



WEB COPY



W.P.No.28560 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 10.04.2023**

**CORAM:**

**THE HON'BLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.28560 of 2018**

**and**

**W.M.P.No.33315 of 2018**

T.M.Narasimhan,  
Son of Shri T.M.Rama Iyengar,  
Aged about 75 years,  
Sole Proprietor under name and style of  
M/s. Precision Plastics Packaging,  
No.98, N.S.C.Bose Nagar, Porur,  
Chennai – 600 116.

...Petitioner

VS.

1. The Superintending Engineer,  
Tamil Nadu Electricity Board,  
CEDC / South,  
110 KVA Complex,  
K.K.Nagar,  
Chennai – 600 078.

2. The Executive Engineer,  
TNEB/CEDC/South,  
K.K.Nagar,  
Chennai – 600 078.

3. The Assistant Engineer,  
CEDC/South,  
Porur Rural Division,  
Chennai – 600 116.

... Respondents



*W.P.No.28560 of 2018*

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent issued under Order dated 29.04.2018 and quash the same as illegal, arbitrary and devoid of merit and thereby forbearing the respondents from collecting the penal levy of Rs.37,33,840/- from the petitioner.

For Petitioner : Mr.T.K.Bhaskar  
For Respondents : Mr.L.Jai Venkatesh

### **ORDER**

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to quash order passed by the first respondent vide order dated 29.04.2018 and to forbear the respondents from collecting the penal levy of Rs.37,33,840/- from the petitioner.

2. Aggrieved by the action that the respondents alleging theft of electricity, the petitioner has approached this Court by filing a writ petition in W.P.No.5910 of 2001 challenging the show cause notice issued by the second respondent dated 03.04.2001. The said writ petition was disposed of by this Court directing the petitioner to pay a sum of Rs.3,11,074/-. Upon receipt of payment, the first respondent was directed to dispose of the appeal filed by the petitioner. Pursuant to the order of this Court, the appeal



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preferred by the petitioner was disposed. The said order has been challenged by the petitioner before this Court in W.P.No.39070 of 2002. This Court vide order dated 10.01.2013 dismissed the same. As against the said order, the petitioner has preferred writ appeal before this Court in W.A.No.1488 of 2015 which came to be allowed directing the first respondent to dispose of the appeal afresh after affording an opportunity of hearing to the petitioner. Thereafter, the first respondent has issued notice and conducted hearing on 17.04.2018. The petitioner sought time to file a detailed reply and submitted written submissions. However, the first respondent has passed an order dated 29.04.2018 without giving any reason or findings. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submits that though the petitioner has challenged the order passed by the first respondent after some hearing, he has also filed a charge memo dated 06.04.2023 to the aforesaid effect stating as follows.

*“The Counsel for the Petitioner is instructed to file this memo without prejudice to any of the contentions raised by the Petitioner in the present writ petition*



*and with an intention to purchase peace in the matter on account of his advancing age. Subject to the same, the Petitioner makes the following offer:*

*1. At the outset, the present writ petition is filed by the Petitioner for the following relief:*

*To issue Writ, Order or Direction more particularly a Writ in the nature of Writ of Certiorarified Mandamus calling for the records of the First Respondent issued under Order dated 29.04.2018 and quash the same as illegal, arbitrary and devoid of merit and thereby forbearing the Respondents from collecting the penal levy of Rs.37,33,840/- from the Petitioner and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.*

*2. As on date of filing of the writ petition, the demand in respect of levy by the Respondents against the Petitioner was Rs. 37,33,840/-. On 29.10.2018, this Hon'ble Court passed a conditional order granting interim injunction in favour of the*



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*Petitioner in respect of the demand made by the Respondents subject to payment of 25% of the penalty of Rs. 37,33,840/- levied and demanded by the Respondents within two weeks from the date of the order. Accordingly, the Petitioner paid 25% of the penal levy i.e., Rs.9,33,640/- on 10.11.2018 in compliance with the order passed by this Hon'ble Court on 29.10.2018. The remaining amount payable under the levy is Rs. 28,00,200/-.*

*3. The Petitioner had made a security deposit of Rs. 5,38,361/- in respect of the electricity connection with the Tamil Nadu Electricity Board, which is till lying to the credit of the account in the name of the owner Ms. Anasuya,*

*4. The Petitioner's unit for which the instant electricity connection was utilized is shut as he has not been carrying out any business activity on account of his advancing age. We are instructed to state that if the security deposit amount is adjusted against the remaining amount payable under the levy ie, Rs. 28,00,200/-, the Petitioner is willing to pay the remaining amount after adjustment ie., Rs.*



*22,61,839/-, in seven equal monthly instalments of Rs 3,23,119/- per month starting from 01.05.2023 towards full and final settlement of all the issues involved in the matter. Upon completion of the payments, the electricity connection will be terminated by the owner. This offer is made without prejudice to any of the Petitioner's contentions in the present case and is being proposed only as a measure of good faith to purchase peace and to put a quietus to the matter. Nothing stated herein shall be treated as admission of any liability or guilt on the part of the Petitioner.”*

4. He further submits that the petitioner wants to settle the amount with the respondents without prejudice to the contentions of the petitioner in the present case. He further seeks waiver of penalty.

5. Learned counsel appearing for the respondents does not contest the aforesaid request.

6. In the light of the aforesaid memo having been filed by the



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petitioner, the petitioner is directed to pay a sum of Rs.3,23,119/- to the respondents in seven equal monthly instalments commencing from 25.07.2023 towards full and final settlement of the amount. Upon receipt of the amount the respondents shall close the matter without levying any penalty.

7. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**10.04.2023**

*rap*

Index : Yes/No  
Speaking order : Yes/No  
Neutral citation case : Yes/ No

**M.DHANDAPANI, J.**



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*rap*

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