



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.7962 of 2012 and
M.P. (MD) .No.1 of 2012

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SPB Papers Limited,
109, Nungambakkam High Road,
Chennai - 600 034,
represented by Mr.K.S.Kasi Viswanathan,
Director.

... Petitioner

Vs.

1.The State of Tamil Nadu,
by its Secretary to Government,
Energy Department,
Fort St. George, Chennai 600 009.

2.The Chief Electrical Inspector to Government,
Thiru.Vi Ka Industrial Estate,
Guindy, Chennai 600 032.

3.The Electrical Inspector,
Government of Tamil Nadu,
58, Trivandrum Road,
Opp: V.O.C. Ground,
Tirunelveli 627 002.

4.Tamil Nadu Generation and Distribution
Corporation Limited,
(Formerly Tamil Nadu Electricity Board),
by its Chairman, 800, Anna Salai,
Chennai - 600 002.

... 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 records of the respondent No.3 in the proceeding No.TIN 5105/மே 25/தலை/மின்வளி/2011, dated 02.02.2012 and to quash the same and also to direct the respondents to act in terms of G.O.No.230, dated 16.06.1993 and G.O.No.126, dated 23.09.1996 and further, to forbear the respondents from taking any action in levying and/or collecting the Electricity Tax under the 2003 Act from the petitioner.

For Petitioner : Mr.A.Srinivasan
for Mr.V.Perumal



For R1 and R2 : Mr.S.Shanmugavel
Additional Government Pleader
For R3 : Mr.P.Thambidurai
Government Advocate
For R4 : Mr.S.Deenadhayalan

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O R D E R

The present Writ Petition has been filed challenging a demand raised by the respondent Electricity Board for a sum of Rs.14,14,810/-, based upon Tamil Nadu Tax on Consumption or Sale of Electricity Act 2003.

2.According to the learned Counsel appearing on the either sides, the said Act was partially struck down by the Honourable Supreme Court by a judgment reported in **2007 (5) SCC 447** in the ***Southern Petrochemical Industries Company Limited. Vs. Electricity Inspector & Etio & Others.***

3.The learned Counsel for the petitioner brings to the notice of this Court that the Tamil Nadu Act 38 of 2007 has been passed to amend the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003. However, the amended Act is also under challenge and the same is pending before the Honourable Supreme Court in a batch of Special Leave Petition Nos.24685 to 24719 of 2012. In the said Special Leave Petitions, the Honourable Supreme Court has restrained the Electricity Board from taking any coercive steps for disconnecting electricity from the petitioner premises, subject to the petitioners paying charges, except the taxes calculated on the basis of maximum demand. The present demand has been raised based upon the portion of the Act which was struck down by the Honourable Supreme Court.

4.Hence, I am inclined to allow the Writ Petition setting aside the impugned order, dated 02.02.2012. However, the respondent Electricity Board shall be at liberty to issue any fresh demand, depending upon the out come of the Special Leave Petitions pending before the Honourable Supreme Court.

5.With the above said observation, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

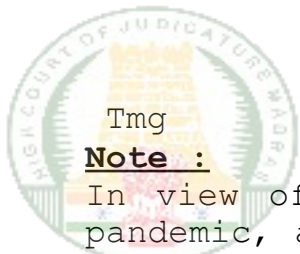
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)



Tmg

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

1.The Secretary to Government,
State of Tamil Nadu,
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2.The Chief Electrical Inspector to Government,
Thiru.Vi Ka Industrial Estate,
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+1 CC to M/s.V. PERUMAL, Advocate (SR-27513[F] dated 22/06/2022)

+1 CC to M/s.SPL.GP (SR-27700[F] dated 23/06/2022)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-27769[F] dated 23/06/2022)

W.P. (MD) .No.7962 of 2012
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RD(04.07.2022) 3P 7C