



W.P(MD)No.14631 of 2011

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.14631 of 2011

and

M.P(MD)No.1 of 2011

Vee Bee Yarn Tex Pvt.Ltd HTSC No.192,
NH-208, Madurai Road,
T.Kunnathur, T.Kallupatty(Via),
Periyur Taluk, Madurai District
Represented by It's Director
A.Saravanakumar.

... Petitioner

Vs.

1.Tamil Nadu Electricity Regulatory Commission
Represented by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008.

2.The Tamil Nadu Electricity Board,
Represented by its Chairman,
No.800, Anna Salai,
Chennai-600 002.

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

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in his Notice Lr.No.SE/MEDC/MDU/DFC/HT/AS/F.BOAB 4/2010 to 09/2010/D.No. 1459/2011 dated 15.11.2011 issued by the third respondent in so far as the time barred claim of Rs.6,22,391.00/- for the months of April 2009 to November 2009 and also the balance amount of Rs.14,12,363.00/- for the months of December, 2009 to October 2010 without opportunity to the petitioner and quash the same for exceeding quota during evening peak hour as illegal, arbitrary, without the authority of law and against the provisions of Electricity Act, 2003.

For Petitioner : Mr.S.P.Partha Sarathy
for Mr.R.S.Pandiya Raj
For Respondents : Mr.S.Deena Dhayalan
Standing Counsel

ORDER

The present writ petition has been filed challenging an order passed by the third respondent Electricity Board, under which a demand was made based upon alleged short levy of charges for the period covering April 2009-October 2010.



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2. The learned counsel for the petitioner had contended that the said demand has been raised based upon an audit slip, dated 24.09.2011.

According to the learned counsel for the petitioner, a portion of the amount demanded is barred by limitation as contemplated under Section 56 (2) of the Electricity Act, 2003. He has further relied upon a circular issued by the second respondent herein on 03.02.2016, under which a standard operative procedure has been put into force in all cases, where demands are raised based upon audit objection.

3. The learned counsel for the petitioner has further contended that before raising a bill as against a consumer based upon an audit objection, the officers have to conduct a scrutiny. After scrutinizing the same, if they are satisfied with the validity of the objections raised by the audit party, they have to issue a notice to the consumer providing him 15 days time to show cause why the amount should not be recovered and the consumer should be given an opportunity to represent in each occasion, whenever the claim is made relating to earlier assessment period. The learned counsel for the petitioner further pointed out that the final claim should be made in a speaking manner duly addressing the contentions of



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the consumer in the reply to the show cause notice and mentioning the regulations/order/instructions...etc in force.

4. The learned counsel for the respondent Board has contended that the demand has been raised in the year 2011 and hence, the circular of the TANGEDCO of the year 2016 cannot be relied upon by the writ petitioner. However, this Court is of the view that a detailed operating procedure has been laid down by the TANGEDCO, whereunder a provision has been made to follow the principles of natural justice.

5. In the present case, the impugned order does not disclose whether the audit objection was scrutinized by the respondent authorities. No show cause notice has been issued and the petitioner has not been afforded any personal hearing. The impugned order does not disclose any reasons for passing the said order.

6. In view of the above said facts, the impugned order and the working sheet attached to the said impugned order are set aside. The matter is remitted back to the file of the third respondent herein. The



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third respondent shall strictly follow the circular of TANGEDCO, dated 03.02.2016, after providing due opportunity to the writ petitioner and shall pass orders.

7. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.06.2022

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Index : Yes / No

Internet : Yes / No

To

1.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008.

2.The Tamil Nadu Electricity Board,
Represented by its Chairman,
No.800, Anna Salai,
Chennai-600 002.

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



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R.VIJAYAKUMAR ,J.

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