



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.12.2021
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26754 of 2021

and

W.M.P.No.28191, 28192 & 28193 of 2021

Indus TMT Industries Ltd.,
Kappakal Road, Uliveeranapalli,
Hosur-Thally Road,
Krishnagiri District,
Repd by its Director,
C.Raju

.. Petitioner

Vs.

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

2. The Superintending Engineer,
TANGEDCO,
Krishnagiri Electricity Distribution Circle,
Krishnagiri. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent's impugned notice bearing Lr.No.SE/KEDC/DFC/AO/AAO-HT/AS/F/HTSCNo.336/D.No.240/21 dated 25.11.2021 insofar levy of BPSC at 1.5% per month(i.e.,18% per year) alone on additional surcharge for the past period from 04.2021 to 09.2021 and quash the same as arbitrary, illegal and violative of order dated 24.04.2008 in Writ appeal Nos.3075 to 3078 of 2003 and order dated 18.06.2019 in W.P. No.33517 & 33518 of 2004 passed by this Hon'ble Court and consequently direct the 2nd Respondent to permit the petitioner to pay the past period arrears of additional surcharge of Rs.29,48,477/- with BPSC at 1% per moth (i.e.12% per year) in 10 equal monthly instalments along with their regular CC charges.

For Petitioner
For Respondents 1 to 3

: Mr. R.S. Pandiyaraj
: Mr. L. Jaivenkatesh,
Standing counsel.



O R D E R

The above Writ Petition is filed challenging the impugned notice 25.11.2021 dated passed by the 2nd Respondent with regard to levy of additional surcharge with BPSC for the past period from 04.2021 to 09.2021.

2. The case of the petitioner is that the petitioner was informed by the Respondents vide demand letter dated 25.11.2021 to pay additional surcharge for the past period from 04.2021 to 09.2021 along with BPSC charges calculated at 1.5% per month (i.e., 18% per year) in one lump sum within a period of 15 days from the date of receipt of the impugned notice, failing which the petitioner's HT service connection will be disconnected. The petitioner could not fulfil the demand of the Respondents, due to COVID-19 Pandemic situation. While being so, the impugned order directing payment of charges as demanded by the Respondent in one lump sum would result in serious prejudice and hardship and would cause huge amount of loss to the petitioner as he is already facing financial crisis. Hence, the present Writ Petition is filed seeking the above relief.

3. The learned counsel for the petitioner submits that already similar issue has been considered by the Division Bench of this Court in W.A.Nos.3075 to 3078 vide its order dated 24.04.2008 and the same relief may be granted to the petitioner as in the aforesaid Appeals by this Court and the petitioner may be permitted to pay the past arrears of additional surcharge with BPSC at 1% per month (i.e. 12% per year) in equal instalments along with their regular CC charges.

4. The learned Government Advocate denied the submissions made by the learned counsel for the petitioner placing his reliance on the order passed in W.A.Nos. 3075 to 3078 and submits that the facts of the present case is not similar to the case which was dealt with by the Division Bench of this Court. Hence the relief sought for in the present petition in line with the order passed in aforesaid appeals cannot be granted and therefore, the present Writ Petition is liable to be dismissed.

5. Heard the learned counsel on the either side.

6. Though the Writ Appeal Nos.3075 to 3978 of 2003 has been pressed into service by petitioner, though the Division Bench had ordered payment of BPSC charges, however in the facts of the said case, the Division Bench had reduced the interest component. However, the facts in the present case are not identical to the case before the Division Bench and therefore, modification in the interest would not arise. Therefore, this Court in the interest of justice feels that the amount quantified by the Respondents may be permitted to be paid in six equal instalments.



7. Accordingly, these Writ Petitions are disposed of directing the petitioner to pay the sum of Rs.30,78,243/- as quantified by the respondents in six instalments, of which the first instalment shall be paid on 05.01.2022 and the subsequent instalment shall be paid on the 5th day of every subsequent month. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

NHS
To

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

2. The Superintending Engineer,
TANGEDCO,
Krishnagiri Electricity Distribution Circle,
Krishnagiri.

+1 cc to Mr.R.S. Pandiyaraj, Advocate Sr.NO.66402
+1 cc to Mr.L. Jaivenkatesh , Advocate Sr.NO. 67610

W.P.No.26754 of 2021

rr(CO)
A.SK(04.01.2022)