

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.NO.9889 OF 2016

AND

W.M.P.NO.8877 OF 2016

M/s.Woory Automotives India Pvt. Ltd.,
Represented by its Managing Director,
Deok Young Kim,
No.A1B, MMDA Industrial Complex,
Maraimalai Nagar,
Kancheepuram.

...Petitioner

Vs.

1.The Chairman and Managing Director
TANGEDCO Ltd.,
No.200, Anna Salai, Chennai - 600002.

2.The Superintending Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Chengalpattu.

...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the order passed by 2nd respondent in Lr.No.SE/CEDC/TANGEDCO/CGL/AAO-HT/AS.HT.GI/AS3/F.HT.SC. No.577D.131/16 dated 29.02.2016 and quash the same.

For Petitioner : Mr.S.Sathish Rajan

For Respondents : Ms.V.Revathy
for Mr.L.Jaivenkatesh
Standing Counsel for TANGEDCO

O R D E R

The challenge in this writ petition is to the demand of a sum of Rs.9,42,626/- made by the 2nd respondent allegedly due as peak hour demand charges penalty for utilization of energy over and above permitted quota between the period December 2008 and August 2009.

2. The show cause notice was issued by the 2nd respondent on 22.12.2015, demanding the said sum. The petitioner sent a reply stating that the demand is time barred, in view of the Section 56(2) of the Electricity Act, 2003. The 2nd respondent had passed final order on 29.02.2016 stating that the peak hour demand charges and penalty levied has already been intimated to the petitioner.

3. The question relating to demand of peak hour charges and applicability of Section 56(2) are covered by the decision of the Hon'ble Supreme Court in Mahabir Kishore and Ors. vs. State of Madhya Pradesh in C.A.No.1672 of 2020 dated 18.02.2020, wherein, the Hon'ble Supreme Court had held that Section 56(2) did not preclude the licensee from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) in the case of a mistake or bona fide error. It did not however, empower the licensee to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand. Thereby meaning that the licensee will have to resort to other means of recovery. This judgment of the Hon'ble Supreme Court has been followed and applied by this Court in R.Barathi Vs. The Chairman, Tamil Nadu Generation and Distribution Corporation Limited, (W.P.No.33794 of 2015 dated 17.11.2021).

4. In view of the above, the impugned demand is quashed with liberty to the respondents to recover the dues without resorting to disconnection of electricity supply under Section 56(1). It is also stated that this levy of peak hour penalty charges has been quashed by this Court and the matter is sub-judice before the Hon'ble Supreme Court. Hence, any action to be taken by the respondents will be dependent on the outcome of SLP.No.1090 of 2011 which is stated to be pending before the Hon'ble Supreme Court.

5. Accordingly, this Writ Petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1.The Chairman and Managing Director
TANGEDCO Ltd.,
No.200, Anna Salai, Chennai - 600002.

2.The Superintending Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Chengalpattu.

+1cc to Mr.S.Sathish Rajan, Advocate Sr.No.39707

W.P.No.9889 of 2016

SVI (CO)
RVM(18/07/2022)