



W.P.Nos.1356 & 1744 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.1356 & 1744 of 2011

and

M.P.Nos.2 & 2 of 2011

S.Harichandran

...Petitioner in WP.1356/2011

M/S.Hindustan Valves,
Lessee, A/c.043-11-1309-IIIB,
No.95, Reddypalayam Road,
Mugappair West, Chennai-37,
Rep. by its Manager, R.Palanikumar.

...Petitioner in WP.1744/2011

-Vs-

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai-2.

2. The Assistant Executive Engineer(Incharge),
Distribution Ambattur,
Industrial Estate/ TANGEDCO,
Ambattur, Chennai-37.

...respondents in both WPs.



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Prayer in WP.1356/2011:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records of the second Respondent in his Letter No.AEE/O&M/IE.ABT/ F.TOE/D 415/ dated 14.01.2011, and Quash the same as illegal, arbitrary and against the provisions of Electricity Act 2003 and Electricity Supply Code 2004.

Prayer in WP.1744/2011:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records of the second respondent in his Letter No.Ka.A2.Se.Po/Po/Kattu/Ambattur/Kho.Minthiruttu/D.Mugaam11/13.1.2011, and quash the same as illegal arbitrary and against the provisions of Electricity Act 2003 and Electricity Supply code 2004.

For Petitioners
in both WPs. : No Appearance

For Respondents
in both WPs. : Mr.L.Jai Venkatesh



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COMMON ORDER

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The present writ petitions are filed challenging the provisional assessment orders for theft of energy under section 135 of the Electricity Act 2003. The petitioner/industries have been sanctioned with industrial loan under Tariff No.III-B and they are involved in the manufacture of Industrial Valves for the purpose of BHEL, TNEB and other Central/State Governments.

2.Authorities while conducting inspections found theft of energy in the premises of the petitioners and initiated action under the provisions of the Electricity Act. A provisional assessment order for theft of energy were issued to the writ petitioners, demanding a sum of Rs.27,16,896/- (Rupees Twenty-Seven Lakhs Sixteen Thousand Eight Hundred and Ninety-six only) from the petitioner in W.P.No.1356 of 2011 and Rs.3,14,101/- (Rupees Three Lakhs Forteen Thousand One Hundred and One Only) from the petitioner in W.P.No.1744 of 2011.

3.The petitioners, instead of submitting their defence, have chosen to file the present writ petitions. The impugned orders of provisional assessment state that if the petitioners are desirous of filing



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objections, if any, against the provisional assessments, the petitioners may send their explanation to the competent authorities. Thus, an opportunity was provided to the writ petitioners to submit their objections in respect of the provisional assessment order passed by the competent authorities.

4.Provisional assessments are made based on the materials available on record and based on the inspections conducted. If at all, there is any objection, the petitioners have to raise their objections along with the documents or evidence, if any. Contrarily, the High Court cannot adjudicate such disputed facts with reference to the theft of energy. The petitioners have not availed the opportunity provided to them by the authorities to consider their objections if any. Thus, the writ petitions are not entertainable and the petitioners have to approach the competent authorities by filing their objections and to defend their case with reference to the orders impugned respectively.

5.After considering the objections, if any, the competent authority has to pass final assessment order regarding the theft of energy and if the petitioners are aggrieved from and out of the final assessment order, then they can exhaust the alternate remedy of Appeal contemplated



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under the Act. After exhausting the statutory remedies, the petitioner may approach the High Court and therefore, this Court is of the opinion that the writ petition is not entertainable and the petitioners have to redress their grievances in the manner known to law.

6. Accordingly, the writ petitions stand **dismissed**. No costs.

Consequently, connected miscellaneous petitions are closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

24.03.2023

To

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai-2.
2. The Assistant Executive Engineer(Incharge),
Distribution Ambattur,
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S.M.SUBRAMANIAM. J.,

(sha)

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