



W.A(MD)No.636 of 2012

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

W.A(MD)No.636 of 2012

and

M.P(MD)No.1 of 2012

1.The Chairman,
Tamilnadu Electricity Board,
K.R.R.Maligai,
Chennai-600 001.

2.The Superintending Engineer,
Tamilnadu Electricity Board,
Ramamoorthy Road,
Virudhunagar.

... Appellants/Respondents 2 & 3

.Vs.

1.Sri Visakaa Fabrics Private Limited,
Rep. by its Managing Director,
Thiru.T.R.N.Sankaralingam,
No.120, Madurai Road,
Virudhunagar.

... 1st Respondent/Petitioner

2.State of Tamilnadu,
Rep. by its Secretary to Government,
Energy Department,
Fort St. George,
Chennai.

... 2nd Respondent/1st Respondent



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P(MD)No.8961 of 2007, dated 12.08.2011 and to allow the writ appeal.

For Appellants	: Mr.S.Deenadhayalan Standing Counsel
For R1	: No appearance
For R2	: D.Sasikumar Additional Government Pleader

JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

This Writ Appeal is preferred by the Chairman of Tamil Nadu Electricity Board and another being aggrieved by the order of the learned Single Judge, who has issued a Mandamus directing the second appellant not to charge Electricity Tax at the rate of 5% on Maximum Demand Charges from the bills starting from the Month of October 2007 onwards.



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2. The learned Single Judge has allowed the Writ Petition holding that the Demand of Electricity Tax on Maximum Demand charges is not sustainable in view of authoritative pronouncement of the Hon'ble Supreme Court in ***M/s.Northern India Iron and Steel Co.***

3. However, the learned counsel for the appellants would submit that the Division Bench of this Court had taken contrary view and has disposed of the batch of writ petitions challenging the Validation Act imposing Electricity Tax on Maximum Demand Charges. The said batch of writ petitions were disposed of on 15.06.2012 has upheld the Validation Act enabling the Electricity Board to collect 5% Tax on Maximum Demand Charges. Learned counsel for the appellant would fairly state that the Judgment of the Hon'ble Division Bench is now *sub judice* before the Hon'ble Supreme Court, wherein, some of the consumer have approached the Supreme Court and protective interim order has been passed by the Hon'ble Supreme Court vide order, dated 31.08.2012 and the same is pending.

4. A perusal of the protective order circulated to this Court indicates that the appellants Electricity Board are restrained from taking any coercive steps for



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disconnecting supply of electricity to the first respondent herein/writ petitioner premises, subject to the first respondent/writ petitioner paying all the charges/dues except the tax calculated on the basis of maximum demand.

5. Since the tax is collected based on the Rule, now the Rule is put to test before the Hon'ble Supreme Court, it is suffice to dispose of the Writ Appeal with the following direction:-

“The appellants herein shall take appropriate action for collecting Electricity Tax from the first respondent/writ petitioner after the disposal of the batch of writ petitions pending before the Hon'ble Supreme Court and the said action shall be in accordance with the decision of the Hon'ble Supreme Court regarding the right to collect the Electricity Charges.”

6. From the facts it is clear that the order of the learned Single Judge, which is impugned in the Writ Appeal, has already been set aside and superseded by the subsequent judgment of the Hon'ble Division Bench in W.P.No.159 of 2008 etc., batch vide order, dated 15.06.2012. Therefore, it is open to the parties to act upon as per the decision of the Hon'ble Supreme Court in the Special Leave



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7. Accordingly, the Writ Appeal stands disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

[G.J.,J.] [S.M.,J.]
14.12.2022

Index : Yes / No
Internet : Yes / No
am

To

The Secretary to Government,
Energy Department,
Fort St. George,
Chennai.



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JUDGMENT MADE IN
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