



W.A.No.202 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

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V.Sri Gandhi

... Appellant

versus

1.The Superintending Engineer
Erode Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Erode-1.

2.The Executive Engineer,
Urban, Erode Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Erode.

3.The Junior Engineer, (O&M)
Tamil Nadu Electricity Board,
Narayanavalasu, Erode.

... Respondents

For Appellant

: Mr.A.Sundaravadhanam

For Respondents

: Mr.Syed Sibghatullah
for TNEB
for Respondents Nos.1 to 3



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PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 04.09.2018 in W.P. No.3038 of 2013.

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The Appeal has been filed challenging the order dated 04.09.2018 passed by the Writ Court in W.P.No.3038 of 2013.

Brief facts of the case:

The appellant availed electricity service connection in S.C.No.238 KK Valasu Distribution, which was effected to the open well at RSF No.339/4 at Villarasampatty Village on 15.12.1987 in the name of the appellant for agricultural purpose under Tariff IV for a connected load of 5.0 HP and the appellant also got change over switch approval from the Electricity Board to pump water from the adjacent bore well belonging to the appellant and used electricity for agricultural purpose only by operating one motor of capacity 5.0 HP at a time. That being so, according to the appellant, the said service connection is only used



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for the agricultural purpose. Inspection was conducted by the respondent and during the inspection it was found that the appellant is operating the 16.5 HP +100 W load connected in the service connection through unauthorized changeover switch and pumped water from bore well of the appellant and he has sold to other parties for commercial purpose by using lorry with water tank. Thereafter, as per Clause 6.02 of terms and conditions of supply of electricity schedule part I violation, Assessment Order was issued in Lr.No.EE/U/EEDC/AE/IER/F.S/C.238/TF.II/D/2004/ dt.26.02.2004 by the respondent board, and penalty was imposed for payment of Rs.6,000/-, to be paid in five equal instalment of Rs.1200/- per month. Based on the said Assessment order, the appellant has paid three instalments. That being so, the respondent issued another Assessment Order dated 05.03.2004 to the appellant directing to pay a sum of Rs.1,33,554/-. The said Assessment Order was under challenge in the writ petition. As the said writ petition came to be dismissed, the present intra court appeal is preferred before this Court.



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3. According to the learned counsel for the appellant, after the inspection was conducted by the respondent board, the service connection was changed from existing Tariff agriculture to Tariff Commercial and the appellant has not objected for the aforesaid conversion of the Tariff. The appellant is concerned only with the penalty imposed in a sum of Rs.1,33,554/- and therefore, according to them, the impugned order is liable to be set aside.

4. Learned Standing Counsel for the respondent Board would submit that in the counter-affidavit, it is clearly stated that on 05.03.2004 intimation was given to the appellant that service connection was changed existing Tariff IV (Agriculture) to Tariff V (Commercial) and the energy recorded in the meter from 23.08.2003 to 30.03.2004 was assessed to a total consumption of 21973 units for which the assessment amount of Rs.1,33,554/- has been charged under Tariff V and demand notice for the same is issued to the appellant on 05.03.2004.



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5. Considering that said statement in the counter affidavit, it is clear that the energy recorded in the meter from 23.08.2003 to 30.03.2004 was assessed to a total consumption of 21973 units for which the assessment amount was arrived at Rs.1,33,6554/- under Tariff V.

6. Admittedly, the aforesaid service connection was changed from existing Tariff IV (Agriculture) to Tariff V(Commercial) as per intimation letter dated 05.03.2004 and therefore the Board is entitled for demanding commercial charges only with effect from 05.03.2004. Till 05.03.2004, the Board is entitled to demand for the charges of Agriculture under Tariff IV.

7. In the light of the above discussion, the order of the Writ Court dated 04.09.2018 is set aside. Consequently, orders dated 05.03.2004 and 14.05.2009 of the third and first respondents are quashed and the respondent board is directed to revise the assessment order and the same will be issued to the appellant within a period of 12 weeks from the date of receipt of a copy of this order.



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8. With the above, the writ appeal stands allowed. It is stated that already 50% amount has been paid and that amount has to be adjusted and demand for payment of the balance amount to be raised on the appellant. There will be no order as to costs. CMP No.2110/2019 is closed.

[D.K.K., J.] [P.B.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
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