



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.3722 of 2011

and

MP(MD)Nos.1 & 3 of 2011

WEB COPY

L.Rengarajan,
Advocate

... Petitioner

Vs.

1.The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Tennur, Trichy - 17,
Trichy District.

2.The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Tennur, Trichy - 17,
Trichy District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, calling for the records relating to the 1st respondent's proceeding made in Lr.No. AEE/O &M/TNR/TY/F.Doc./D.No.457/2010-11 dated 26/03/2011, and quash the same.

For Petitioner : Mr.R.Sundar

For Respondents : Ms.Parameshwari,
for Mr.SMS.Johnny Basha

ORDER

Heard the learned counsel appearing for the petitioners and the learned standing counsel for the respondents.

2.The petitioner is a practicing lawyer. He is residing in the premises bearing Dr.No.42-A, Renganathapuram, Puthur, Trichy-17. He is also having his consulting rooms as a part of his residential premises. When the second respondent conducted an inspection, the second respondent took the stand that the petitioner ought to have obtained a separate connection for his consulting rooms since they would fall under commercial category.



3.The stand of the petitioner has always been that when the consulting rooms are a part of his residence, they would also come under domestic category. Even if the respondent wanted to stick to his stand, he could have proceeded only under Section 126 of the Indian Electricity Act, 2003. Instead, the respondents chose to treat the case as one of energy theft. This is patently incorrect. Therefore, I have no hesitation to set aside the order impugned in this writ petition. It is accordingly set aside. The matter is remitted to the file of the first respondent. It is open to the first respondent to pass orders afresh in accordance with law after putting the petitioner on notice.

4.The learned standing counsel for the respondent board drew my attention to the tariff order dated 01.10.2019 passed by the Tamil Nadu Electricity Regulatory Commission. Paragraph No.24(4) of the said order reads as follows :

"24.Accordingly, we clarify as follows;-

(i) The petitioner i.e., TANGEDCO on 31.01.2013 has filed extract of tariff orders containing various categories of consumers, dated 15.03.2003, 31.07.2010 and 30.03.2012. On perusal of the said Tariff Orders, it is seen that in the T.O. dated 15.03.2003 which applies for the period from 16.03.2003 to 31.07.2010 under Low Tension Tariff 1-A (domestic) specifies the consulting rooms attached to the residences of professional such as Doctors' clinics without any in-patients beds, chartered accountants, Lawyers and also to Goldsmith whose work is limited to manual labour. Under the above entry, the Advocate's office or Chartered Accountants' office not located / attached to the residences of professionals are not covered specifically and therefore, they fall under LT-V which is applicable to all consumers not covered in Tariff category 1-A, 1-B, 1-C, II-A, II-B, II-C, III-A(1), III-A(2), III-B and IV.

(ii) Again in T.O. dated 31.7.2010 which applies for the period from 01.08.2010 to 30.03.2012 professionals are classified under LT-1A (domestic) and consulting rooms not attached to the residences are not covered by any specific entries and therefore, falls under Low Tension Tariff-V which applies to all consumers not categorized in other categories.

(iii) Similarly, in the T.O. dated 30.03.2012 which applies for the period from 01.04.2012 to 20.06.2013, Consulting rooms of size limited to 200 sq.ft. of any professionals attached to the residence of such professionals fall under LT-Tariff-1-A (Domestic) and consulting rooms exceeding 200 sq.ft. attached to the residences and consulting rooms are not attached to



the residences falls under L.T. Tariff -V which applies to all consumers not categorized in other categories.

(iv) We also clarify that when a consulting room of the professional is attached with the residence of such professional, it may not be correct to charge electricity used for the consulting room under non-domestic category. That is why Commission allowed it under Domestic category in its earlier tariff order. That was further restricted to consulting rooms not exceeding 200 sq.ft. attached to the residences, so that substantial portion of consumption is used for domestic purpose only. If the area of consulting room are exceeding 200 sq. ft. or the consulting rooms are away from the residence, the consumption is not substantially used for domestic purpose and obviously for non-domestic purpose. Therefore, the Electricity charges under LT-Tariff-V is applicable to non-classified categories. We also hold that the consulting rooms attached to the residence and consulting rooms not attached to the residence are classified differently because in the former category the substantial use of electricity is for domestic use and in the latter category, it is used for non-domestic purpose and hence, there can be two different classification namely consulting rooms attached with the residence of the professionals and consulting rooms which are away from the residence of the professional and the above position was upheld by the Hon'ble Supreme Court in its order dated 27-10-2005 in C.A.No.1065 of 2010"

5.If the first respondent chooses to apply the aforesaid tariff order, it is open to the petitioner to file an appeal before the appellate authority. It appears that similar appeals are pending before the appellate authority. Therefore, in the event of the petitioner suffering an order at the hands of the first respondent, he will not invoke the writ jurisdiction but go before the appellate authority.

6.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

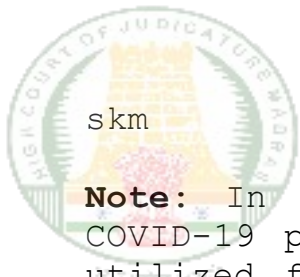
Sd/-

Assistant Registrar (AD I)

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/ /2021

Sub Assistant Registrar (CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

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KM (05.02.2021) 4P 3C