



W.P(MD)No.8173 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8173 of 2015

and

M.P.(MD)No.1 of 2015

G.Irvin Geo Navis

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
TANGEDCO, Nagercoil,
Kanyakumari District.

2.The Executive Engineer (Distribution),
Tamil Nadu Electricity Board,
TANGEDCO, Nagercoil,
Kanyakumari District.

3.The Assistant Executive Engineer (Distribution),
Tamil Nadu Electricity Board, TANGEDCO,
Nagercoil,Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned orders passed by 3rd Respondent in Lr.No:AEE/D/KRM/F. DOC/D.No: 88/ 14- 15 dated



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24.03.2015 and the consequential order passed in Lr No: AEE/D/KRM/
F. DOC/D.No: 134/ 15 dated 05.05.2015 and quash the same and
consequently direct the Respondents to restore the Petitioner's Crusher
Unit Electricity S.C.No.145-007-265.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.S.Dheenadhayalan,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The petitioner was running a stone crusher unit. He had leased out the same in favour of one Selvan. When the TANGEDCO officials inspected the unit, they detected energy theft. Thereupon, compounding charges was collected from the petitioner. The impugned assessment order was also issued. The only ground on which it is put to challenge is that the petitioner was not put on notice before passing the assessment order.



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3.The learned standing counsel for TANGEDCO submits that the petitioner had virtually pleaded guilty in his representation dated 02.09.2013. Even if the act was committed by the petitioner's lessee, it is the petitioner who has to bear the consequence. He also would point out that after remitting compounding fee, it is not open to the petitioner to turn around and plead innocence.

4.The circumstances in which the petitioner gave the said representation will have to be noticed. The petitioner probably thought that it is enough, if he pleads his innocence. That cannot be taken advantage of by the authorities. The authorities before levying the assessment order should independently put the petitioner on notice and only thereafter pass final order. Since it was not done, the order impugned in this writ petition is set aside. The matter is remitted to the file of the third respondent. The amounts already paid by the petitioner can very well remain with TANGEDCO. Its adjustment would depend on the final order to be passed by the third respondent. The petitioner shall appear before the third respondent on 03.10.2023. A formal notice shall be given by the third respondent. After hearing the petitioner, an



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order on merits and in accordance with law will be passed by the third respondent. The rights of the petitioner will abide by the outcome of that order. I make it clear that I have not gone into the merits of the matter.

5.This writ petition is allowed on these terms. No costs.
Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

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