IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. Nos.1697 & 1698 of 2016
and
W.M.P. Nos.1470 & 1471 of 2016

Cholayil Private Limited,
rep. by Legal Manager
No.8, J Block 6th Avenue,
Anna Nagar,
Chennai-600 102. ...Petitioner in both W.P.s

Versus

1. The Chairman/Managing Director,
   Tamil Nadu Generation and Distribution
   Corporation Ltd., TANGEDCO,
   Anna Road, Chennai-600 002.

2. The Executive Engineer/Operation,
   TANGEDCO,
   Koyambedu 230, KVSS,
   Arumbakkam, Chennai-600 106.

3. The Assistant Executive Engineer,
   TANGEDCO, Industrial Estate,
   Ambattur, Chennai-600 058.

...Respondents in both W.P.s

PRAYER in W.P.No.1697 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 04.06.2015 in the petitioner's appeal dated 16.09.2014 quash the same and consequently direct the 1st respondent to set aside the final assessment order passed by the 3rd respondent in Letter No.AEE/IND/ABT/THEFT/D 93/2014, dated 17.06.2014 for the petitioner's service connection 037-001-205.

PRAYER in W.P.No.1698 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 04.06.2015 in the petitioner's appeal dated 16.09.2014 quash the same and consequently direct the 1st respondent to set aside the final assessment order passed by the 3rd respondent in Letter No. AEE/IND/ABT/THEFT/D93/2014, dated 17.06.2014 for the petitioner's service connection 037-001-206.

For Petitioners in both W.P.s : M/s. R.Meenal

For Respondents in both W.P.s : Mr.L.Jai Venkatesh Standing Counsel

O R D E R

These Writ Petitions have been filed challenging the final assessment orders passed by the 2nd respondent.

2.The grievance of the petitioner is that, the petitioner has engaged in manufacturing and marketing ayurvedic personal care products in the brand names of Medimix, Cuticura etc., and they are having manufacturing plant in Ambattur Industrial Estate, Chennai. The petitioner is using the plant for crushing sandalwood for making high quality soaps and also conducting product improving tests and trials, for which, they have also obtained license from the authority. In the above said premises, the petitioner has obtained two service connections under low tension tariff III-B for performing industrial activities. In the meantime, on 21.05.2014, the 3rd respondent has inspected the premises and issued provisional assessment orders stating that, in the above premises, petitioner conducting laboratory and research centre, which comes under Tariff V, and they have to change the tariff. Hence, the respondents have issued the show cause notices to the petitioner directing them to change the tariff. After receipt of explanation, the 3rd respondent had passed the final orders confirming the provisional assessment orders. Challenging the same, appeals have been preferred before the 2nd respondent and the 2nd respondent after considering the matters dismissed the appeals. Now, challenging the same, the present Writ Petitions have been filed.

3. The respondents filed a counter affidavit stating that, the petitioner has obtained two low tension service connections under industrial category for manufacturing activity. However, on inspection, it is found that the petitioner is utilising the above service connections to run laboratory and research centre, which fall under low tension tariff V. Hence, the provisional assessment notices have been issued directing the petitioner to change the tariffs. However, the petitioner did not give any explanation for provisional assessment orders and he has only

gave vague reply without any supporting documents belatedly. In the above circumstances, final assessment orders have been passed. According to the respondents, there is no manufacturing activities taken place in the above said premises and they are doing research and developmental activities, which comes under Tariff V. Hence, the petitioner was charged under commercial tariff V and there is no illegality in it.

4.Ms.R.Meenal, learned counsel appearing for petitioner would submit that, the petitioner is doing manufacturing activities and they are crushing sandalwood for manufacturing soaps and cosmetics, incidentally, they have also having testing laboratory to test the purity and quality of sandalwood and it is only part of industrial activities, for that, the petitioner has obtained two low tension service connections under commercial tariff. Without considering the same, the respondents have wrongly come to a conclusion and imposed tariff-V category and made huge demand.

5.The learned standing counsel appearing for respondents would further submit that, on inspection, it is found that the petitioner has utilised the service connections for running laboratory and research centre. Hence, provisional assessment notices were issued, for which, the petitioner has not raised any objection and no material was placed showing the petitioner was indulged in manufacturing unit only. The 3rd respondent, after considering the materials has rightly issued the final orders and there is no illegality in it.

5.Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records carefully.

6.The main grievance of the petitioner is that, the petitioner has obtained industrial tariffs and they are using it for manufacturing products by crushing sandalwood and other raw materials for the purpose of manufacturing soaps and cosmetic, incidentally, they are having research and developmental laboratory inside the premises. It is only a industrial purpose and the activities of the petitioner cannot be categorised as commercial tariff V. After issuance of provisional assessment notices, the petitioner did not raise any objection with relevant materials to show that they are only indulging manufacturing. The petitioner referred to a license issued by State Drugs Licensing Authority, Arumbakkam, that they are only manufacturing and marketing ayurvedic personal care products. But, they have not denied the fact that they are also running a laboratory and research centre in the premises, which falls under Tariff-V. Considering the entire materials, this Court finds that there is no irregularity in the demand made by the 3rd respondent. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman/Managing Director,
   Tamil Nadu Generation and Distribution
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2. The Executive Engineer/Operation,
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   Arumbakkam, Chennai-600 106.

3. The Assistant Executive Engineer,
   TANGEDCO, Industrial Estate,
   Ambattur, Chennai-600 058.

+1cc to M/s.R.Meenal, Advocate, S.R.No.22537

+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.22517

W.P.Nos. 1697 & 1698 of 2016

SKM(CO)
RGA(24/05/2022)