

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.15937 of 2022 &
W.M.P.No.15238 of 2022

M.Sakadevan

... Petitioner

vs.

1.Tamilnadu Generation and Distribution Corporation Ltd.,
10th Floor, NPKRR Maligai,
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer/KEDC,
TANGEDCO,
Kallakurichi.

3.The Executive Engineer,
TANGEDCO,
Kallakurichi.

4.The Junior Engineer,
O & M,
Kallakurichi.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records of the 4th respondent's extra levy collected through receipt no.VMK552RS2D13 dated 02.05.2022 and compounding of offences collected a sum of Rs.14,000/- through the receipt No.VMK552RS2S44 dated 29.04.2022 in respect of E.B.Service Connection No.02-552-004-190 to quash the same and consequently direct the 4th respondent to refund the sum of Rs.2,07,235/- to the petitioner.

For Petitioner : Mr.R.Karunagaran

For Respondents: Mr.C.Jai Venkatesh,
standing counsel

ORDER

This writ petition has been filed challenging the extra levy collected vide receipt dated 02.05.2022 and also challenging the compounding of offences vide receipt dated 29.04.2022 issued by the fourth respondent under which the petitioner has paid the alleged due of Rs.14,000/- towards compounding of offences and an extra levy of Rs.1,93,235/- in all totalling a sum of Rs.2,07,235/-.

2. According to the petitioner, he is not entitled to pay the aforesaid amounts but only on the threat made by the respondents that they will disconnect the electricity connection, he had paid the said amounts under protest. According to the petitioner, without serving him with provisional assessment order, the respondents illegally collected the extra levy of Rs.1,93,235/- by receipt dated 02.05.2022. According to the petitioner, there is also no rational basis for collecting the same and on random basis, they have fixed the amounts for compounding of offence at Rs.14,000/-.

3. Admittedly, the provisional assessment orders passed by which payments were collected from the petitioner towards extra levying of 02.05.2022 and towards compounding of offence on 29.04.2022 was not served on the petitioner. No opportunity of hearing has also been granted to the petitioner prior to collection of extra levy and for compounding of offence. The petitioner also claims that the said amounts were paid only under protest as there was threat of disconnection of the electricity supply by the respondents.

4. In view of the aforementioned reasons, this Court is of the considered view that the principles of natural justice has been violated by the respondents and the respondents have collected the amounts from the petitioner towards extra levy and compounding of offence without affording an opportunity of hearing to the petitioner who categorically states that he is not liable to pay the extra levy as well as the compounding of offence.

5. For the foregoing reasons, the matter is remanded back to the fourth respondent for fresh consideration on merits and in accordance with law and the fourth respondent shall pass final orders with regard to the petitioner's contention in this writ petition within a period of eight weeks from the date of receipt of copy of this Order after affording a fair hearing to the petitioner including granting him a right of personal hearing. In case, the fourth respondent finds that the amounts collected from the petitioner ought not to have been collected, the respondents shall refund the amounts to the petitioner.

6. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1. Tamilnadu Generation and Distribution Corporation Ltd.,
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Kallakurichi.
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TANGEDCO,
Kallakurichi.
4. The Junior Engineer,
O & M,
Kallakurichi.

+1cc to Mr.R.Karunakaran, Advocate SR.No.40910

+1cc to Mr.L.Jaivenkatesh, Advocate SR.No.41024

W.P.No.15937 of 2022

SR II (CO)
GMY(18/07/2022)