



W.P(MD)No.3239 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.3239 of 2016

Vijay Spinners,

Ht Sc No.223

P.B.No.18A, Pugazhendi Road,

Rajapalayam - 626 117,

Virudhunagar

Rep. by its Manager M.K.Suresh

...Petitioner

Vs.

1.Tamil Nadu Electricity Regulatory Commission,

Rep. by its Secretary,

19-A, Rukmini Lakshmipathy Salai,

Marshall's Road,

Egmore, Chennai – 600 008.



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2.Tamil Nadu Generation and Distribution

Corporation Limited (TANGEDCO),

Rep. by its Director,

144, Anna Salai,

Chennai – 600 002.

3.The Superintending Engineer,

Virudhunagar Elect. Distribution Circle,

TANGEDCO,

Virudhunagar.

...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 of the third respondent's impugned Notice bearing Lr.No.SE/VDR/AO/Rev/RCS/Asst. 6/F.BOAB/AUDIT/2015 dated 09.11.2015 and the consequential impugned CC Bills dated 01.12.2015 issued by third respondent insofar as it relates to the alleged audit refund amount of Rs.1,91,198/- alone in Serial No.21 (other adjustments), quash the same as illegal, arbitrary, against the principles of natural justice and



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against the mandatory provisions as contained in Sub-Clause (2) of Rule 13 of the Tamil Nadu Electricity Supply Code, 2004 and consequently, direct the respondent to give refund/adjustment of the amount illegally collected from the petitioner under threat of disconnection.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.S.Deenadhayalan

Standing Counsel

ORDER

This Writ Petition has been filed as against the demand notice dated 09.11.2015 and the consequential CC bills dated 01.12.2015 issued by the third respondent, based on the audit report.

2. The learned counsel for the petitioner submits that based on the audit objection, the demand notice dated 09.11.2015



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has been issued without any valid reason and this demand has also been made without providing an opportunity to the petitioner, to the objection raised by the audit.

3. This Court in a similar Writ Petition in W.P(MD) No.720 of 2016, following the orders passed by this Court in W.P. (MD)No.14631 of 2011, has passed the following order :

"4. In this case, admittedly, there was an audit objection on 20.08.2015 as to Rs.58,465/-, based on which, a demand notice was issued on 31.08.2015 for a sum of Rs.58,465/- and this amount is also added in the CC Bill dated 01.12.2015. Since the petitioner was not provided an opportunity to the audit objection, this impugned order is liable to be set aside.

5. Accordingly, this writ petition is allowed and the impugned notice dated 31.08.2015 and the consequential impugned CC bills dated 01.12.2015 are set aside. The respondents are at liberty to issue a fresh



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demand notice along with the audit objection to the petitioner and after providing an opportunity of hearing to the petitioner, the respondents shall take a decision on the said notice, within a period of eight weeks from the date of receipt of a copy of this order. No costs."

4. A careful perusal of the orders stated supra and on a careful examination of the facts and circumstances of the case and having heard the submissions of the respective counsels, this Court is of the opinion that the issue raised in this Writ Petition is squarely covered by the above orders stated supra and the same relief has to be granted in favour of the petitioner.

5. Accordingly, this Writ Petition is allowed and the impugned notice dated 09.11.2015 and the consequential impugned CC bills dated 01.12.2015 are set aside. The respondents are at liberty to issue a fresh demand notice along with the audit objection



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to the petitioner and after providing an opportunity of hearing to the petitioner, the respondents shall take a decision on the said notice, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

04.10.2023

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

RM



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B.PUGALENDHI, J.

RM

Order made in
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