



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.33180 of 2017

and

W.M.P. Nos. 36592 & 36609 of 2017

Anish Kumar Spinning Mills,
HTSC No.228,
22, Nehru Nagar, Kalapatti Road,
Civil Aerodrome Post,
Coimbatore - 641 014.
rep. by its partner V.Lakshminarayanassamy

... Petitioner

Vs.

1. Tamil Nadu Electricity Regulatory Commission,
rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore,
Chennai-600 008.
2. The Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), 144, Anna Salai,
Chennai-600 002
rep. by its Chairman
3. Director Finance,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai, Chennai-600 002.
4. The Superintending Engineer,
Coimbatore Metro Electricity
Distribution Circle, TANGEDCO,
Coimbatore.
5. The Accounts Officer/Revenue,
The Superintending Engineer Office,
Coimbatore Metro Electricity
Distribution Circle, TANGEDCO,
Coimbatore.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 3rd respondent's impugned circular Memo CFC/R/FC/R/DFC-R1/F.HTLT-RTI/D.30/2015, dated 03.02.2016 in so far as the para 3(iii) is concerned and impugned Lr. No. SE/CEDC/M/Cbe/DFC/AO/R/AAO/HT/AS.3/F.AUDIT/D.291/17, dated 22.08.2017 issued by the 4th respondent and consequent CC bills dated 01.12.2017 in so far as it relates to the alleged audit amount of Rs.10,00,274/- alone in Serial No.21 (Other Adjustments), issued by the 5th respondent, quash the same as illegal, arbitrary and without authority of law and against Section 56(2) of Electricity Act, 2003.

For Petitioner : Mr.S.P.Parthasarathy

For Respondents : Mr.Abul Kalam,
Standing Counsel

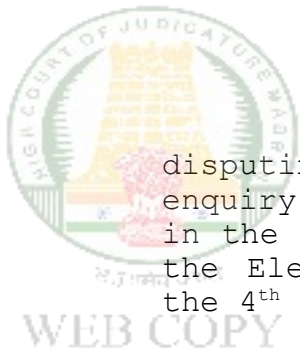
O R D E R

(The case has been heard through video conference)

This Writ Petition has been filed challenging the show cause notice dated 22.08.2017, issued by the 4th respondent and the consequential CC bill issued by the 5th respondent directing the petitioner to pay a sum of Rs.10,00,274/- towards short levy.

2. The petitioner Mill is involved in manufacturing yarn having high tension electricity supply in HT Sc. No.228. The grievance of the petitioner is that, on 22.08.2017, the 4th respondent herein had issued a show cause notice stating that, as per audit objection, an amount of Rs.10,00,274/-, is outstanding towards short levy of excess over energy and demand quota charges for the year 2014-2015, and the petitioner was directed to give explanation for the same. According to the petitioner, for the above show cause notice, the petitioner Mill has sent a reply dated 31.08.2017 and also requested the 4th respondent to furnish copy of audit objection enabling them to explain the method of calculation found in the audit slips. Thereafter, without conducting any enquiry, the 4th respondent issued a bill for the month of December 2017 directing the petitioner to pay the alleged short levy. Now, challenging the same, the present Writ Petition has been filed.

3. Mr. S.P.Parthasarathy, learned counsel appearing for petitioner would submit that, the alleged short levy is for the year 2014-2015, for which, the show cause notice was issued in the year 2017, based on the audit objection. However, the copy of audit objection was not furnished to the petitioner. Even though the petitioner has submitted his detailed explanation



disputing the demand of short levy, without conducting any enquiry, straight away, the respondents have included the amount in the monthly consumption bill in violation of Section 56(2) of the Electricity Act, 2003. Hence, the impugned bill issued by the 4th respondent is liable to be set aside.

4. Per contra, learned Standing Counsel appearing for respondents would submit that, based on the audit objection, the 4th respondent has come to know that, there was a short levy of Rs.10,00,274/-. Hence, after issuing proper show cause notice and also considering their objections, the amount has been included in the bill and there is no violation under Sec.56(2) of the Electricity Act, 2003.

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

6. The one and only contention of the petitioner is that, after issuing show cause notice, without furnishing the copy of audit report and without considering the objections raised by the petitioner, the 4th respondent straight away directed the petitioner to pay the amount in violation of Sec.56(2) of the Electricity Act, 2003. Considering the facts and circumstances, this Court find a force in petitioner's submission. On receipt of explanation submitted by the petitioner, the authorities ought to have conducted enquiry after furnishing the copy of audit objection, based on which, the demand is made. Hence, on that score itself, the impugned order dated 22.08.2017 passed by the 4th respondent is liable to be set aside.

7. Accordingly, the impugned order dated 22.08.2017 passed by the 4th respondent is set aside and the matter is remanded back to the 4th respondent directing them to conduct enquiry based on the show cause notice dated 22.08.2017, by providing an opportunity of hearing and also furnishing the copy of audit report, thereafter, pass suitable orders on merit and in accordance with law. In the result, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

True Copy//

Sub Assistant Registrar

rpp



To

1. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore,
Chennai-600 008.
2. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), 144, Anna Salai,
Chennai-600 002
3. The Director Finance,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
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4. The Superintending Engineer,
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Coimbatore.
5. The Accounts Officer/Revenue,
The Superintending Engineer Office,
Coimbatore Metro Electricity
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Coimbatore.

W.P.No.33180 of 2017

RSV[co]
NSK 14/03/2022