



W.P(MD).No.13502 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13502 of 2014

and

M.P(MD) No.1 of 2014

Lilly Ammani

... Petitioner

-VS-

The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
South Arasaradi,
Madurai.

.... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Letter No.AEE/S/ARDI/JA/F.DOC/D.No.354/2014, dated 28.07.2014 on the file of the respondent and quash the same and further directing the respondent to refund the sum of Rs.7,718/- with interest.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.S.Deenadhayalan
Standing Counsel



W.P(MD).No.13502 of 2014

WEB COPY

ORDER

The present Writ Petition has been filed challenging the Final Assessment Order passed by the respondent authorities arising out of Section 135 of the Electricity Act.

2. According to the learned Counsel for the petitioner, the petitioner is having an Electricity Service Connection in SC No.659 falling under Tariff -III A1, which is used for running a printing press. The petitioner is also having another Electricity Service Connection in S.C.No.352 falling under Tariff-V (Commercial Tariff) for the purpose of running a Xerox Machine.

3. The respondent authorities have conducted an inspection on 09.07.2014. During the inspection, they have found that two computers are connected in service No. 659 and the computers are connected to the Xerox Machine through a network cable. Hence, according to the authorities, the industrial service connection has been utilized for commercial purposes and



W.P(MD).No.13502 of 2014

this was considered as theft of energy and they have proceeded to issue the provisional assessment order.

4. The petitioner herein has sent an explanation on 28.07.2014, wherein the petitioner has contended that the computer is a necessary accessory to the printing press and hence, the dispute always fall within Tariff III-AI. The petitioner has further contended that the Xerox Machine is not drawing power from service connection No. 659. It is only drawing power from service connection No.352. The computers were connected to the Xerox Machine only through a data cable for communicating data from the computer to the Xerox Machine. Hence, when the Xerox Machine is not drawing power from service connection No.659, the same cannot be considered as the theft of energy.

5. The respondent authorities have passed the impugned Final Assessment Order, on 28.07.2014, without considering the explanation submitted by the writ petitioner herein. A perusal of the Observation Mahazar, dated 07.09.2014, clearly indicates that the Xerox Machine was located in the same campus, but, it was connected to the computer under the



W.P(MD).No.13502 of 2014

WEB COPY

net work. Hence, it is clear that the Xerox Machine was not drawing the source of electrical power from S.C.No. 659, which is meant for the printing press. Since the computer and the Xerox Machine are being connected only through a data cable, the respondent authorities misunderstood that it is drawing source of power from service connection falling under tariff-III A1.

6. That apart, there is no dispute that the computer is drawing power from S.C.No.659. The service connection in S.C.No. 659 is meant for printing. The disputed computer is required for running a printing press. Hence, connecting computer to S.C.No.659 cannot be considered as unauthorized usage or theft of energy. The respondent authorities have misunderstood that the data cable is drawing power and invoked Section 135 of Electricity Act for using a Xerox machine by connecting the computer through data cable.

7. In view of the above said facts, the order impugned in the Writ Petition has been passed due to non application of mind and the order impugned in the Writ Petition is set aside. Accordingly, this Writ Petition stands allowed. It is the submission of the learned counsel for the petitioner



W.P(MD).No.13502 of 2014

WEB COPY

that the petitioner has already paid the amount demanded in the Final Assessment Order. Hence, the respondent is directed to adjust the said amount in this future bills. No costs. Consequently, connected Miscellaneous Petition is closed.

04.11.2022

Index : Yes / No
Internet : Yes / No
ebsi

To

The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
South Arasaradi,
Madurai.



WEB COPY



W.P(MD).No.13502 of 2014

R.VIJAYAKUMAR,J.

ebsi

W.P.(MD)No.13502 of 2014

04.11.2022