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W.P.No.1016 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **06.03.2023**

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.1016 of 2018 and
W.M.P.No.1226 of 2018

The Superintending Engineer,
Chegalpattu Electricity Distribution Circle,
TANGEDCO,
130, GST Road (Opp to New Bus Stand),
Chegalpattu.

...Petitioner

Vs

1. The Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
Marshal Road, Egmore,
Chennai - 600 008.

2. M/s.Anjan Drugs Pvt Ltd.,
Represented by its Managing Director,
Mr.C.Kalaichelvan,
5th Floor Nelson Towers,
II Wing, No.117, Nelson Manickam Road,
Aminjikarai, Chennai - 600 029.

3. The Chairman (Superintending Engineer),
Consumer Grievance Redressal Forum,
Chegalpattu Electricity Distribution Circle,
TANGEDCO, 130, GST Road (Opp to New Bus Stand),
Chegalpattu.

...Respondents

PRAYER: Petition filed Under Article 226 of the Constitution of India
praying for the issuance of Writ of Certiorari to call for the records of



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the first respondent in its order dated 12.06.2017 in Appeal Petition No.4/2016/D771 and to quash the same as being illegal.

For Petitioner : Mr.L.Jai Venkatesh
for M/s.S.K.Rameshwar
For R2 : Mr.K.Saisharavan Kumar
for M.s.V.Srinivasa Babu

ORDER

Challenging the order passed by the Tamil Nadu Electricity Ombudsman dated 12.06.2017, the petitioner / TANGEDCO is before this Court.

2. The case of the petitioner is that the second respondent company has paid the electricity consumption charges through Cheque dated 31.10.2014 for the month of October 2014. The said cheque got dishonoured with the remark wrongly delivered / not drawn on us vide letter dated 22.09.2016. Hence, the TANGEDCO has collected a sum of Rs.6,97,612/- which comprises of CC charges, Cheque bouncing charges and Reconnection charges from the second respondent. Aggrieved by the said collection, the second respondent has filed a petition before the Consumer Grievance Redressal Forum (in short 'CGRF') seeking refund



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for a sum of Rs.1,76,593/-, which dismissed the petition of the second respondent. As against the said order, the second respondent has filed an appeal before the Electricity Ombudsman / first respondent. Upon hearing both sides, the Electricity Ombudsman has allowed the appeal in A.P.No.4 of 2016/D771 dated 12.06.2017, filed by the second respondent directing the TANGEDCO to refund the amount to the second respondent on the ground that the electricity board failed to encash the said amount in appropriate time. Challenging the same, the present writ petition is filed.

3. Learned standing counsel appearing for the petitioner submits that the petitioner has received the cheque upon condition that the cheque is subject to realization, failing which, surcharge will be levied for the delay in payment. Since the cheque has been dishonoured, the second respondent is obligated to pay the lawful payment to the petitioner.

4. Learned counsel for the second respondent submitted that the second respondent has paid the consumption charges vide cheque dated 31.10.2014 within the time stipulated by the TANGEDCO. However, the petitioner has deposited the said cheque for payment belatedly before the



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Bank. Hence, the question of paying surcharge amount does not arise.

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5. He further submitted that only in the year 2016, the second respondent was informed about the non realisation of the cheque furnished by them. Hence, the second respondent cannot be mulcted with any liability on account of the negligence on the part of the Electricity Board. Therefore, the order of the Electricity Ombudsman directing the TANGEDCO to refund the surcharge amount is not liable to be interfered with.

6. Heard learned counsel appearing on either side and perused the materials placed before this Court.

7. It is not in dispute that the second respondent has paid the consumption charges vide cheque dated 31.10.2014 for the month of October 2014. It is also not in dispute that the said cheque has been presented within the stipulated period but with a different bank. Be that as it may, the second respondent has been informed of the dishonour of the cheque only during 2016, after a period of two years of the payment made by the second respondent. Hence, the second respondent cannot be



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said to be in default on account of the negligence on the part of the petitioner. Further it is not the case of the petitioner that the cheque was returned on account of insufficiency of funds. It is also not in dispute that the service connection of the second respondent has not been disconnected for non payment. Hence, the reconnection charges and cheque bouncing charges demanded by the petitioner is incorrect. In the light of the above, the aforesaid order of the Tamil Nadu Electricity Ombudsman is not liable to be interfered with and the same is confirmed.

8. With the above observation and reasons, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed.

06.03.2023

Index : Yes / No

Speaking/Non-speaking order : Yes / No

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M.DHANDAPANI, J.

(rap)

To

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