



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.7578 of 2012

and

M.P. (MD) Nos.1 and 2 of 2012

T.V.Murali

... Petitioner

Vs.

The Tamil Nadu Generation and

Distribution Corporation,

represented by its Assistant Executive Engineer

(Operation and Maintenance),

Samayapuram, Tiruchirapalli District.

... Respondents

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 relating to the impugned letter bearing Lr.No. AEE/O&M/SPRM/F. ENFORCEMENT/D.No.154/12, dated 01.06.2012, issued by the respondent and to quash the same and consequently, to direct the respondent to restore the S.C.No.268/016/1349 to the petitioner's construction site at 21/33, Chennai Main Road, Samayapuram, Tiruchirapalli District.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.S.Deenadhayalan

O R D E R

The present Writ Petition is filed challenging the final assessment order for theft of energy under the Section 135 of Electricity Act, 2002.

2.According to the learned Counsel appearing for the petitioner they were provided with electricity service connection for construction purposes under Tariff V with effect from 11.12.2009 for 5KW. Subsequently, they were permitted an additional load to an extent of 26.950KW with effect from 20.05.2012 onwards. Thereafter, an inspection was conducted by the department on 24.05.2012. During the inspection, two irregularities were said to have been found by the Electricity Board.

(i) Instead of utilizing 26.950KW, the writ petitioner was found to be using 47KW unit.



(ii) Though the tariff was revised with effect from 01.04.2012, with regard to the commercial construction activities, yet they were paying only at the rate of Tariff 5 which was meant for domestic construction activities.

3. The learned Counsel appearing for the petitioner submitted that originally there was no distinction between the service connection for construction purpose between a residential house and a commercial complex. However, the said distinction has been introduced by way of new tariff, Tariff No.6 only from 01.04.2012. This fact is also admitted by the learned Counsel appearing for the respondents.

4. On perusal of the impugned order in which the working sheet has been annexed, discloses two factors.

i. The meter reading has been calculated with effect from 24.05.2011 onwards fixing the tariff at Tariff 6. This is not legally sustainable in view of the fact that Tariff 6 was introduced only with effect from 01.04.2012.

ii. The penalty for over load has also been calculated for the entire 47KW. Admittedly, the petitioners have been authorized to use 26.950KW. The penalty should have been levied only for the excess load and not for entire 47KW. In view of the above said facts, the entire working sheet issued by respondent Electricity Board is in violation of the statutory provisions.

5. Hence, this Court is inclined to allow the writ petition to the extent as said above. The Writ Petition is allowed and the matter is remitted back to the file of the respondent with a direction to issue a fresh assessment order along with the working sheet, after giving an opportunity to the writ petitioner, in the light of the observation as stated above.

6. Accordingly, the Writ is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

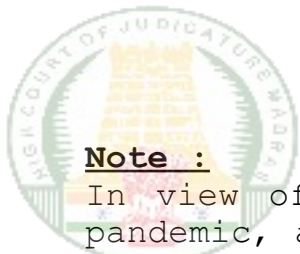
Sd/-

Assistant Registrar (CS II)

// True Copy //

/06/2022

Sub Assistant Registrar (CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Tamil Nadu Generation and
Distribution Corporation,
represented by its Assistant Executive Engineer
(Operation and Maintenance),
Samayapuram, Tiruchirapalli District.

+1 CC to M/s.S. PARTHASARATHY, Advocate (SR-26619[F] dated
17/06/2022)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-26709[F] dated
20/06/2022)

Order made in
W.P. (MD) .No.7578 of 2012
16.06.2022

SS (28/06/2022) 3P 4C