



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.NO.931 OF 2017

AND

W.M.P.NO.936 OF 2017

Sri Murugalaya Silk House,
Door No.161A, Car Street,
Thiruvannamalai,
Rep. by its Managing Partner
Mr.S.Palanisamy

...Petitioner

Vs.

1.The Chairman and Managing Director,
TANGEDCO,
No.144, Anna Salai, Chennai - 600 002.

2.The Assistant Executive Engineer,
O & M/Town/Thiruvannamalai,
Thiruvannamalai.

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records pertaining to the impugned final assessment order in Lr.No.AEE/O&M/TOWN/TVM/ F.UAE/D.No.145/2016, Dated 24.12.2016, issued by the 2nd respondent for the payment of Rs.47,52,308/- in respect of Service Connection No.202-042-775 Tariff V at Door No.161A, Sri Murugalaya Silk House, Thiruvannamalai and quash the same as illegal, arbitrary and violative of Sub Section (3) of Section 126 of the Electricity Act 2003 and Sub-Regulation (3) of Regulation 19 of the Supply Code 2004.

For Petitioner : Mr.AR.L.Sundaresan, SC
for Mr.K.Seshadri

For Respondents : Mr.J.Ravindran,
AAG, Assisted by Mr.L.Jaivenkatesh
Standing Counsel for TANGEDCO

O R D E R

Challenging the final assessment order issued by the second respondent, demanding Rs.47,52,308/-, the petitioner has come up with this writ petition.



2. Earlier the second respondent issued provisional assessment notice on the ground that the petitioner unauthorizedly extended the service connection to the neighbouring building also belonging to the petitioner, for which, a show cause notice has been issued on 24.11.2016. In response to the said notice, the petitioner sent a reply dated 28.11.2016, disputing the claim made by the second respondent and further asked for a personal hearing so as to enable the petitioner to submit his objections.

3. The grievance of the petitioner is that without conducting any enquiry and without giving any opportunity to the petitioner, the impugned order came to be passed and on that ground, the impugned order is liable to be set aside.

4. Mr.AR.L.Sundaresan, learned senior counsel appearing for the petitioner submitted that since the petitioner specifically asked for a personal hearing to explain the factual position, however, the second respondent without giving a personal hearing, straightaway passed the impugned order in violation of the principles of natural justice.

5. Mr.J.Ravindran, learned Additional Advocate General appearing for the respondents submitted that after issuing the provisional assessment order, another show cause notice has been issued to the petitioner asking him to appear for personal hearing, but the petitioner did not availed that opportunity and he did not appear, hence now it is not open to the petitioner to ask for personal hearing.

6. I have heard the learned counsel on either side and also pursued the records carefully.

7. Perusal of the records, it could be seen that objection sent by the petitioner dated 28.11.2016, where he has specifically asked for a personal hearing has been considered by the second respondent while issuing the impugned final assessment order. Further, from the order passed by the second respondent, it could be seen that no personal hearing was given to the petitioner and the objections raised by him alone was considered while passing the impugned order. Hence, without going into the merits of the case, this Court is inclined to set aside the impugned final assessment order dated 24.12.2016 and remand the matter back to the second respondent and the second respondent is directed to conduct fresh enquiry giving opportunity of hearing to the petitioner and after considering the objections raised by the petitioner, pass final orders. This exercise should be completed within a period of six weeks from the date of receipt of a copy of this order. The writ



petition is allowed and consequently, the connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

kk

To

1.The Chairman and Managing Director,
TANGEDCO,
No.144, Anna Salai, Chennai - 600 002.

2.The Assistant Executive Engineer,
O & M/Town/Thiruvannamalai,
Thiruvannamalai.

+1cc to Mr.K.Seshadri, Advocate Sr.No.15682

W.P.No.931 of 2017 and
W.M.P.No.936 of 2017

SKM(CO)
RVM(17/05/2022)