



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-02-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.7878 of 2012

And

MP No.1 of 2012

M/s.V3 Automotives Pvt. Ltd.,  
Represented by its Director - M.Palaniappan,  
No.1, Developed Plot,  
Industrial Estate,  
Rajiv Gandhi Salai (OMR),  
Perungudi,  
Chennai - 600 096.

...Petitioner

vs.

The Assistant Executive Engineer,  
O & M/Chennai Electricity,  
Distribution Centre/South,  
Sholinganallur,  
Chennai.

...Respondent

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 on the file of the respondent in its proceeding-Compounding of offence under Section 152 of the Electricity Act, 2003 initiated by the respondent in Letter No.AEE/O&M/SNLR/F.TOE/D.Camp/ 2011 dated 23.09.2011, quash the same and further direct the respondent to order refund of the sum of Rs.1,68,000/- collected from the petitioner.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.L.Jai Venkatesh,

Standing Counsel for TANGEDCO.

O R D E R

The proceedings issued by the respondent for theft of energy against compounding of offence under Section 152 of the Electricity Act, 2003, is under challenge in the present writ petition.



2. The petitioner is an Automobile Dealer at Chennai. They are provided with an electricity service connection.

3. The learned counsel appearing on behalf of the petitioner states that the Industrial Tariff was permitted and accordingly, consumption charges were being paid by the petitioner. However, the respondent has subsequently demanded Commercial Tariff from the petitioner. Thus, the dispute aroused.

4. Perusal of the proceedings of the respondent reveals that during the inspection conducted by the Anti Theft Squad, the theft of energy was detected in the premises of the petitioner and accordingly, an inspection report was submitted and the Competent Authorities determined the consumption charges to be paid and thereafter issued the provisional assessment order for theft of energy.

5. This Court is of the considered opinion that with reference to the allegations of theft of energy, the inspection report and the determination of consumption charges issued in the provisional assessment order require an adjudication with reference to the documents and evidences on record. The High Court cannot conduct an enquiry in respect of such disputed facts by scrutinising the original records available. The petitioner may deny the theft of energy. Under those circumstances, the innocence or otherwise is to be established. Thus the adjudication becomes necessary for the purpose of resolving the issues.

6. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which the decision taken by the Competent Authorities, is in consonance with the provisions of the Act and Rules, but not the decision itself.

7. It is submitted that the compounding charges had already been deposited under Section 152 of the Electricity Act and no criminal case was registered against the petitioner. Thus, the petitioner has to prefer an appeal under the Act for redressal of grievances, if any exist and the petitioner-Company is at liberty to prefer an appeal within a period of four weeks from the date of receipt of a copy of this order and in the event of filing any such appeal, the period during which the writ petition was pending before this Court is to be taken into consideration for condoning the delay, if any and decide the issues on merits and in accordance with law.



8. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

Svn

To

The Assistant Executive Engineer,  
O & M/Chennai Electricity,  
Distribution Centre/South,  
Sholinganallur,  
Chennai

WP 7878 of 2012

AJS (CO)  
SP(16/02/2022)