



W.P.(MD)No.51 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.51 of 2016
and W.M.P(MD).No.64 of 2016

S.R.Prakash

... Petitioner

Vs.

Assistant Engineer,

The Tamil Nadu Generation and Distribution Corporation Limited,

Chokkikulam Electricity Circle,

Madurai-625 002.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to க.உ.எண்.உ.மி.பொ.சொகு/ வ.மே/கோ தணிக்கை /விடுதல்/ அ.எண்.220, the impugned demand dated 27.10.2015/17.11.2015 (received on 20.11.2015) issued by the respondent demanding Rs.1,48,323/- as omitted charges and quash the same as illegal.

For Petitioner :Mr.M.E.Ilango

For Respondent :Mr.S.Deenadhayalan
Standing Counsel



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ORDER

The petitioner assailed a demand notice dated 27.10.2015 under which the petitioner was called upon to pay a sum of Rs.1,48,323/- (Rupees One Lakh Forty Eight Thousand Three Hundred and Twenty Three only) .

2. The petitioner states that he is operating an embroidery unit at the address specified in the cause title and that the electricity service connection bearing S.C.No.005-002-1089 was provided. According to the petitioner, the applicable tariff is under III-A. The petitioner asserts that no inspection was carried out prior to the issuance of the impugned demand notice and that the petitioner's meter was not defective.

3. Learned counsel for the petitioner invited my attention to the demand notice and to paragraph No.3 of the counter of the respondent. By comparing and contrasting the demand notice and paragraph No.3, he submitted that the reason specified in paragraph No.3 is completely different from that specified in the demand notice.



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4. Learned Standing counsel for TANGEDCO submits that the Audit Wing of TANGEDCO discovered that the connected load exceeded 7.5 Kilowatt and, therefore, the applicable tariff was under III-B and not under III-A.

5. On examining the impugned demand notice, the reason cited therein for the demand is a faulty meter. On the contrary, the reason cited in paragraph No.3 of the counter is that the connected load exceeded 7.5 Kilowatt. The settled legal position is that an order should be defended and sustained on its terms and not by providing additional incompatible reasons by way of counter. Consequently, the impugned order cannot be sustained and is hereby quashed. However, it is open to the respondent to reconsider the matter after providing a reasonable opportunity to the petitioner.



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6. Accordingly, W.P(MD).No.51 of 2016 is disposed of on the above terms without any order as to costs. Consequently, connected W.M.P(MD).No.64 of 2016 is closed.

03.04.2023

NCC :No
Internet :Yes
Index :No
ssb

To
Assistant Engineer,
The Tamil Nadu Generation and Distribution Corporation Limited,
Chokkikulam Electricity Circle,
Madurai-625 002.



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SENTHILKUMAR RAMAMOORTHY, J.

ssb

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