



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.15221 of 2017 and
WMP Nos.16511 & 16512 of 2017

Samvit Sagar Trust,
Swami Shuddananda Ashram,
38, Girivalam Road, Adi Annamalai,
Thiruvannamalai – 606 604.
Represented by the Trustee,
P.Ganapathi

... Petitioner

Vs.

1. The Tamil Nadu Electricity
Regulatory Commission (TNERC),
TIDCO Office Building,
No-19-A, Rukmani Lakshmipathi Salai,
Marshalls Road, Egmore,
Chennai – 600 008.
2. The Director (Distribution)
TANGEDCO,
Anna Salai,
Chennai – 600 002.
3. The Superintending Engineer,
Thiruvannamalai Electricity District Circle,
Thiruvannamalai – 606 604.



4. The Junior Engineer / O S M,
TANGEDCO,
Division – 2,
Thiruvannamalai – 600 004.

....Respondents

Writ petition filed under Article 226 of Constitution of India, seeking a writ of Certiorarified Mandamus, calling for the records relating to the impugned orders of the 3rd respondent, dated 21.11.2016 in Lr.No.SE/TEDC/DFC/AO/Rev/AS/F.Samvit/D.123/2016 along with the consequential order of the 4th respondent, dated 18.04.2017 in Lr.No.je/e&pa/ki.II/t.malai/d.spl/no.015/2017 quash the same and consequently direct the respondents to change the tariff of the petitioners Trust from category V to category Tariff II-c in respect of Service No.206002456.

For Petitioner : Mr.Niranjan Rajagopalan, for
M/s.G.R.Associates

For Respondent 2 to 4 : Mr.L.Jaivenkatesh,
Standing Counsel for

For Respondent No.1 : No appearance

ORDER

This Writ Petition has been preferred seeking to quash the proceedings issued by the 3rd respondent, dated 21.11.2016 in Lr.No.SE/TEDC/DFC/AO/Rev/AS/F.Samvit/D.123/2016 along with the consequential order of the 4th respondent, dated 18.04.2017 in Lr.No.je/e&pa/ki.II/t.malai/d.spl/no.015/2017 and direct the respondents



to change the tariff of the petitioner Trust from category V to category Tariff II-C in respect of Service No.206002456.

2. The brief facts of the case are that the petitioner is a charitable trust with various objects and various service and charitable activities have been done under the auspicious of the trust. The petitioner is maintaining the temple and Ashram for the benefit of devotees who are visiting Thiruvannamalai and participating Girivalam and providing them free accommodation. Originally the service connection was under Tariff V based on the nature of activities performed by the Ashram and thereafter the tariff was changed to II - C with effect from 2008. Thereafter, on the basis of the inspection conducted, once again, the tariff had been changed from Tariff II-C to Tariff V with effect from 11.12.2014. According to the writ petitioner, there is no commercial activities conducted in the Ashram or temple and it is only a charitable in nature. The matter which is impugned in this order has passed on 21.11.2016. In the meanwhile, short levy of CC charges at Rs.7,80,441/- has also been imposed, which according to the petitioner, is arbitrary. There is no notice given to the



petitioner at any event when the respondent is levied CC charges.

3. The 4th respondent filed a detailed counter wherein it has been stated that the Writ Petition is not maintainable since the petitioner has an alternative remedy of appeal before the Consumer Redressal Forum under Rule 18 of the Tamil Nadu Electricity Supply Code, 2004. It is further stated that the petitioner had obtained three service connections, among which a special service connection in SC No.206-002-456 was effected on 03.06.2004 under Tariff V. Thereafter, the same was changed to Tariff II -C on 04.02.2008. However on inspection conducted by the respondents on 04.07.2016, it is found that the service connection is used for authorized other commercial purposes. Hence, the Tariff is once again changed to Tariff V and levied a sum of Rs.7,80,441/- towards short fall from the year 2008. Therefore, the learned Standing Counsel prays for dismissal of this Writ Petition.

4. The learned counsel for the petitioner would submit that the levy



of short fall is imposed without any notice. It is the contention of the petitioner that having changed the tariff V with effect from 14.02.2008, the respondent cannot levy the CC charges retrospectively. Hence the learned counsel prays for dismissal of the impugned order.

5. The learned Standing counsel for the respondents would submit that there is an alternative appeal remedy is available before the Consumer Redressal Forum under Rule 18 of the Tamil nadu Electricity Supply Code, 2004. The learned Standing counsel would further submit that at the time of availing the service connection, the petitioner service connection was under Tariff which is for commercial purpose in the year 2004, subsequently it has been changed to Tariff II-C which according to them is a clerical mistake and hence the same was rectified.

6. Heard the learned counsel appearing on either side and perused the material available on record.

7. It is not in dispute that the service connection effected to the



petitioner on 03.07.2004 in SC No.206002456. Admittedly, Tariff V categorically given for commercial purposes and subsequently that has been changed on 14.02.2008 as Tariff II C. Thereafter, as per the inspection conducted in the year 2006, the tariff has been changed once again from II C to Tariff V. Thereafter, the amount of Rs.7,80,441/- is imposed towards short levy of CC Charges. According to the respondents, the change of tariff from V to II C is only a clerical mistake which cannot be countenanced. In fact, the Tariff has been changed subsequently by the respondents in the year 2008. Having effected such change, after a long gap of 12 years, on the basis inspection conducted based on the activities carried out by the Trust, once again the Tariff has been changed. Under these circumstances, it is pertinent to note whether at the time of change effected in the year 2008 from Tariff V to Tariff II C, whether any commercial activities have been carried out by the Trust or not, there is no material in this regard, was produced.

8. Considering the above aspect and also the fact that alternative



appeal remedy available before the Consumer Redressal Forum, the petitioner is directed to file an appeal before the Consumer Redressal Forum within a period of one month from today. Taking into account of the pendency of the Writ petition, the limitation period for filing the appeal if any, shall be excluded. On receipt of appeal filed by the petitioner, the Consumer Redressal Forum shall consider the same on merits and pass appropriate orders in accordance with law. It is also to be noted that till the disposal of the appeal, the respondents shall not insist upon any recovery of amount.

9. With the above observations, this writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

20.10.2022

Index: Yes/No
Speaking order/Non speaking order
vum

N.SATHISH KUMAR,J.



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vum

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