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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. NO. 7103 OF 2016

AND

W.M.P.NO. 6302 OF 2016

M.R.K.Ravi,
S/o. R.Karuppiah

... Petitioner

Versus

1. The Superintending Engineer (O&M),
Tamil Nadu Electricity Board,
Villupuram Electricity Distribution Circle,
Villupuram.
2. The Executive Engineer (O&M)
Tamil Nadu Electricity Board,
Tindivanam, Villupuram Dt.
3. The Assistant Executive Engineer (East),
Tamil Nadu Electricity Board,
Tindivanam, Villupuram Dt.
4. The Electrical Junior Engineer (O&M),
Tamil Nadu Electricity Board,
Tamil Nadu Electricity Scheme
Distribution Circle, Marakkanam,
Villupuram Dt.

... Respondents

PRAYER :

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 1st respondent in relation to the proceedings issued in Lr. No. மே.பெ./விமிபவ/விம/துநிஅ/கஅ/வஓபி/கோபொது/2015. Dated 13.11.2015 confirming the order of the 2nd and 4th respondent issued in K.No.EE/OM/Tvm/U.K.A./Tvm/475, dated 13.04.2015 and in.Ka.No.AEE/O&M/Mara/Ka-Audit/a. No.143/14-15 dated 25.10.2014 and quash the same and issue a consequential



direction to the respondents to refund the amount of Rs.8,00,000/- to the petitioner with interest and to levy electricity consumption charges as per the meter reading bearing No.462-009-5061.

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For Petitioner : Mr.R.Saseetharan
For Respondents : Mr.L.Jai Venkatesh,
Standing Counsel

O R D E R

This Writ Petition has been filed challenging the order demanding the petitioner to pay a sum of Rs.13,28,725/- towards short levy based on the audit objection.

2. According to the petitioner, he is running a Prawn Farm in Nadukuppam Village, Marakkanam, Tindivanam Taluk, and he has sought for electrical service connection for the farm. As the prawn farm is a seasonal industry, he is using service connection only for the period of 4 months and during those period only, he has consumed electricity. Thereafter, for the remaining period, there is no consumption. However, the respondents have wrongly issued demand notice directing the petitioner to pay the amount based on the audit objection. Against that order, he has filed an appeal and the appellate authority has also, without considering the materials in proper perspective, directed the petitioner to pay the amount. Now, challenging the same, the present Writ Petition has been filed.

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

4. From the perusal of records, it could be seen that, the impugned order of short levy has been passed based on the audit objection, and there is also some confusion with the authority, whether the short levy is due to the faulty meter or due to the fault of the petitioner. The original impugned order did not say anything about the faulty meter, and in the show cause notice issued by the appellate authority, it is stated that, the meter is faulty for nearly 26 months. Further, the final order passed by the authority has given a different reason that the petitioner did not produce any materials for lesser consumption of electricity, however, the appellate authority, based on the actual consumption, has reduced the demand of short levy to Rs.10,05,791/-. The learned counsel appearing for petitioner would submit that, the petitioner has already produced relevant records before the appellate authority to show that when the service connection was disconnected for some months, minimum consumption was recorded in the meter, that was not considered



by the appellate authority and mechanically refixed the demand to Rs.10,05,791/-. The learned counsel would further submit that, all the records would clearly show that, the charges have been paid only for actual consumption and there is no short levy.

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5. Considering the above circumstances, the appellate authority has passed the impugned order only on the ground that, the petitioner did not produce any materials to substantiate that he has paid consumption charges for the actual consumption. However, considering the submissions made by the learned counsel that, he has produced relevant materials to substantiate his claim and also considering the fact that he is ready and willing to produce sufficient materials to substantiate his consumption, this Court is of the view that the matter could be remanded back to the original authority viz., 2nd respondent Executive Engineer, and the 2nd respondent is directed to conduct fresh enquiry with all the available records. The petitioner is also directed to appear before the 2nd respondent and produce relevant records to substantiate his claim that he has paid the charges only for actual consumption. Considering all the materials and after hearing the petitioner, the 2nd respondent is directed to pass final order on merits and in accordance with law. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

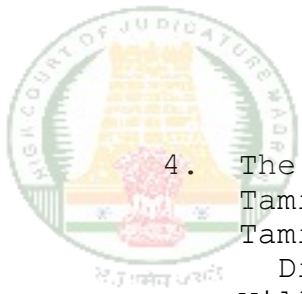
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Sub Assistant Registrar

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To

1. The Superintending Engineer (O&M),
Tamil Nadu Electricity Board,
Villupuram Electricity Distribution Circle,
Villupuram.
2. The Executive Engineer (O&M)
Tamil Nadu Electricity Board,
Tindivanam, Villupuram Dt.
3. The Assistant Executive Engineer (East),
Tamil Nadu Electricity Board,
Tindivanam, Villupuram Dt.



4. The Electrical Junior Engineer (O&M),
Tamil Nadu Electricity Board,
Tamil Nadu Electricity Scheme
Distribution Circle, Marakkanam,
Villupuram Dt.

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+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.17993
+1cc to Mr.R.Saseetharan, Advocate, S.R.No.17641

W.P.No. 7103 of 2016

SKM(CO)
PM/13/05/2022