



W.P.(MD).No.8299 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.07.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

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and

M.P.(MD)No.1 of 2012

M/S.G.T.V., Spinners,
Now renamed as
Selvarani Spinning Mills Pvt Ltd.,
represented by its Director,
T.Shanmugam,
137 'E', Nagal Nagar Pudur 6th Cross Lane,
R.S.Road,
Dindigul.

... Petitioner

Vs.

1. The Chief Engineer,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai.
2. The Chief Engineer,
Tamil Nadu Electricity Board,
Udumalpet Circle,
Udumalpet.



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3. The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupur Road,
Udumalpet.

4. The Accounts Officer/Revenue,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, in the nature of writ, bill dated 31.05.2012 bearing Ref.No.85 raised by the fourth respondent in so far as serial No.13(d) concerned, quash the same and consequently, direct the fourth respondent not to levy penalty for not consuming the maximum demand by the petitioner.

For Petitioner : Mr.P.R.Prithviraj
for Mr.D.Sadiq Raja

For Respondents : Mr.S.Deenadhayalan



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ORDER

The present writ petition has been filed challenging current consumption bill of the respondent Board under which the respondent Board has levied compensation charges for low power factor.

2. According to the petitioner, a sum of Rs.1,47,983.36/- has been levied as a penalty for compensating due to low power factor. However, the writ petition has been filed under the misconception that the said amount has been charged under a different head namely Contracted Maximum Demand.

3. Per contra, the learned counsel for the respondent Board had pointed that as per Rule 4(1)(3) of Tamil Nadu Electricity Supply Code, the respondent Board is entitled to collect compensation if a High Tension consumer has fallen below the power factor of 0.90. The learned counsel for the respondent Board also referred to the proviso of Rule 6 (b), wherein, the licensee can get an exception only if he is able to prove that the licensee was not able to consume electricity either in whole or in



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part for any reason due to any strike or lockout.

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4. According to the learned counsel for the respondent, when no justifiable reason has been placed by the writ petitioner in the writ affidavit, there is no question of affording an opportunity to the writ petitioner for explaining the reasons for low power factor. When the disincentive has been specifically mentioned in the supply code as well as the terms and conditions of the service connection, a question of granting an opportunity to the writ petitioner does not arise. Hence, he prayed for sustaining the impugned order.

5. I have considered the submissions made on either side.

6. The present writ petition has been filed under a misconception that a sum of Rs.1,47,983.36/- raised by the respondent Board under the head of Contracted Maximum Demand. But, in actuality, the said amount has been demanded on the ground that petitioner mill has not maintained the optimum power factor. When the petitioner mill



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has not maintained an optimum power factor, no doubt, the respondent Board is entitled to seek compensation as per Rule 4 of Tamil Nadu Electricity Supply Code. However, when the said amount is sought to be collected by way of penalty for not maintaining the optimum power factor, the petitioner should have been given an opportunity to explain why he could not maintain the optimum power factor for the relevant period. In the present case, suddenly the compensation charges for low power factor have been incorporated in the current consumption charges.

7. In view of the above said fact, the Serial No.13(d) of the impugned order under which the demand was made for compensation for low power factor is hereby set aside. The matter is remitted back to the file of the third respondent herein. After giving an opportunity to the writ petitioner, he shall pass orders in accordance with law. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above said observations, the Writ Petition stands



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allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
jbr

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R.VIJAYAKUMAR ,J.

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