



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.25195 of 2018
and W.M.P.Nos.29289 & 29290 of 2018

Sri Vignesh Yarns Private Limited,
HTSC No.8,
88(F), 17-C, Kamaraj Road,
Tirupur - 641 604,
Rep by its Authorized Signatory M.Thangavel .. Petitioner

Vs.

1. The Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai - 600 002,
Represented by its Chairman.
2. The Director Finance,
Tamil Nadu Generation and Distribution Corporation Limited, 144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
TANGEDCO, Tirupur.
4. The Accounts Officer / Revenue,
The Superintending Engineer Office,
Tirupur Electricity Distribution Circle,
TANGEDCO, Tirupur. .. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking 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 concern and consequential impugned demand notice bearing Lr.No.SE/TEDC/TPR /AEE/GL/AE2/F. Audit/D.No.769/18, dated 19.04.2018, of the 3rd respondent and consequent CC bill /dated 31.08.2018 in so far as serial No.21 'other adjustment' to a tune of Rs.3,75,088/- alone is concern issued by the 4th respondent quash the same as illegal, arbitrary, against principals of natural justice and without authority of law and against Electricity Act, 2003.



For Petitioner : Mr.S.P.Parthasarathy

For Respondents: Mr.Abul Kalam

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O R D E R

This writ petition has been filed against demand of Rs.3,75,088/- from the petitioner for the alleged excess amount spent by the respondents for providing dedicated feeder line to the petitioner.

2. According to the petitioner, he is running a spinning mill and earlier he applied to the third respondent to provide dedicated feeder line to his industry, for which, estimate has been provided by the third respondent for a sum of Rs.64,08,890/-, and that amount has also been paid by the petitioner apart from paying the actual cost of the materials. The work was completed on 12.03.2015 and the petitioner was also provided connection. Thereafter, on 19.04.2018, based on audit objection, a show cause notice was issued to the petitioner on the ground that there was a short levy of a sum of Rs.3,75,088/- in providing dedicated feeder line to the petitioner. Hence, the petitioner was directed to submit his explanation and thereafter the petitioner submitted his explanation on 16.05.2018 and without considering the objections and without conducting any enquiry whatsoever, the amount has been included in the monthly current consumption charges and the petitioner was directed to pay the amount. Now, challenging the same, the present writ petition has been filed.

3. Mr.S.P.Parthasarathy, learned counsel appearing for the petitioner submitted that as per the original estimate, he paid the entire amount in the year 2015 itself and after three years, based on audit objections, a show cause notice was issued. Even though the petitioner has submitted his explanation, without considering the same and without conducting any enquiry, the third respondent directly included the said amount in the monthly current consumption charges, which is not permissible.

4. Mr.Abul Kalam, learned standing counsel for TANGEDCO submitted that even though the original estimate is 64,08,890/- for execution of work, more amount was spent than the original estimate and that was noticed in the audit and hence a show cause notice was issued to the petitioner and after considering his reply, the amount has been included in the monthly current consumption charges. Further a copy of the audit objection was given to the petitioner.



5. I have considered the rival submission and also perused the records carefully.

6. Perusal of the records, it could be seen that based on audit objection, a show cause notice was issued to the petitioner, for which, the petitioner has also submitted his reply. However, without considering the objections and without conducting any enquiry, the respondents have directly included the amount in the monthly current consumption charges, which is not permissible in law. The third respondent after issuing show cause notice for which reply was also given, a duty is cast upon the third respondent to consider the objections by conducting an enquiry and pass orders, without doing that, straightaway the third respondent cannot include the amount in the monthly current consumption charges.

7. In the above circumstances, the impugned demand dated 19.04.2018, is set aside and the matter is remanded back to the third respondent and the third respondent is directed to furnish a copy of the audit objections to the petitioner and after receipt of the audit objections, the petitioner is directed to submit his objections and after receipt of the objections from the petitioner, the third respondent shall conduct enquiry and thereafter pass orders on merits and in accordance with law. The above exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai - 600 002.
2. Director Finance,
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai - 600 002.



3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
TANGEDCO, Tirupur.

4. The Accounts Officer / Revenue,
The Superintending Engineer Office,
Tirupur Electricity Distribution Circle,
TANGEDCO, Tirupur.

+1cc to Mr.R.S.Pandiyaraj, Advocate SR.No.19740

W.P.No.25195 of 2018 and
W.M.P.Nos.29289 & 29290 of 2018

MG(CO)
GMY(13/05/2022)