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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23055 of 2019

and

W.M.P.Nos.22746 &22747 of 2019

M.Rajendran

... Petitioner

Vs.

- 1.The Chairman cum Managing Director,
Tamilnadu Generation and Distribution Corporation Limited,
10th Floor, NPKRR Maaligai, 144, Anna Salai,
Chennai – 600 002.
- 2.Assistant Engineer/Town/Chinnasalem,
Kallakurichi Electricity Distribution Circle,
Tamilnadu Generation and Distribution Corporation Limited,
Railway station Road,
Chinnasalem – 606 201.
- 3.Superintending Engineer/Kallakurichi,
Consumer Grievance Redressal Forum,
Kallakurichi Electricity Distribution Circle,
Tamilnadu Generation and Distribution Corporation Limited,
Shivaji Nagar, Lions Club Building,
Kallakurichi – 606 202.
- 4.Tamil Nadu Electricity Ombudsman,
19-A Rukmini Lakshmipathy Salai, (Marshal Road),
Egmore, Chennai – 600 008.



5.Secretary,
Tamilnadu Generation and Distribution Corporation Limited,
19-A, Rukmini Lakshmipathy Salai, (Marshal Road),
Egmore, Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the order passed by 4th respondent in AP No.59/2017/D-32 dated 17.04.2018 and consequential notice issued by 2nd respondent in K.No.UMPo/Na/Chise/Kao.etition/A.No.127/2019 dated 22.07.2019 and quash the same.

For petitioner : Mr.A.Swaminathan

For R1 to R3 : Mrs.Daniel Mary
Standing Counsel for TANGEDCO

For R4 & R5 : No appearance

ORDER

The electricity consumption charges for the excess usage of electricity along with the penalty imposed by the respondent in proceedings dated 22.07.2019 is under challenge in the present writ proceedings.

2. The petitioner is running a rice mill in the name of Shri Saravana Modern Rice Mill. The petitioner is running the rice mill business from the year 1998 and the petitioner has got permission for electricity connection for



usage of 112KW to his Shri Saravana Modern Rice Mill and he had utilised only the electric motor which extracts maximum electricity of said 112KW for his rice mill. The petitioner has received the electricity Service Connection bearing no.560-006-959 on 12.03.1997 for loading of 102HP. Subsequently, on 07.07.1997, the Service Connection No.366 with load of 25HP is reiterated with service connection no.560-006-959 and the load is revised to 127HP (95KW). On 15.03.1999 additional load of 22HP was sanctioned and the load was revised to 149 HP (112KW).

3. According to the Tamil Nadu Electricity Regulatory Commission, the said connection for 112KW comes within the purview of LT-CT service connection and once it exceeds 112KW, then it comes under the HT service connection. The petitioner is also aware of the fact that the maximum load for LT-CT service connection is 112KW and any excess usage would be construed as HT service connection usage and accordingly charges and penalty will be imposed as per the regulations.

4. On 24.10.2015 during monthly assessment, the Authorities found that the petitioner exceeded the sanctioned load of 112KW and used excess demand of 48.8KW ($112+48.8=160.8$ KW).



5. The relevant provisions of the Tamil Nadu Electricity

Regulatory Commission Supply Code is extracted hereunder:

“(2) Excess demand charge:

Whenever the consumer exceeds the sanctioned demand, excess demand charge shall be:-

(i) In the case of HT supply, the maximum demand charges for any month shall be based on the KVA demand recorded in that month or such percentage of sanctioned demand as may be declared by the Commission from time to time whichever is higher. The exceeded demand shall alone be charged at double the normal rate.

(ii) In case of LT supply,

(a) For Domestic and Agricultural category of service, the excess demand charges shall not be applicable.

(b) For other categories of LT services where the contracted demand and connected load is equal to or less than 18.6 KW(25HP), the excess demand charges shall not be applicable.

Note:1.Even in a consumer's contracted demand is equal to or less than 18.6KW(25HP), or the connected load is more than the contracted demand but less than 18.6 KW(25HP) as the case may be, the licensee shall install meters with demand recording facility and bring the consumer under the scope of excess demand chargeable category. After installation of the meter, if the recorded demand is in excess of contracted



demand the existing demand, shall, after intimation to the consumer, be revised to the level of recorded demand and all relevant charges applicable for extension of additional demand shall be included in the next bill. No excess demand charge is leviable till such time the licensee installs meter with demand recording facility and bring the consumer under the scope of excess demand chargeable category.

