



W.P.(MD)No.720 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.720 of 2016

Sri Saravana Fabrics, HT SC No.270,
847, Malayadipatti,
Rajapalayam – 626 117
Virudhunagar,
Rep. by its Manager
M.K.Suresh

... Petitioner

versus

1. Tamil Nadu Electricity
Regulatory Commission,
Rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
Marshall's Road,
Egmore, Chennai – 600 008.
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



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent's impugned Notice bearing Lr.No.SE/VDR/AO/Rev/RCS/Asst.6/F.BOAB/AUDIT/2015 dated 31.08.2015 and the consequential impugned CC Bills dated 01.12.2015 issued by 3rd respondent insofar as it relates to the alleged audit refund amount of Rs.58,465/- alone in Serial No.21 (other adjustments), quash the same as illegal, arbitrary, against the principles of natural justice and 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 31.08.2015 and the consequential CC bills dated 01.12.2015 issued by the 3rd respondent, based on the audit report.



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2. The demand notice dated 31.08.2015 was issued based on the audit objection dated 20.08.2015 that the petitioner has to pay a sum of Rs.58,465/-. The grievance of the petitioner is that without furnishing a copy of the audit report and without providing an opportunity to the objection raised by the audit, the respondent Board has issued the demand notice and also added the amount in the CC Bill.

3. The learned counsel appearing for the petitioner has also relied on a similar order passed by this Court in W.P.(MD)No.14631 of 2011, wherein, a similar demand made based on the audit objection has been set aside by this Court, by observing that the principles of natural justice require an opportunity to be provided to the petitioner. The relevant portion of the said order is also extracted hereunder.

“4. The learned counsel for the respondent Board has contended that the demand has been raised in the year 2011 and hence, the circular of the TANGEDCO of the year 2016 cannot be relied upon by the writ



petitioner. However, this Court is of the view that a detailed operating procedure has been laid down by the TANGEDCO, whereunder a provision has been made to follow the principles of natural justice.

5. In the present case, the impugned order does not disclose whether the audit objection was scrutinized by the respondent authorities. No show cause notice has been issued and the petitioner has not been afforded any personal hearing. The impugned order does not disclose any reasons for passing the said order.

6. In view of the above said facts, the impugned order and the working sheet attached to the said impugned order are set aside. The matter is remitted back to the file of the third respondent herein. The third respondent shall strictly follow the circular of TANGEDCO, dated 03.02.2016, after providing due opportunity to the writ petitioner and shall pass orders.”

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



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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 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.

02.06.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
Marshall's Road,
Egmore, Chennai – 600 008.



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B.PUGALENDHI, J.

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2. The Director,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai,
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3. The Superintending Engineer,
Virudhunagar Elect. Distribution Circle,
TANGEDCO,
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