BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.04.2022
CORAM:
THE HONOURABLE MR.JUSTICE B.PUGALENDHI
W.P.(MD)No.6796 of 2010
and
M.P.(MD)Nos.1 & 2 of 2010

M/s.Sri Mappillai Vinayagar Roller Flour Mills,
Rep. by its Partner
K.Balamuruganandam
No.163, Nethaji Road,
Madurai - 625 001. ... Petitioner

Vs

1. The Chairman,
Tamilnadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Engineer (Distribution),
Tamilnadu Electricity Board,
K.Pudur, Madurai.

3. The Superintending Engineer,
Madurai Electricity Distribution Circle,
Madurai-625 007. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in his proceedings Lr.No.SE/MEDC/MDU/DFC/HTAS/A3/ F.HT SC No.76/D No.695/10 dated 08.05.2010 and quash the same as illegal and without jurisdiction and consequently, direct the respondents to restore service connection to the petitioner in HT SC No.76.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.Deenadhayalan
Standing Counsel

O R D E R

This writ petition is filed by a Partner of M/s.Sri Mappillai Vinayagar Roller Flour Mills, Madurai, as against the demand Notice dated 08.05.2010 issued by the third respondent.

2. By the impugned demand notice, the respondent Board made a demand of Rs.30,36,441/- from M/s.Sri Mappillai Vinayagar Roller Flour Mills, for the current consumption charges for the period from September 2007 to April 2008, for the HT Service Connection No.76 of M/s.Mappillai Vinayagar Roller Flour Mills and also for the HT Service Connection Nos.99(116) and 105 of Mappillai Vinayagar Spinning Mills and M/s. Manicka Vinayagar Spinning Mills Ltd.,

3. According to the respondent Board, M/s.Sri Mappillai Vinayagar Roller Flour Mills and its sister concerns, namely, M/s.Sri Mappillai Vinayagar Spinning Mills Unit II and M/s.Sri Manicka Vinayagar Spinning Mills Limited are having arrears of CC charges to the tune of Rs.35,27,042/- and they have not paid that amount. Therefore, the security amount of the petitioner Firm, for a sum of Rs.4,90,601/- has been adjusted and for the remaining amount, the impugned demand notice was issued to pay a sum of Rs.30,36,441/- within a period of fifteen days.

4. Mr.B.Saravanan, learned counsel appearing for the petitioner submits that M/s.Sri Mappillai Vinayagar Roller Flour Mills is a Partnership Firm and they are nothing to do with the other two service connections in HT Service Connection No.99 (In the impugned notice it is stated that HT SC No.99 instead of HT SC No.116, which belongs to M/s.Sri Manicka Vinayagar Spinning Mills Limited) and HT Service Connection No.105 belongs to Sri Mappillai Vinayagar Spinning Mills Unit II. However, the respondent Board presumed those units as the petitioner's sister concerns and demanded the arrears of CC charges for those HT Service Connection No.116 having arrears of Rs.11,27,324/- and HT Service Connection No.105, having arrears of Rs.14,52,680/- that of arrears of H.T. Service connection No.76. He further submits that pursuant to the interim order passed by this Court dated 20.05.2010, the petitioner Firm have also paid the CC charges of Rs.3,11,176/-, as demanded by the respondent Board for HT service Connection No.76 of M/s. Sri Mappillai Vinayagar Roller Flour Mills.

5. Mr.Deenadhayalan, learned Standing Counsel appearing for the Tamil Nadu Electricity Board submits that the impugned demand notice is meant only for HT Service Connection No.76 owned by M/s.Sri Mappillai Vinayagar Roller Flour Mills. It is not relevant with regard to other HT Service Connection No.105 of M/s.Sri Mappillai Vinayagar Spinning Mills Unit II and HT Service Connection No.116 of M/s.Sri Manicka Vinayagar Spinning Mills Limited. According to him, the other two units are sister concerns and the administrative offices of all the three units are functioning in the same premises. M/s.Sri Manicka Vinayagar Spinning Mills Limited was inspected on 25.09.2005, where, the Board deducted theft of energy. Therefore, as per Section 135 of Electricity Act, 2003, they made a demand of compensation of Rs.10,53,864/- from Ms/.Sri Manicka Vinayagar Spinning Mills Limited. A similar inspection was also

conducted in M/s.Sri Mappillia Vinayagar Spinning Mills Unit and M/s.Sri Mappillai Vinayagar Roller Flour Mills on 26.09.2005 and similar theft of energy was detected. As per Section 135 of the Electricity Act, compensation has been arrived at Rs.12,31,699/- and Rs.27,53,395/- respectively for those units. In addition to that, in HT Service Connection No.76, there was an arrear of CC Charges from September 2007 to April 2008 to the tune of Rs.5,82,415/-. He also placed the details of calculation for the service connection Nos.76, 105 & 116. His main contention is that all the Units were functioning only from the Corporate Office at 165, Nethaji Road, Madurai, in different names under the same Management.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The demand notice dated 08.05.2010 is under challenge in this writ petition. By the impugned notice, the respondent Board has demanded a sum of Rs.30,36,441/- towards arrears of CC charges and the outstanding payments. Calculation made in the impugned notice is extracted as under:-

DETAILS	AMOUNT (In.Rs.)
CC Charges 09/2007 to 04/2008	5,82,415.00
BPSC	51,947.00
½ of the DC Fees	1,500.00
E.Tax arrears	3,11,176.00
Sister Concerns Arrears:	
HT.No.99 (116) Rs.11,27,324.00 H.T.No.105 Rs.14,52,680.00	
Total arrears	25,80,004.00
Less: CCD available	4,90,601.00
Balance to be collected	**30,36,441.00**

While entertaining this writ petition, this Court by order dated 20.05.2010 passed an interim order as follows:-

"There will be an order of interim direction to restore the electricity supply tot he petitioner in HT SC No.76 subject to the condition that the petitioner paying the entire consumption charges and other statutory levy as demanded by the respondent board as per Form XI in respect of HTSC No.76.

