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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.44 OF 2014

AND

M.P.NOS.1 AND 2 OF 2014

Bherulal A.Jain

... Petitioner

Vs.

1. The Executive Engineer/O & M,
TANGEDCO,
Tondiarpet/CEDC/North,
Chennai 600 021.

2. The Assistant Engineer,
TANGEDCO,
Tondiarpet Sub Station,
Chennai 600 081.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the orders in Lr.No.EE/O&M/TPT.AAO/RB/ASVII/A/c 012/004/637/D.No.5/13 dated 29.06.2013 on the file of the first respondent, quash the same.

For Petitioner : Mr.R.Selvakumar

For Respondents : Mr.L.Jaivenkatesh
For TANGEDCO

O R D E R

The Demand notice dated 29.06.2013 based on the Audit objections is under challenge in the present writ petition.

2. The petitioner states that he is the owner of the property bearing old door No.34/1, New Door No.36, Amman Koil Street, II Street, Gandhi Nagar, Tondiarpet, Chennai 600 081. Based on the Audit for the period from January 2009 to November



2010, the demand has been raised, asking the petitioner to pay a sum of Rs.1,41,431/-.

3. The learned counsel for the petitioner states that the demand itself is untenable as it is time barred.

4. This Court is of the considered opinion that disputed issues are to be adjudicated elaborately with reference to the documents and evidences made available. Merely on the ground of limitation, the demand notice issued cannot be set aside, in view of the fact that the period of limitation is to be reckoned from the date on which such irregularities or illegalities are identified by the competent authorities. Further, certain limitations contemplated under the provisions of the Act and Regulations are directory in nature and cannot be construed as mandatory. Court are consistently held that in dealing with Revenue of the State, it is to be considered that the limitation should be reckoned from the date on which the irregularities are identified and not from the date of claim set out in the demand notice or otherwise. All these factors require an adjudication with reference to the documents.

5. The Consumer Grievances Redressal Forum has been constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code. When Statutory Forums are constituted and functioning to redress the grievances, the aggrieved persons are expected to exhaust the remedy before approaching the High Court. The importance of the Appellate remedy at no circumstances be undermined by the High Courts and further, the High Court cannot venture into an adjudication of such disputed facts by scrutinizing the original documents. Thus, the findings of the Appellate authorities/Forum are of greater assistance to the High Court for the purpose of exercise of Judicial review under Article 226 of the Constitution of India. Thus, in all circumstances, the aggrieved persons are expected to exhaust the Appellate remedy and the Forums constituted under the Regulations.

6. This being the principles to be followed, the petitioner is at liberty to approach the Forum for the purpose of adjudication of the disputed issues. In the event of filing any such application, the Forum shall consider the period during which the writ petition was pending before this Court for the purpose of condonation of delay, if any application to condone the delay is filed by the petitioner. The 50% of the demanded amount already paid by the petitioner is to be adjusted accordingly and the issues are to be decided on merits and in accordance with law as expeditiously as possible.



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7. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nti/kak

To

1. The Executive Engineer/O & M,
TANGEDCO,
Tondiarpet/CEDC/North,
Chennai 600 021.
2. The Assistant Engineer,
TANGEDCO,
Tondiarpet Sub Station,
Chennai 600 081.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.66469

W.P.No.44 of 2014

KV(CO)
RLP(28/12/2021)