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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31128 of 2019

and

W.M.P.Nos.31258 & 31261 of 2019

R.Vaithiyanathan

... Petitioner

Vs.

1. TANGEDCO,
Rep. by its Superintending Engineer,
Chennai Electricity Distribution Circle/Central/Tneb/
M.G.R.Salai Vallauvarkottam Ss Campus,
Nungambakkam, Chennai - 34.
2. The Assistant Executive Engineer,
TANGEDCO,
Kothandaramar Kovil Street,
West Mambalam, Chennai - 600 033.
3. R.Krishnaswamy ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent comprised in his impugned order dated 08.10.2019 bearing reference No.AEE/O&M/WM-II/CET/A No.235/2019, seeking to demand a sum of Rs.1,20,815/- (Rupees one lakh twenty thousand eight hundred fifteen only) treating the Domestic Service Connection of the petitioner in S.C.No.01-272-009-56 as Commercial in nature, quash the same as being arbitrary and contrary to the terms of the Tariff Order T.P.No.1/17 dated 11.08.2017 issued by the Tamil Nadu Electricity Regulatory Commission and consequently direct the respondents to treat the Service Connection as Domestic category under Low Tension Tariff 1A.

For Petitioner : Mr.Rahul Balaji

For Respondents R1 & R2 : Mr.L.Jai Venkatesh
Standing counsel for TNEB



O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari Mandamus to call for the records of the impugned order dated 08.10.2019 bearing reference No.AEE/O&M/ WM-II/ CET/ A No.235/2019, quash the same as being arbitrary and contrary to the terms of the Tariff Order T.P.No.1/17 dated 11.08.2017 issued by the Tamil Nadu Electricity Regulatory Commission and to consequently direct the respondents to treat the Service Connection as Domestic category under Low Tension Tariff 1A.

2. The case of the petitioner is that he is a professional photographer and he had entered into a lease agreement in respect of the ground floor of the premises at New No.32, Old No.45, Kuppiah Chetty Street, West Mambalam, Chennai-600 033 with his owner and using the said premises for residential purpose only and the said premises has been provided with Service Connection No.01-272-009-56, which stands in the name of the landlord's mother one Mrs.Rukmani. While so, after an inspection on 04.10.2019, a claim was made that since there are more than four computers in one of the rooms measuring approximately 150 sq.ft in the petitioner's house, the entire service connection to his house would be treated as "commercial" in nature as if the petitioner is carrying on any commercial activity. Thereafter, the petitioner sent a written submission to the respondents herein on 11.10.2019 setting out all the facts and excepting for the respondents communication. While so, the respondents without considering the tariff order dated 11.08.2017 sent a communication dated 08.10.2019 to the petitioner, which was received by him on 19.10.2019 and demanded the petitioner to pay a sum of Rs.1,20,815/- as penalty by treating the service connection of the petitioner's house as commercial. Hence, this present petition is filed.

3. The learned counsel for the petitioner submitted that, the respondents inspected the petitioner's premises and claimed that the electricity connection of the petitioner's premises is 'commercial', solely on the ground that the petitioner has more than four computers in one of his rooms and have demanded a huge sum of Rs.1,20,815/- as penalty by considering that the petitioner is performing business activities in the residential premises. He further submitted that, according to the tariff order of Tamilnadu Electricity Regulatory Commission bearing TP.No.1/17 dated 11.08.2017, which has specifically set out in Para 6.2.2 relating to Low Tension Tariff I.A that, the tariff is applicable to rooms of size limited to 200 Sq.ft to any professions attached to the residence of such professional and



the order further states that such classification is specifically provided for exclusively taking advantage of using the residence by professionals and the said provision is extracted herein below:

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“(g) Consulting rooms of size limited to 200 square feet of any professionals attached to the residence of such professionals, This facility is extended exclusively to take advantage of using the residence by the professionals”

From the above provision, it is made clear that even professionals are entitled to retain one room measuring up to 200 sq.ft for purpose of keeping their data stored as backups. However the petitioner's room size is only about 150 sq.ft. He furthermore submitted that, the petitioner under the threat of disconnection of electricity, has paid the entire amount as demanded by the officials, however, without providing any opportunity to the petitioner to explain the facts, the officials have levied a huge sum of money as penalty, which is not sustainable one. Hence, this Court may remand back the issue to the 2nd respondent for further adjudication and to pass appropriate orders after providing opportunity to the petitioner with regard to the classification of the Tariffs and to refund the differential amount to him.

4.The learned Standing counsel appearing for the Tamilnadu Electricity Board submitted that, since the petitioner has paid the entire penalty amount of Rs.1,20,815/- as demanded, nothing survives for further adjudication. Hence, he prays that, this Court may dismiss the present Writ petition.

5. In view of the aforesaid submissions, the petitioner claims that he is a photographer and he used one of the rooms in his house for storing his datas and admittedly such usage is exempted according to the tariff order of Tamilnadu Electricity Regulatory Commission dated 11.08.2017. It is pertinent to note that, the petitioner has paid the entire amount as demanded by the officials. Taking into consideration the above fact, without properly appreciating the facts and the Tariff order and without providing

an opportunity for the petitioner to effectively produce materials, the respondents have passed the order which deserves interference. Therefore, this Court is inclined to remand back the matter to the 2nd respondent for further consideration.



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6. This writ petition is accordingly disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

skt

To

1. The Superintending Engineer, TANGEDCO,
Chennai Electricity Distribution Circle/Central/Tneb/
M.G.R.Salai Vallauvarkottam Ss Campus,
Nungambakkam, Chennai - 34.
2. The Assistant Executive Engineer,
TANGEDCO,
Kothandaramar Kovil Street,
West Mambalam, Chennai - 600 033.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.65671

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.65442

W.P.No.31128 of 2019
and
W.M.P.Nos.31258 & 31261 of 2019

KSM(CO)
CT 16/02/2022