The electricity connection shall be restored forthwith on effecting such payment. If the petitioner failed to remit the payment, interim direction already *granted is vacated without further reference to this Court."*

8.The respondent Board has filed a counter affidavit stating that all the three units, namely, Sri Mappillai Vinayagar Roller Flour Mills, Sri Mappillai Vinayagar Spinning Mills Unit II and Sri Manicka Vinayagar Spinning Mills Limited are under the same Management and on inspection conducted by the Board, they detected theft of energy in all three units. As per Section 135 of Electricity Act, they have proceeded as against all the three units and the compensation amount arrived by the respondent Board as against the above three units are as follows:-

Service Connection Nos	**Name of the Company**	**Compensation (In.Rs.)**
HT SC No.76	Sri Mappillai Vinayagar Roller Flour Mills	27,53,395.00
HT SC No.105	Sri Mappillai Vinayagar Spinning Mills Unit II	12,31,699.00
HT SC No.116	Sri Manicka Vinayagar Spinning Mills Limited	10,53,864.00

Since all the Units are functioning from the same premises, the respondent Board treated those Units as sister concerns, as per Regulation 17(8) of Tamil Nadu Electricity Supply Code, and issued the impugned demand notice for a sum of Rs.30,36,441/-, the CC charges of HT SC No. 76 and for the arrears of amount from other Units in HT Service Connection Nos.105 and 116.

9.The case of the petitioner is that the petitioner has nothing to do with the affairs of the other two Companies. Though the respondent board have taken a stand that all the three Units are under the same Management operated from the same Corporate office, they could not produce any material to substantiate the same. The office may function from a particular place but the Directors of the Company are not one and the same. In the absence of any such substantial material, this Court is not inclined to accept the contention of the respondent Board that all the units belong to the same Management. The other two service connections HT SC Nos. 105 and 116 stand in the name of Sri Mappillai Vinayagar Spinning Mills Unit II and Sri Manicka Vinayagar Spinning Mills Limited were already disconnected by the Board. The respective arrear amounts have to be recovered from the concerned Mills or from its directors. The service connection in respect of HT SC No.76 is not yet disconnected. As per the details found in the counter affidavit, the petitioner Mill is liable to pay the following details:-

DETAILS	**AMOUNT (In.Rs.)**

CC Charges 09/2007 to 04/2008	5,82,415.00
BPSC for 10/2007 to 2013	5,80,781.00
DC & RC Fees	3,000.00
E-Tax Arrears	3,11,176.00
Theft of energy	27,53,395.00
MCD	5,000.00
Reg.Fees	500.00
EMD	1,92,000.00
Development Charges	84,000.00
Total	45,12,267.00
Less: Paid by the consumer in PR No.462MD05008, dated 28.10.2005	6,88,349.00
Less: Available CCD	4,90,601.00
Less: Paid by the consumer in PR No.28699 dated 21.03.2013	27,53,395.00
Total	**5,79,922.00**

In addition to that, as per the regulation 5 (4) of Tamil Nadu Electricity Supply Code and Regulation 22, the petitioner is also liable to pay sum of Rs.22,30,250/- for the belated payment surcharge.(I.e theft of energy arrived at Rs.27,53,395/- X 1.5/100 X 54 months).

10.In the absence of any material, this Court is not inclined to accept the contention that the Management of other two Units, namely, Sri Mappillai Vinayagar Spinning Mills Unit II and Sri Manicka Vinayagar Spinning Mills Limited are one and the same. Therefore, the respondent Board is not justified in demanding the sum of Rs.25,80,004/-, the compensation amount due, out of theft of energy committed in HT SC Nos. 105 and 116. Therefore, the demand made by the respondent Board in respect of HT SC No. 116 and 105 of M/s.Sri Mappillai Vinayagar Spinning Mills Unit II and M/s.Sri Manicka Vinayagar Spinning Mills Limited for a sum of 25,80,004/- is hereby set aside. The respondent Board is at liberty to recover the same from the respective Management. The demand of compensation and other charges in respect of H.T.S.C.No.76 is sustained and the petitioner is liable to pay the due amount within a period of 12 weeks from the date of receipt of a copy of this order together with applicable interest.

11.Accordingly, this writ petition is partly allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

vrn

To

1. The Chairman,
   Tamilnadu Electricity Board,
   No.144, Anna Salai,
   Chennai – 600 002.

2. The Chief Engineer (Distribution),
   Tamilnadu Electricity Board,
   K.Pudur,
   Madurai.

3. The Superintending Engineer,
   Madurai Electricity Distribution Circle,
   Madurai-625 007.

+1 CC to M/s.B. SARAVANAN, Advocate (SR-20351[F] dated 22/04/2022)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-20684[F] dated 22/04/2022)

W.P.(MD)No.6796 of 2010
and
M.P.(MD)Nos.1 & 2 of 2010
21.04.2022

RK(03/06/2022) 6P 6C