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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.1291 of 2014

Fuso Glass India Pvt. Ltd.,
by its Manager-Liaisoning K.Kasirajan ... Appellant

vs

1.Superintending Engineer,
TANGEDCO,
Chengalpattu.

2.Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tirunelveli-627 011. ... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent Act against the order dated 21.06.2013 made in W.P. No.16659 of 2013.

Prayer in W.P. No.16659 of 2013: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on file of the 1st respondent in Lr.No.SE/CEDC/CGL/DFC/RCS/AS/D31/2013 dated 22.4.2013 and quash the same as without jurisdiction, ultra vires and arbitrary.

For Appellant : Mr.T.V.Lakshmanan

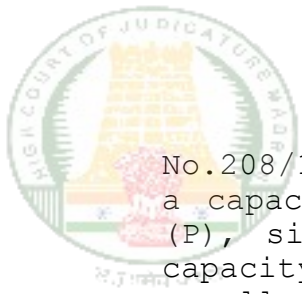
For Respondents : Mr.L.Jai Venkatesh,
Standing Counsel (TNEB)

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This writ appeal has been directed against the impugned order dated 21.06.2013 passed in W.P. No.16659 of 2013.

2.Learned counsel appearing for the appellant submitted that the appellant is owning two wind mills i.e. in Survey



No.208/1 (P), situated at Ayasurandai Village, Tirunelveli with a capacity of 750 KW (WEG HT SC NO:1702) and in Survey No.233 (P), situated at Alagiapandiapuram Village, Tirunelveli with a capacity of 750 KW (WEG HT SC NO:2049). Learned counsel for the appellant further submitted that the appellant had entered into a wind mill generation agreement dated 28.03.2006 and also another agreement for supplying energy generated by the appellant to the Superintending Engineer, TANGEDCO, Chengalpattu, the first respondent herein and both wind mills have their respective wheeling agreement dated 02.04.2013. While so, the first respondent by impugned letter dated 22.04.2013 informed the appellant to pay Rs.7,02,283/- as Additional Current Consumption Deposit on or before 31.05.2013 and the appellant by letter dated 30.04.2013 informed the respondents that as the appellant has added one more wind mill for captive use and by that, the entire power consumption of the appellant would be taken care of by the captive wind mill, additional deposit was not required. However, by letter dated 23.05.2013, the appellant was informed by the respondents that the review was made on the basis of preceding financial year and not based on the future consumption and if the amount was not paid, the service would be disconnected. Therefore, the appellant paid the amount by demand draft under Receipt dated 31.05.2013 to avert disruption of electricity. The grievance of the appellant is that since the security deposit has to be calculated equivalent to two times of the monthly average of the electricity charges, the first respondent has committed error in taking the highest consumption charges. Therefore, the appellant has filed the above writ petition in W.P. No.16659 of 2013. But, the learned Single Judge, while rejecting one of the contentions made by the learned counsel for the appellant, has held that the word 'may' that is occurring in Clause 5(5)(i) shall be read as 'shall' and the security deposit had nexus with the consumption charges and therefore, the review has to be done once in a year and that could be the proper interpretation of the clause and accepting another submission made by the learned counsel for the appellant that the first respondent has taken the highest monthly consumption charges, quashing the impugned order, allowed the writ petition, holding that the first respondent to pass fresh order in accordance with Clause 5(5)(ii)(a) of the Tamil Nadu Electricity Supply Code within a period of two weeks from the date of receipt of the copy of the order. Aggrieved by the same, the appellant is before this Court.

3.In reply, learned Standing Counsel appearing for the respondents, referring to Regulation 18 of the Tamil Nadu Electricity Supply Code 2004, submitted that all grievances of the consumers, relating to the provisions under regulations 3 to 17 of this Code, shall be referred by the consumer to the respective Consumer Grievance Redressal Forum constituted under



the Act. Therefore, since the appellant, being the consumer, has to approach the Consumer Grievance Redressal Forum seeking his grievance.

4.It could be seen from records that the appellant is owning two wind mills, namely, one in Survey No.208/1 (P), situated at Ayasurandai Village, Tirunelveli with a capacity of 750 KW (WEG HT SC NO:1702) and another in Survey No.233(P), situated at Alagiapandiapuram Village, Tirunelveli with a capacity of 750 KW (WEG HT SC NO:2049). The appellant had entered into a wind mill generation agreement dated 28.03.2006 and also another agreement for supplying energy generated by the appellant to the first respondent and both wind mills have their respective wheeling agreement dated 02.04.2013. The grievance of the appellant shows that since Regulation 5(5)(i) of the Tamil Nadu Electricity Supply Code contemplates that the adequacy of security deposit may be reviewed and re-fixed once in a year in the case of HT consumers, it is not mandatory for the first respondent to review once in a year, as the word 'shall' was not used and the impugned order was passed contrary to Clause 5(5)(ii)(a) of the Tamil Nadu Electricity Supply Code.

5.As the appeal is pending from the year 2014, we are inclined to accept the submission made by the learned Standing Counsel appearing for the respondents, since Regulation 18 of the Tamil Nadu Electricity Supply Code 2004 states that all grievances of the consumers, relating to the provisions under regulations 3 to 17 of this Code, shall be referred by the consumer to the respective Consumer Grievance Redressal Forum constituted under the Act. Therefore, the petitioner is permitted to approach the Consumer Grievance Redressal Forum by re-presenting the affidavit, grounds of appeal, order passed by the learned Single Judge and the copy of this order for better appraisal. On such re-presentation, the Consumer Grievance Redressal Forum is directed to consider the grievance of the appellant and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to both the parties. Accordingly, this appeal stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vga



To

1. Superintending Engineer,
TANGEDCO,
Chengalpattu.

2. Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tirunelveli-627 011.

+lcc to Mr.L.Jai Venkatesh, Advocate, S.R.No.17494

W.A.No.1291 of 2014

BP (CO)
SB(07/04/2022)