



W.P(MD)No.20459 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 28.03.2023

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.20459 of 2014 and
MP(MD) No.1 of 2014

S.Jothimani

Petitioner

Vs.

**1.The Assistant Executive Engineer,
O & M Town,
TANGEDCO,
Pudukottai.**

**2.The Assistant Engineer,
O & M Town,
TANGEDCO,
Pudukottai.**

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in his proceedings in க.எண்.உ.செ.பொ/இ.கா/ந/புதுகை/கோ/கட்டு/எண்.188/14, dated 22.11.2014 and quash the same and direct the respondent to confer all the consequential benefits to the petitioner.



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For Petitioner :Mr.V.Panneer Selvam
For Respondents :Mr.S.Dheenadhayalan
Standing Counsel

ORDER

This writ petition is filed challenging the demand notice issued by the TANGEDCO, directing the petitioner to pay electricity consumption charges under Tariff V, while he was paying the charges under Tariff IIIB.

2.The case of the petitioner is that he is running a Tyre Retreading Company from the year 1975. He applied for electricity service connection for the above Company and he was provided with the Electricity service connection under Tariff IIIB in the year 1975 itself. While so, all of a sudden, a squad from the respondent Board has conducted an inspection in the petitioner's premises on 16.11.2012 and found that the petitioner ought to have paid the consumption charges under Tariff V instead of Tariff IIIB and imposed a penalty and also recovered Rs.23,555/- from the petitioner as a differential amount between Tariff V and Tariff IIIB. Hence, this writ petition.



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3.The learned counsel appearing for the petitioner submits that the petitioner has already closed down the Tyre Retreading Company and at present he is not running the Unit.

4.The learned Standing Counsel appearing for the TANGEDCO submits that Tariff IIIB is meant for Small Scale Industries for the purpose of promoting industries and the same would be provided based on a Certificate issued by the Director of Industries and Commerce. This petitioner was running a Tyre Retreading Company, which has to be considered as a commercial activity and is liable to be charged under Tariff V. However, the petitioner has taken service connection under Tariff IIIB and has evaded the payment to the Board.

5.This Court considered the rival submissions made and also perused the materials placed on record.



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6.The petitioner, who was running a Tyre Retreading Company has obtained electricity service connection from the respondent Board under Tariff IIIB in the year 1975. On 16.11.2012, an inspection was made by the squad of the respondent Board in the petitioner's premises, based on which, the respondent Board claimed that the petitioner ought to have been levied under Tariff V and not under Tariff 3B. According to the petitioner, he was running his Company from the year 1975 and he has also obtained electricity service connection in the year 1975 itself. While so, the respondent Board, based on the inspection conducted in the year 2012 claimed that the petitioner ought to have been levied under Tariff V instead of Tariff IIIB, which is not acceptable. It is to be noted that while granting electricity service connection to the petitioner in the year 1975, the respondent Board has provided service connection under Tariff IIIB alone. The petitioner was also paying the consumption charges under Tariff IIIB from the year 1975. Now, it is reported that the petitioner is not running the Company as on date. The mistake of the Department cannot be fastened on the petitioner.



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Even assuming that this petitioner is liable to pay the consumption charges under Tariff V, the same can be collected only after issuing notice to the petitioner that under what circumstances the petitioner was placed under Tariff IIIB in the year 1975. In view of the above, this Court is inclined to interfere with the order impugned in this writ petition.

7.At this juncture, the learned Standing Counsel appearing for the respondent Board seeks short accommodation to ascertain as to whether the petitioner has obtained the electricity service connection in the year 1975 by way of any misrepresentation or not.

8.Considering the facts that this writ petition is pending from the year 2014, the learned Standing Counsel now seeks time after such a long period to ascertain as to whether any misrepresentation has been made by the petitioner or not and considering that the petitioner claims that as on date he is not



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running his Tyre Retreading Company, this Court is inclined to allow this writ petition. The order passed by the first respondent in his proceedings in க.எண்.உ.செ.பொ/ இ.கா/ந/ புதுகை/கோ/கட்டு/எண்.188/14, dated 22.11.2014 is set aside. However, the respondent Board is at liberty to issue notice to the petitioner and pass fresh order changing his service connection from Tariff IIIB to Tariff V and can collect the charges under Tariff V, if the petitioner is continuing his business till now.

9.Accordingly, this writ petition is allowed. No costs.
Consequently, connected Miscellaneous Petition is closed.

28.03.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.
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