



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.36556 of 2007

M/s.Sri Krishna Smelters Ltd.,
Rep. by the Managing Director,
S.F.No.110/1-E, Iveli Village,
Akkama Post, Sankari - 637 301.
Salem District.

... Petitioner

Vs.

1. The Union of India,
Rep. by the Secretary,
Department of Energy,
New Delhi.
2. The State of Tamil Nadu,
Rep. by the Secretary,
Department of Energy,
Fort St.George,
Chennai - 600 009.
3. The Tamil Nadu Electricity Board,
Rep. by the Chairman,
800, Anna Salai,
Chennai - 600 002.
4. The Superintending Engineer,
TNEB - Mettur Distribution Circle,
Mettur Dam - 636 401.
5. The Tamil Nadu Electricity Regulatory Commission,
Rep. by the Secretary,
17, Third Main Road,
Seethammal Colony, Alwarpet,
Chennai - 600 018.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that Clauses 20.02 and 20.03 of the Terms and Conditions of supply of electricity of Tamil Nadu Electricity Board levying belated payment of surcharge 1.5 percent per month (18% per annum) are excessive, arbitrary, unreasonable, discriminatory violative of Article 14 and 19(1) (g) of Constitution of India for the account years 2001-02 to



2004-05 and consequently direct the respondents to refund the BPSC collected illegally with interest pursuant to demand by the fourth respondent in Lr.No.PR/A/Cs.Br./AOR/HT/A2/BF.132/2003/dated 25.08.2003.

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For Petitioner : M/s.S.Rajesh
for Mr.S.SIVANANDAM
For Respondent : M/s.J.Madanagopal Rao
No.1 Senior Panel Counsel
For Respondent : M/s.M.Rajendiran
No.2 Additional Government Pleader
For Respondent : M/s.Abdul Kalam
Nos.3 to 5 Standing Counsel

O R D E R

The petitioner challenges the imposition of interest levied at the rate of 18% per annum as excessive, arbitrary, unreasonable and discriminatory violative of Article 14 and 19 (1)(g) of Constitution of India.

2. Today when the matter is taken up for hearing, the learned counsel for the petitioner would bring the attention of this Court to a judgment of the Division Bench of this Court in M/s.Sri Krishna Alloys Vs. Tamil Nadu Electricity Board, rep. by its Chairman & Others, dated 24.04.2008, (CDJ 2008 MHC 1972), wherein the very same issue of levying of interest was considered. Ultimately, the Division Bench has reduced the interest from 1.5% to 1% per mensem and sustained the levy of interest.

3. Considering the facts and circumstances of the case, this Court holds as held by the Division Bench that levying of surcharge is sustainable and the interest for the belated payment of surcharge is reduced at 1%, in other words, from 18% to 12% per annum. The respondents are directed to collect the interest for belated payment of surcharge at the rate of 12% per annum.

With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



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To

1. The Secretary,
Department of Energy,
New Delhi.
2. The Secretary,
Department of Energy,
Fort St.George,
Chennai - 600 009.
3. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai - 600 002.
4. The Superintending Engineer,
TNEB - Mettur Distribution Circle,
Mettur Dam - 636 401.
5. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
17, Third Main Road,
Seethammal Colony, Alwarpet,
Chennai - 600 018.

+1cc to Mr.S.SIVANANDAM, Advocate, S.R.No.20282
+1cc to the Government Pleader, S.R.No.20612

W.P.No.36556 of 2007

PL(CO)
CT 06/04/2022