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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition No.24998 of 2010

&

M.P.No.1 of 2010

Gangotri Textiles Limited
Unit-1, HT SC No.122
473/2, P.K.D.Nagar near
Dr.Rajagopal Hospital
Peelamedu, Coimbatore District
rep. by its Managing Director
Manoj Kumar Tibrewal

... Petitioner

-Vs-

1. Tamil Nadu Electricity Regulatory Commission
rep by its Secretary
19-A, Rukmini Lakshmipathy Salai
(Marshall's road)
Egmore, Chennai-600 008
2. The Chairman
Tamil Nadu Electricity Board
144, Anna Salai, Chennai-600 002
3. The Superintending Engineer
Coimbatore Elec. Distri. Circle (south)
Tamil Nadu Electricity Board
Coimbatore

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in his Bill No.122 dated 01.08.2010 for 6,39,558.67 quash the same in so far as it relates to the levy of excess charges/penalty for alleged excess demand and energy quota as illegal, arbitrary without the authority of law and against the orders of the 1st respondent made in suo motu proceedings No.1 of 2009 dated 28.10.2009 and consequently direct the 3rd respondent to refund the above amount.



For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.Abdul Kalam

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O R D E R

The Writ petition has been filed, praying for the issuance of Writ of Certiorarified Mandamus, to for the records of the 3rd respondent in his Bill No.122 dated 01.08.2010 for 6,39,558.67 quash the same in so far as it relates to the levy of excess charges/penalty for alleged excess demand and energy quota as illegal, arbitrary without the authority of law and against the orders of the 1st respondent made in suo motu proceedings No.1 of 2009 dated 28.10.2009 and consequently direct the 3rd respondent to refund the above amount.

2. The case of the petitioner is that the petitioner mill is involved in the manufacture of yarn having High Tension Electricity supply in H.T.Sc.No.122 (CEDC-SOUTH). The Government of Tamilnadu through electricity department have restricted the consumption of power on 22.10.2008. Based on the direction of the Government, the 2nd respondent imposed 40% power cut to H.T. Industrial and commercial consumers. Subsequently, the 3rd respondent used to revise the quota from time to time depending upon the availability of power and the petitioner has been limiting their consumption with the quota fixed. The petitioner has never violated the quota fixed by the 3rd respondent. While so, the 3rd respondent has issued the impugned bill dated 01.08.2010 for a sum of Rs.6,39,558.67 towards levy of excess charges/penalty for alleged excess demand and energy charges for the period July 2010.

3. The learned counsel for the petitioner would submit that, initially, the petitioner was allowed to consume 80% of energy and subsequently, the 3rd respondent revised the quota periodically. The petitioner has never exceeded the limit fixed by the 3rd respondent and the petitioner has paid electricity consumption charges without any default. But, the 3rd respondent vide demand notice dated 01.08.2010, demanding the petitioner a sum of Rs.6,39,558.67 towards incorrect fixation of excess demand and energy charges for the period July 2010, for the alleged excess consumption of energy. The 3rd respondent without providing any opportunity to the petitioner, has straight away issued the impugned demand notice dated 01.08.2010.

4. The learned counsel for the petitioner would further submit that the similar issue has already decided by the Appellate Tribunal for Electricity confirming the order of the Tamilnadu Electricity Regulatory Commission that the respondents cannot claim for a demand when the consumer abided the quota



fixed by the TANGECO as advance declaration. He has also produced the judgment of Appellate Tribunal for Electricity in Appeal No.117 of 2013 and prayed to allow the Writ Petition.

5. The learned Standing Counsel appearing for the respondents 1 to 3 submitted that the respondent Board will follow the order passed by the Appellate Tribunal for Electricity, for this petitioner also.

In view of the fact that, the similar issue has already been decided by the Appellate Tribunal for Electricity, the impugned Bill No.122 dated 01.08.2010 for Rs.6,39,558.67 is quashed. With regard to the refund, the same may be adjusted in the future consumption charges. With the above direction, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary
Tamil Nadu Electricity Regulatory Commission
19-A, Rukmini Lakshmipathy Salai
(Marshall's road)
Egmore, Chennai-600 008
2. The Chairman
Tamil Nadu Electricity Board
144, Anna Salai, Chennai-600 002
3. The Superintending Engineer
Coimbatore Elec. Distri. Circle (south)
Tamil Nadu Electricity Board
Coimbatore

+1cc to Mr.R.S.Pandiyaraj, Advocate SR.No.10159

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CA(CO)
GMY(20/06/2022)