



W.P(MD)No.12039 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.12039 of 2012

and

M.P(MD)No.1 of 2012

M/s.Sivakasi Chemicals & Polymers (P) Ltd.,
Represented by its Director,
Gurumoorthinaickenpatti,
Amathur-626 005,
Virudhunagar District.

... Petitioner

Vs.

1.TANGEDCO Ltd.,
By its Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Virudhunagar.

2.The Executive Engineer,
Distribution,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
Virudhunagar.

3.The Assistant Engineer (Electrical),
Distribution,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
Amathur-626 005,
Virudhunagar District.

... Respondents



W.P(MD)No.12039 of 2012

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 pursuant to the impugned demand notice of the 3rd respondent in Ka.No. AE(E)/D/Ama/F/D.No.467/2012 dated 13.08.2012 and quash the same and issue a direction forbearing the 3rd respondent or his subordinates or agents from disconnecting the supply of electricity to SC No. 234-030-240 for non payment of the amount included in the White Meter Card on 28.08.2012.

For Petitioner : M/s.Jeena Rita David
for M/s.Lakshmi Gopinathan

For Respondents : Mr.S.Deena Dhayalan
Standing Counsel

ORDER

The present petition has been filed challenging an order passed by the third respondent herein, under which a sum of Rs.2,39,440/- (Rupees Two Lakhs Thirty Nine Thousand Four Hundred and Forty only) was demanded from the petitioner on the ground that due to defective meter, a short levy has been made.

2. According to the learned counsel for the petitioner, the third respondent had sent a communication on 02.03.2012, claiming a sum of Rs.4,579/- (Rupees Four Thousand Five Hundred and Seventy Nine



W.P(MD)No.12039 of 2012

Rupees only) alleged to be a short levy from August 2008 to October 2009. Thereafter, another communication was sent by the third respondent on 03.03.2012, alleging a short levy for the period covering October 2010 to October 2011 demanding a sum of Rs.2,34,861/- (Rupees Two Lakhs Thirty Four Thousand Eight Hundred and Sixty One only). Thereafter, the petitioner company has sent a communication on 26.03.2012, objecting to the amount demanded by the third respondent. However, without considering the said objection, the third respondent herein has proceeded to pass the impugned order on 13.08.2012, refusing to accept the explanations offered by the petitioner company. The said order is under challenge.

3. Per contra, the learned standing counsel for the respondents has contended that the meter in dispute was defective from the year 2008 onwards and hence, the bills have to be raised for the short levy during the said period. Hence, they prayed for sustaining the impugned order.

4. I have carefully considered the submissions made on either side.



W.P(MD)No.12039 of 2012

5. There is no dispute that the meter connected to the service connection of the petitioner has become defective. However, the respondent board is not in a position to furnish the exact date, on which the meter has become defective.

6. A perusal of the account summary issued to the petitioner company clearly indicates that the meter was normally functioning till 30.08.2011. Hence it is clear that only thereafter, the meter has become defective. As per the regulation 11 (3) of the Tamil Nadu Electricity Supply Code, the respondent board is entitled to collect the short levy for the period covering the defective meter only for the previous four months period. The maximum demand shall be assessed by computation on the basis of the average of the recorded demand during the previous four months period. However, in the present impugned order, the respondent board has proceeded to demand for the period from August 2008 till October 2011 on the ground of defective meter. When the meter is admittedly defective only from 30.08.2011, the present impugned order, under which the demand is made for more than four months is clearly not sustainable in the eye of law.



W.P(MD)No.12039 of 2012

7. In view of regulation 11(3) of the Tamil Nadu Electricity Supply Code, the impugned order is set aside. The matter is remitted back to the file of the third respondent herein for passing fresh orders based upon regulation 11 of the Tamil Nadu Electricity Supply Code, after giving due opportunity to the writ petitioner herein. The said exercise shall be completed within a period of twelve weeks (12) from the date of receipt of a copy of this order.

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

29.07.2022

Index : Yes / No
Internet : Yes / No

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W.P(MD)No.12039 of 2012

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W.P(MD)No.12039 of 2012

R.VIJAYAKUMAR ,J.

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Order made in
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