



W.P(MD)No.4299 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4299 of 2014

and

M.P(MD)Nos.1 & 2 of 2014

K.Arul Kavimani

... Petitioner

Vs.

1.The Superintending Engineer (O&M),
TANGEDCO,
Trichy.

2.The Assistant Executive Engineer,
(O&M) / Rural,
TANGEDCO,
Trichy.

3.The Assistant Engineer (O&M),
TANGEDCO,
Manikandam,
Trichy.

... 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 order passed by the 2nd respondents in his proceedings in AEE/O57/R/TRY/F.APTS/D-310/13-14 Dated



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30/01/2014 and quash the same and direct the 2nd respondent to refund the amount of Rs.3,000/- to the petitioner.

For Petitioner : Mr.V.Panner Selvam

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

The present writ petition has been filed challenging a final assessment order for theft of energy under Section 135 of the Electricity Act, 2003.

2. The petitioner is having 3 Service Connections in S.C.No.54 for agricultural purposes under Tarif IV, SC.No.434 for domestic purposes and another 3 phase service connection in SC.No.657.

3. The respondent authorities have conducted an inspection on 08.01.2014. According to the observation mahazar, an additional load was incorporated by using another electrical motor from the same service connection and it was used for agricultural purposes. Hence, it was treated to be theft of energy. The petitioner herein has submitted his



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explanation on 27.01.2014. In the said explanation, according to the petitioner, S.C.No.657 was disconnected and it was reconnected only on 17.12.2013.

4. According to the petitioner, he is not the owner of S.C.No.122. However, the provisional assessment order and the final assessment order have been issued in the name of the writ petitioner for S.C.No.122. The learned counsel for the petitioner submits that the petitioner is a registered owner of S.C.No.54 alone, which is an agricultural service connection. According to the learned counsel for the petitioner, provisional assessment order as well as the final assessment order have been issued to a wrong person and he had been directed to pay the compounding fee also.

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

6. A perusal of the observation mahazar reveals that though originally S.C.No.122 has been written, thereafter, it has been rounded off and S.C.No.54 has been inserted. However, the provisional



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assessment order as well as the final assessment order have been issued for S.C.No.122, which according to the petitioner, he is not the registered owner. Hence, it is clear that provisional assessment order as well as the final assessment order have been issued for a wrong service connection, which was not standing in the name of the writ petitioner. The provisional assessment order, dated 08.01.2014 and the final assessment order, dated 30.01.2014 are hereby set aside. The matter is remitted back to the file of the second respondent herein and the second respondent shall issue a fresh provisional assessment order to the writ petitioner after incorporating correct service connection number, if really any theft of energy or unauthorized usage had happened in S.C.No.54. The petitioner shall be given due opportunity to submit his explanation and thereafter, final assessment order shall be passed, if required.

7. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.11.2022

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Internet : Yes / No
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To

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- 3.The Assistant Engineer (O&M),
TANGEDCO,
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R.VIJAYAKUMAR ,J.

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Order made in
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