(c) For the remaining LT services other than those service connections covered in (a) and (b) above, when the contracted demand is in excess of 18.6KW (25HP) and for such of those consumers whose contracted demand is less than 18.6 KW(25HP) but opted for having meters with demand recording facility, the excess demand charges shall be:-,

(I) Where the recorded demand does not exceed 112KW, for every KW or part thereof in excess of the sanctioned demand, at the rate of 1% of the total energy charges;

(II) Where the recorded demand exceeds 112KW, for every KW or part thereof in excess of sanctioned demand:-

- at the rate of 1% of the charges of electricity supplied up to 112KW;*
- and at the rate of 1.5% for every KW or part thereof over and above 112KW for the first two occurrences;*
- and for the third occurrence, at the rate of 3% for every KW or part thereof over and above 112KW;*
- and thereafter, that is, the fourth and subsequent*



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occurrences at the rate of 10% for every KW or part thereof over and above 112KW.

(III) Where the recorded demand exceeds the sanctioned demand for the second and subsequent times;

(A) In case the recorded demand has not exceeded 112KW, the existing load sanction shall, after intimation to the consumer, be revised within one month of the second occurrence to the level of recorded demand and all the relevant charges applicable to the additional load shall be included in the next bill;

(B) In case the recorded demand has exceeded 112KW, the existing load sanction shall, after intimation to the consumer, be revised within one month of the second occurrence, to the level of 112KW and all relevant charges applicable to the additional load shall be included in the next bill; if, however, the recorded demand has exceeded 112KW for the third or more number of times, it is open to the consumer to opt for HT service.

6. Since the Authorities during the monthly assessment found that the petitioner has exceeded the sanctioned load of 112KW, a notice was issued to the petitioner to pay the excess demand and penalty along with current consumption charges as per the Tamil Nadu Electricity Regulatory Commission Supply Code. After receiving the notice, the petitioner has filed W.P.No.36672 of 2015 and obtained the interim stay on 17.11.2015, to pay



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current consumption charges. Subsequently, final order was passed in the said Writ Petition on 22.02.2016 directing the petitioner to give a fresh representation and further directed the Authorities to consider the representation. Accordingly, the Authorities considered the representation and the objections submitted by the petitioner and found that the petitioner has used excess electricity over and above the permission granted for usage of electricity.

7. The learned Counsel for the petitioner would submit that the sudden hike in usage of electricity resulted in higher usage and therefore, the Authorities cannot impose any penalty. He further stated that the excess demand was only coil burnt and therefore, the calculation made is erroneous. The Authorities during the enquiry found that such submission made by the petitioner is incorrect and further the Authorities found that the petitioner has installed the machinery with the total load of 179.479 KW. Thus, the petitioner used excess demand continuously on 22.10.2015. The inspection and assessment was done by the Authorities in the presence of the petitioner.

8. It is not is dispute that the petitioner has approached the Consumer Grievance Redressal Forum, who in turn adjudicated the issues on



merits and found that the factual reasons furnished by the writ petitioner are untenable. The petitioner also preferred an appeal before the Electricity Ombudsman. The Ombudsman also held that the petitioner has exceeded the sanctioned load. Thus, the order passed by the Consumer Grievance Redressal Forum was confirmed by the Electricity Ombudsman.

9. The factual findings made by the Consumer Grievances Redressal Forum and the Electricity Ombudsman need not be interfered by the High Court, unless there is any contra evidence produced by the petitioner. All the grounds raised in the present writ petition were adjudicated both by the Consumer Grievances Redressal Forum and by Electricity Ombudsman and this Court has no further reason to interfere with the factual findings made in those orders.

10. As far as the excess demand charge is concerned, it is established by the Department that the petitioner has used excess electricity over and above the permission granted for consumption and therefore, the grounds raised in the present writ petition lost its relevance.



Accordingly, the impugned order dated 22.07.2019 stands confirmed and the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

To

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4. Tamil Nadu Electricity Ombudsman,
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5. Secretary,
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