - 600 002.

2.The Superintending Engineer/CEDC/Central (DFC),

TANGEDCO (TNEB),

M.G.R.Salai/110KV/33KV/11KV,

Valluvar Kottam, SS Campus,

Nungambakkam, Chennai - 600034.

3.The Executive Engineer (O & M) Royapettah - II,

TANGEDCO (TNEB),

M.G.R.Salai/110KV/33KV/11KV,

Valluvar Kottam, SS Campus,

Nungambakkam, Chennai - 600034.

4.The Assistant Executive Engineer,

O & M, TANGEDCO,

No.85, 86, Dr.Radha Krishnan Salai,

Mylapore, Chennai - 600004.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in Lr.No.EE/O&M/Myl/ATO/Average Shortfall/D.No.984/2018, dated 04.06.2018 passed by the third respondent culminated in Lr.No.EE/O&M/Myl/ATO/F.Showcause Notice/D.2998/2017, dated 12.09.2017 passed by the third respondent and quash the same.



For Petitioner : Mr.K.M.Aasim Shehzad  
For Respondents : No appearance

O R D E R

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This writ petition has been filed to issue a Writ of Certiorari, to call for the records in Lr.No.EE/O&M/Myl/ATO/Average Shortfall/D.No.984/2018, dated 04.06.2018 passed by the third respondent culminated in Lr.No.EE/O&M/Myl/ATO/F. Showcause Notice /D.2998/2017, dated 12.09.2017 passed by the third respondent and quash the same.

2. The petitioner is a Public Charitable Trust established in the year 1933. The land and building situated at Old Nos.12 & 13, New Nos.25 & 27, Mohamed Husain St., Royapettah, Chennai, is the petitioner's property and the same has been rented out and they are paying all the taxes regularly. It is the case of the petitioner that in the month of September 2014, the officials of the respondent informed the petitioner that the meter has to be replaced and demanded payment of the necessary charges and the same was complied with on 17.09.2014. While so, in September 2017, the officials of the respondents visited the property and stated that there was a defect in meter during the years 2013 and 2014. Thereafter, the 3<sup>rd</sup> respondent, after a lapse of three years, issued a show cause notice dated 12.09.2017 in Lr.No.EE/O&M/Myk/ATO/F.Showcause notice/ D.2998/2017, stating that the petitioner is liable to pay the consumption of electricity during the period between 01/2013 and 09/2014.

3. According to the respondents, correct average current consumption was not arrived during the meter defective period i.e. from 01/2012 to 09/2014 and accordingly, the difference shortfall amount of current consumption charges for non-adoption of correct average current consumption was arrived at Rs.2,05,334/- during the period from 01/2013 to 09/2014. Accordingly, the 3<sup>rd</sup> respondent issued impugned demand notice.

4. According to the petitioner, they approached the 3<sup>rd</sup> respondent to seek an explanation for the exorbitant amount demanded, but the 3<sup>rd</sup> respondent failed to provide any proof. Thereafter, several officials from the respondents office are visiting the property regularly and threatening to disconnect the electricity to the entire building.

5. The sole contention of the learned counsel for the petitioner is that the impugned demand is clearly time barred under Section 21 (2) of the Tamil Nadu Electricity Supply Code, 2004 which reads as under:

"21.Disconnection of supply : Section 56  
of the Act with regard to disconnection of



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supply in default of payment reads as follows:

(2) Notwithstanding anything contained in any other law for the time being in force, no sum from any consumer, under this section shall be recoverable after the period of two years from the date such sum became first due unless such sum has been shown continuous as recoverable as arrears of charges for electricity supplied and the license shall not cut off the supply of the electricity".

6. On perusal of the Section 21(2) of the Tamil Nadu Electricity Supply Code, 2004 would clearly shows that the no amount shall be recoverable, as electricity charges, after a period of two years. In the present case, the amount due falls between the January 2013 to September 2014. Therefore, the respondents are supposed to have made a demand within a period of two years from September 2014 i.e., on or before September 2016. But in the present case, the first demand was made by virtue of the impugned show-cause notice dated 12.09.2017, which is after the period of two years and it is clearly barred by limitation. Hence, the impugned demand raised by the respondents is barred by limitation.

7. The learned counsel appearing for the petitioner submits that the petitioner is the owner of the property and the said property was leased out and the tenants have already paid a sum of Rs.2,05,334/-. Therefore, the said amount may be adjusted towards the future current consumption charges. Since this Court set aside the impugned demand notice, the petitioner is entitled to the refund or adjustment of the same towards future current consumption charges.

8. Hence, this Court directs the third respondent to adjust the amount already collected from the petitioner for a sum Rs.2,05,334/- towards the future current consumption charges.

9. Accordingly, the impugned proceedings in Lr. No. EE/O&M/Myl/ATO/F. Showcause Notice/D.2998/2017, dated 12.09.2017, is quashed and the present Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

Pns



To

1.The Chairman,  
Tamil Nadu Generation and Distribution Corporation Ltd.  
NPKRR Maaligai, 144, Anna Salai,  
Chennai - 600 002.

2.The Superintending Engineer/CEDC/Central (DFC),  
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4.The Assistant Executive Engineer,  
O & M, TANGEDCO,  
No.85, 86, Dr.Radha Krishnan Salai,  
Mylapore, Chennai - 600004.

+lcc to Mr.L.Jaivenkatesh, Advocate Sr.No.60872

W.P.No.15555 of 2018  
and W.M.P.No.18455 of 2018

SS(CO)  
RVM(29/12/2021)