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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM:

THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P. Nos.6451 & 6452 of 2018 and
W.M.P.Nos.7969, 7970, 7971, 7972 of 2018 & 7379 & 7382 of 2019

1. M/s.Sree Vyshunuvi Agro Industries,
No.5-1-55, Gayathri House,
Adivipolam, Yanam-533 464
Represented by its
Managing Partner,
Mrs.Merla Sameer ... Petitioner in W.P.6451 of 2018

2. M/s.Sri Paddy Para Boiling and Drying Systems,
No.5-1-56, Gayathri House,
Adivipolam, Yanam-533 464,
Represented by its Managing Partner,
Mrs.Merla Madhavi ... Petitioner in W.P.6452 of 2018

vs

1. The Superintending Engineer (O & M),
Puducherry Region cum First Appellate Authority,
Electricity Department,
Puducherry Region,
Puducherry.

2. The Executive Engineer-II
Electricity Department,
Yanam Region, Puducherry. ... Respondents in both W.Ps'

Common Prayer : Writ Petition is filed under Article 226 of

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Constitution of India to issue a Writ of Certiorari calling for the records on the file of the second respondent issued in Lr.No.2018/ED/EE-II/JE/F.5Y/2012-13 dated 19.07.2012 and the Order of the First Respondent in Appeal No.05 and 08 of 2013 in Proceeding No.496/ED/SF/O&M/PDY/Tech-III/F.30 Yanam (12-13)/2017-2018 dated 10.05.2017 and Proceeding No.382/ED/SE/O/PDY/Tech-III/F.30 Yanam (12-13)/2017-2018, dated 02.05.2017 and to quash the same.

(In both W.Ps')

For Petitioner : Mr.M.Ravi

For Respondents : Mr.R.Sreedhar
Additional Government Pleader (Pondy)

COMMON ORDER

These writ petitions have been filed challenging the order passed by the second respondent dated 19.07.2012 thereby imposed penalty and the order passed by the first respondent dated 10.05.2017 and 02.05.2017.

2. The petitioner industry avails HT power supply from the Electricity Department, Govt., of Puducherry, under the HT service connection No.533/HT-I. Thereafter, on inspection it was found that the petitioner was sanctioned CMD of 417 KVA and permitted connection load was only 371.03 KW. M/s.Sri Paddy Para Boiling and Drying

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System, having sanctioned CMD of 208 KVA and the permitted connection load was 184.65KW. However, the connected load noticed at the time of inspection was 703.5KW and 305KW respectively (including machineries installed in M/s.Gayathri premises to the extent of 113 HP and supply to this 113 HP has been extended from the above HT industry). Accordingly, the inspection authorities submitted its report and requested to take action as per the provisions of Section 126 of Electricity Act, 2003. Accordingly, the second respondent passed an order dated 07.06.2012 to expedite appropriate action against the industries, including the petitioner industry, which have violated the codal provisions as per the rules and Anti Power Theft Squad has formed to assess the unauthorized use of electricity by the petitioners. Therefore, the loss of revenue to the Government Exchequer on account of the alleged unauthorized use of electricity by the petitioner industry was arrived by the Authorized Assessing Officer as Rs.2,70,32,122/- (Rupees two crore Seventy lakhs thirty two thousand one hundred and twenty two only) and Rs.1,40,01,625/- (Rupees one crore forty lakhs one thousand six hundred and twenty five only) respectively.

2.1 Aggrieved by the same, the petitioner preferred appeal before the first respondent and challenged the order dated 19.07.2012, wherein

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the charges of unauthorized use of electricity was upheld whereas the provisional assessment amount was revised to Rs.28,35,293/- (Rupees twenty eight lakh thirty five thousand two hundred and ninety three only) and Rs.6,79,163/- (Rupees Six lakhs seventy nine thousand one hundred and sixty three only) respectively. Once again as against the final assessment order, the petitioners filed appeal before the appellate authority and at the time of filing appeal, the petitioners have deposited an amount of Rs.14,17,647/- and Rs.3,39,582/- respectively equivalent to one half of the assessed amount in fulfilment of the conditions stipulated in Section 127 of the Electricity Act, 2003. The said appeal was taken on file by the Appellate Authority. After deposit of the said amount, the appeal was taken on file and the same was also dismissed. Aggrieved by the same, the petitioner filed review. Considering the clause and circumstances, the penalty calculations levied in the final assessment order has been reduced to the tune of Rs.9,69,196/- and Rs.5,17,853/- respectively.

3. Therefore, this court cannot find any infirmity or illegality in the order passed by the second respondent dated 19.07.2012 and the order

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passed by the first respondent dated 10.05.2017 and 02.05.2017. Hence, these writ petitions are devoid of merits and liable to be dismissed. Accordingly, these writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

06.06.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
gvn

To

1. The Superintending Engineer (O & M),
Puducherry Region cum First Appellate Authority,
Electricity Department,
Puducherry Region,
Puducherry.

2. The Executive Engineer-II
Electricity Department,
Yanam Region, Puducherry.

G.K. ILANTHIRAIYAN, J.

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