



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.8113 of 2016

and

W.M.P.Nos.7230 & 7231 of 2016

1. P.Sivaraju

2. S.Sagunthala

... Petitioners

.Vs.

1. The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep. by its Chairman,
Anna Salai,
Chennai - 600 002.

2. The Assistant Executive Engineer,
(Construction) CEDC/South/TANGEDCO/Chennai,
Adyar, Chennai.

3. The Assistant Engineer,
TANGEDCO,
Kandanchavadi,
Chennai - 600 096

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 2nd respondent dated 22.01.2016 in Lr.No.AEE/C/Adyr/CI/F.Doc./Enft.vio/D.No.1404/16 for the petitioners' domestic electricity Service Connection Nos.298-004-634, 298-004-635, 298-004-636, 298-004-637 and 298-004-656 at No.1, Thiruvalluvar Salai, Kandanchavadi, Chennai 600 096, quash the same, further direct the respondents 1 to 3 to convert the petitioners EB Service connections into domestic Tariff along with refund of Rs.1,78,676/- along with Rs.10,000/- towards compounding charges with interest.



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For petitioner : Mr.Venkataswamy Babu

For respondents : Mr.L.Jai Venkatesh
Standing Counsel

ORDER

This writ petition has been filed challenging the final assessment order issued by the 2nd respondent.

2. The brief facts leading to file the writ petition is that the petitioners are the owner of the apartments at No.1, Thiruvalluvar Street, Kandanchavadi, Chennai and they have obtained 5 domestic electricity service connections from the first respondent/Corporation. In an inspection conducted by the 3rd respondent, it was found that the above apartments have been used as Gents Hostel by a private company, namely Sea Shell. In the above circumstances, alleging that they are utilizing the electricity for commercial purpose unauthorizedly, a provisional assessment notice has been issued to the petitioners. For the said notice, the petitioners said to have filed an objection before the respondents 2 and 3 stating that the petitioners had leased out the property to a private company, wherein, the employees of the said company are staying and the flats are used only for residential purpose. However, without considering the objection in proper perspective, the impugned final assessment order has been issued confirming the provisional assessment order. Now, challenging the same, the petitioner is before this Court with this writ petition.

3. Heard both sides and carefully perused the materials available on records.

4. From the perusal of the final assessment order, it could be seen that none of the objections raised by the petitioners have been considered by the 2nd respondent. From the perusal of the impugned order, it is only a reply send by the second respondent for the objection raised by the petitioners, and at any rate, it cannot be considered as a final assessment order in the eye of law. In the said circumstances, the impugned order passed by the 2nd respondent is liable to be set aside.

5. Accordingly, the impugned tax assessment order passed by the 2nd respondent is set aside and the matter is remanded back to the 2nd respondent. The 2nd respondent is directed to conduct a fresh enquiry and pass suitable assessment order, after considering the petitioner's objection, and after giving opportunity of hearing to the petitioner. The above said



exercise should be completed within a period of six weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs. consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep. by its Chairman,
Anna Salai,
Chennai - 600 002.
2. The Assistant Executive Engineer,
(Construction) CEDC/South/TANGEDCO/Chennai,
Adyar, Chennai.
3. The Assistant Engineer,
TANGEDCO,
Kandanchavadi,
Chennai - 600 096.

W.P.NO.8113 OF 2016

SMI (CO)
PBS/20/05/2022