IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.17099 of 2014
and
M.P.Nos.1 & 1 of 2014

The Superintending Engineer,
TANGEDCO Ltd,
Udumalpet E.D.C.,
Tiruppur Road, Earipalayam,
Udumalpet – 642 126. ... Petitioner

Vs

1.The Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
(Marshalls' Road), Egmore,
Chennai – 600 008.

2.M/s.Amaravathy Spinning Mills,
SF No.33A/3, Kannama Naickanur,
Palani Road, Palappampatti Village,
S.V.Mill Post, Udumalpet – 642 128. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of the first respondent on the orders made in A.P.No.15 of 2014 dated 22.05.2014 and quash the same in so far as it relates to the direction for refund of the excess energy charges of Rs.72,897/- to the 2nd respondent herein as illegal, arbitrary without authority of law and against the orders of the Regulatory Commission made in M.P.No.42 of 2008 and Regulation 38 of Tamil Nadu Electricity Distribution Code.

For Petitioner : Mr.Abdul Kalam

For Respondents : No Appearance for R1
Mr.M.Kamalanathan for R2

ORDER

This writ petition has been filed against the impugned order dated 22.05.2014 in A.P.No.15 of 2014 by the 1st respondent/The Tamil Nadu Electricity Ombudsman. By the impugned order, the 1st respondent has allowed the appeal filed by the 2nd respondent against the decision taken by the Consumer Grievance Redressal Forum, in its meeting held on 14.08.2013, presided over by The Superintending Engineer, Udumalpet Electricity Distn, Circle, Udumalpet.

2.By the aforesaid decision, the Consumer Grievance Redressal Forum had earlier rejected the 2nd respondent's grievance against the bills raised for the month of August on the 2nd respondent.

3.It was the specific case of the second respondent that there can be only one bill for a month and that there cannot be two bills and therefore demand for penalty was illegal.

4.The case of the petitioner before this Court is that the impugned order of the first respondent is contrary to order passed by The Tamil Nadu Electricity Regulatory Commission vide its order dated 28.11.2008 in M.P.No.42 of 2008.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the second respondent and also perused the impugned order dated 22.05.2014 passed in A.P.No.15 of 2014 by the first respondent, The Tamil Nadu Electricity Ombudsman passed while allowed the 2nd respondent's appeal against the decision of the Consumer Grievance Redressal Forum, the first respondent had observed as follows:-

> "9.Findings of Electricity Ombudsman:-
>
> On a careful consideration of the argument of both sides, I find the following are the issues to be

decided:

(i)What is the billing period of HT industries?

(ii)Whether the energy quota fixed for the Appellant is on monthly basis?

(iii)Whether the excess energy charges levied by the licensee in this case is correct?"

6.The issues have been answered as follows:-

10.Findings on first issue:

10.1. In order to find a solution to the first issue, we have to refer regulation 8(2) of the supply code which is reproduced below:

"8.Meter Reading, Billing and intervals

(1)XXX XXX

(2)In the case of High Tension Service connections, the Licensee shall, within four days after the expiry of each billing month, cause to be delivered to every consumer a bill of charges stating the amount payable by the consumer in connection with supply of electricity by the Licensee".

10.2. On a careful reading of the said regulation, it is noted, that the licensee has to serve the bill to HT service connection within 4 days after expiry of each billing month. As it has been specified that bill has to be served within 4 days after expiry of each billing period, the billing period for HT industry is monthly only.

11.Findings on Second issue:

11.1 The appellant argued that energy quota is fixed for the month only, and hence taking proportionate quota upto 14.08.2013 and levying excess energy charges is not correct.

11.2 The appellant also argued that in the petitioner No.M.P.42 of 2008 filed by the licensee, the licensee has indicated that the energy quota will be on monthly basis.

11.3. The respondent argued that the energy quota is fixed on monthly basis only. However, whenever there is a change in the percentage of power cut within a month then only proportionate quota for the respective period has to be adopted for levying excess energy charges.

12.Findings on third issue:

12.1.The appellant argued that the energy quota fixed is per month basis only. Hence fixing a proportionate quota upto 13.08.2013 and comparing it with the consumption to arrive at the excess energy is not correct.

12.2.He also argued that the quota from 29.07.2013 to 13.08.2013 was not fixed and communicated early (i.e) before 13.08.2013. But fixing a quota for the above period after lifting of power cut on 14.08.2013 to arrive at the excess energy charges is not reasonable. The appellant also argued that the quota shall be informed in advance so that the consumer can restrict the usage within the quota."

7.The order passed by the 1st respondent as the Appellate Authority appears to be a well reasoned and requires no interference.

8.A reading of the impugned order also indicates that the order passed in M.P.No.42 of 2008 by the Tamil Nadu Electricity Regulatory Commission has not contemplated the two bills for a month. What the petitioner have done is they have charged on the consumption upto

01.08.2013 to 13.08.2013 and raised a separate bill for the period. The question of excess consumption will arise over only for the entire month. The second respondent cannot be billed twice for the consumption. Therefore, I do not find any infirmity in the decision of the 1st respondent/The Tamil Nadu Electricity Ombudsman.

8.The petitioner is directed to refund the amount collected in excess and adjust the same against future bills, if the amount has not been already adjust any of bills raised on the 2nd respondent.

9.This writ petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2022

Index : Yes/No
Speaking/Non-Speaking Order
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To

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C.SARAVANAN, J.

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