IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.Nos.25679 of 2008 and 8588 of 2009
and M.P.Nos.2 of 2008 and 1 of 2009

J.Sriram

... Petitioner in both W.Ps.

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

2. The Executive Engineer,
(O & M), Guindy, Tamil Nadu Electricity Board,
110 KV, Sub Station,
K.K. Nagar, Chennai - 33.

3. The Asst. Executive Engineer,
(O&M), Ramapuram, Tamil Nadu Electricity Board,
110 KV, Sub-Station,
K.K.Nagar, Chennai - 33.

4. M/s. Techset Composition India (P) Ltd,
'MINIMAC CENTRE' 3rd and 4th Floor ,
No.118, Arcot Road, Valasaravakkam ,
Chennai - 600 087.

... Respondents in both W.Ps.

PRAYER IN W.P.NO.25679 OF 2008: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in relation to the final assessment Lr.No.EE/O&M/GDY/AE.R.46/F.Doc./2171/08 dated 22.8.2008 for a sum of Rs.32,07,863/- and quash the same as illegal and consequently direct to provide an opportunity to the petitioner to submit his explanation and an effective hearing as required under the law and to restore the service connection bearing account No.242-74-113.

PRAYER IN W.P.NO.8588 OF 2009: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in relation to the revised assessment order dated 08.04.2009 in Lr.No.AEE/O&M/RMPM/ F.Violation/D.673/2009, dated 08.04.2009 on the file of the third respondent and quash the same as violative of the statutory provisions of the Electricity Act, 2003, and the Tariff Order, 2003.

For Petitioner in both W.Ps.	:	Mr. M.Ventaka Krishnan
For Respondent Nos.1 to 3 in both W.Ps.	:	Mr. L.Jai Venkatesh
For Respondent No.4	:	No appearance

C O M M O N   O R D E R

The petitioner is the owner of the Building, which was leased out to the 4th respondent. Immediately after leasing it out to the 4th respondent, the petitioner informed the respondent for fixation of appropriate tariff for collecting consumption charger. The petitioner issued a letter to the respondents 1 to 3. On the basis of the letter, the respondent have assessed the nature of consumption and fixed the tariff. Thereafter, the 4th respondent was directly paying the electricity charges to the respondent concerned. Thereafter, the respondents by a letter No.AEE/O&M/RMPM/F/Doc/D. /2008, dated, November, 2008, demanded payment of consumption charges from the petitioner. In response to the same, the petitioner has addressed a Letter to the respondent that the 4th respondent is the consumer and he is liable to make the payment.

2. The 4th respondent also by his letter dated 19.08.2008 stated that the tenancy was terminated with effect from 31.07.2008 and requested for all the information relating to making of the assessment to the tune of Rs.32,07,863/-. However, without proceeding against the 4th respondent, the respondents 1 to 3 demanded the amount from the owner of the building.

3. Heard the submissions made by the learned counsel appearing on either side.

4. As per the Regulations, owner of the building has promptly informed the Electricity Board and the Electricity Board has also assessed the tariff of the 4th respondent and collected the consumption charges till the tenant was in possession.

5. Thereafter, it is not open to the respondents 1 to 3 to come and say that the petitioner has unauthorizedly consumed the electricity. The tariff plan as assessed by the respondents 1 to 3 was paid by the 4th respondent and the petitioner has no role in respect of consumption of energy unauthorizedly. Therefore, the Petitioner cannot be accused with unauthorized use of consumption.

6. Secondly, the respondents 1 to 3 having assessed the 4th respondent under particular tariff, they have to first recover the money from the person, who enjoyed the energy. The Consumer Grievances Redressal Forum, Chennai Electricity Distribution Circle, Central/TANGEDCO Ltd., had decided a similar issue in Petition No.15 of 2013-14, dated 01.07.2014. Findings and Orders are extracted as under:-

> "Hearing both sides argument sand verification of documents it is clear that the services 182-001-419 and 182-001-412 were utilized by M/s Future Software Company only, But the STPI certificate is issued to 8th floor in complex II with address 481, Anna Salai. The amount levied for wrong adoption of tariff for the above two services is legal and recoverable only, and as requested by the owner of the service to collect the amount levied from the enjoyer of the service during that period 2001 to 2007 who are now functioning in Guindy, the Executive Engineer/O&M/T.Nagar is directed to attach the above said amount to M/s Aricent (Formerly Future Software) Espee IT park, Guindy and necessary action in this regard may be taken as per TANGEDCO procedures in vogue."

As per the findings, it is for the respondents 1 to 3 to recover the amount from 4th respondent, who was functioning at the given address. Hence, the impugned demand against the petitioner stands set aside. Consequently, a direction is given to the respondents 1 to 3 to recover the dues from the 4th respondent, who is very much running his business at a different address.

With the above observations, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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   110 KV, Sub-Station,
   K.K.Nagar, Chennai – 33.

+1cc to Mr. M.Ventaka Krishnan, Advocate, S.R.No.25603
+1cc to Mr. L.Jai Venkatesh, Advocate, S.R.No.25630

W.P.Nos.25679 of 2008 and 8588 of 2009
and
M.P.Nos.2 of 2008 and 1 of 2009

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NSK/20/05/2022