



WEB COPY



W.P.No.30982 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.30982 of 2023

and

W.M.P.Nos.30626 and 30629 of 2023

- 1.M/s. Sattva Vaid Nature's Global Pvt.Ltd.
Rep. by its Managing Director, Vishal Jain,
H.No.621, 5th Floor, Sire Mansion,
Model School Road, Mount Road,
Chennai-600 006
 - 2.M/s. Kawman Ex-Act Ingredients Pvt.Ltd.
Rep. by its Managing Director, Vishal Jain,
No.41, Raghunayakulu Street,
Park Town, Chennai-600 003
 - 3.Avanthiya Pharma Private Limited,
Rep. by its Managing Director, Chaitanya Devendra Srisrimal,
Module No.1, 10th Floor, A Block, Kanagam Road,
Taramani, IIT Madras Research Park,
Chennai-600 113
 - 4.M/s. Sri Vari Dyeings Process,
Rep. by its Managing Director, Gnanasekaran Karupana Mudaliar
D.No.2/35, Sandhaipavadi,
Koonavelampatti, Rasipuram Taluk,
Tamil Nadu-637 401
- ... Petitioners



W.P.No.30982 of 2023

VS.

WEB COPY

1.The Superintending Engineer
TANGEDCO, Cuddalore Electricity Distribution Circle,
Cuddalore District

2.The Assistant Engineer, O&M,
TANGEDCO, Cuddalore North
Cuddalore District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Letter No.SE/CEDC/CUD/DFC/AO/REV/AS/D.No.53/2023 dated 26.07.2023 quash the same as illegal, arbitrary and consequently direct the respondents to grant the writ petitioners temporary electricity service connection in S.F.Nos.80/2 and 100/1, in Plot Nos.A-7, A-10, A-11, A-12, A15, SIPCOT Industrial Complex, Cuddalore, Panchayankuppam Village, Kudikadu Taluk, Cuddalore District by considering the petitioners online applications dated 01.08.2023 within a stipulated time as fixed by this Court.

For Petitioner : Mr.A.Tamilvanan

For Respondents : Mr.V.Venkataseshaiya
Standing Counsel (TNEB)



W.P.No.30982 of 2023

ORDER

WEB COPY The Writ Petition is filed challenging the order passed by the 1st respondent in Letter No.SE/CEDC/CUD/DFC/AO/REV/AS/D.No.53/2023, dated 26.07.2023 making a demand of Rs.2,76,39,690/- from the petitioners towards electricity consumption charges together with surcharge due from petitioners' vendor-M/s.J.K.Pharmas Limited.

2. It is the case of the petitioners that the petitioners purchased premises situated in S.Nos.80/212 and 100/1 in S.F.Nos.80/2 and 100/1 in Plot Nos.A-7, A-10, A-11, A-12, A15, SIPCOT Industrial Complex, Cuddalore, Panchayankuppam Village, Kudikadu Taluk, Cuddalore District under SARFAESI Proceedings. The Sale Certificate was issued in favour of the petitioners and possession was handed over on 20.07.2021. After taking possession of the property, the petitioners approached the 2nd respondent for temporary electricity service connection through Online Application dated 01.08.2023. The 1st respondent by impugned proceedings directed the petitioners to make a payment of Rs.2,76,39,690/- on the ground that the above said sum was due from previous owner M/s.J.K.Pharmas Limited. Aggrieved by the said demand made by the 1st respondent, the petitioners



W.P.No.30982 of 2023

have come before this Court.

WEB COPY

3. The learned counsel appearing for the petitioners submits that they are the purchasers of the subject property under SARFAESI Proceedings, without notice of any default committed by their predecessor-in-interest. Therefore, the 1st respondent is not justified in insisting on payment of the amount due from the previous owner, when the petitioner submitted an application for temporary electricity service connection. The learned counsel further submitted that out of total amount demanded by the 1st respondent, only a sum of Rs.64,27,837/- was due towards the electricity consumption charges and the remaining amount is towards belated payment surcharge. The learned counsel further submitted that the petitioners are ready to pay the actual consumption charges payable by their predecessor-in-interest. However, he submitted that the 1st respondent is not justified in demanding belated payment surcharge from the petitioners. In support of his contention, the learned counsel relied on the order passed by this Court in ***AURA PACK (INDIA) PRIVATE LIMITED vs. The Chairman, Tamil Nadu Electricity Board and others*** in W.P.No.10100 of 2020, dated 28.06.2023.



W.P.No.30982 of 2023

4. The learned Standing Counsel appearing for the respondents by relying on Clause 17(9)(a) of the Tamil Nadu Electricity Code, submits that the 1st respondent is justified in demanding the consumption charges together with surcharge due from the previous owner from the present petitioners, who applied for new connection.

5. While considering the liability of the subsequent purchaser to pay the dues of the previous owner, almost in a similar circumstances, this Court in W.P.No.10100 of 2020, dated 28.06.2023 by referring to the judgment of the Apex Court passed following order:-

*“6. The Apex Court, passed a judgment in the case of **K.C.Ninan Vs. Kerala State Electricity Board & Ors.** reported in 2023 0 Supreme (SC) 555 and the relevant portion of the judgment is as follows :*

“327. Taking all facts and circumstances into consideration, including the lapse of more than two decades since the appeals were filed before this Court and the equities arising in favour of one party or the other, we direct the Electric Utilities to waive the outstanding



interest accrued on the principal dues from the date of application for supply of electricity by the auction purchasers.

I. Conclusions

328. The conclusions are summarised below:

- a. The duty to supply electricity under Section 43 of the 2003 Act is not absolute, and is subject to the such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity;*
- b. The duty to supply electricity under Section 43 is with respect to the owner or occupier of the premises. The 2003 Act contemplates a synergy between the consumer and premises. Under Section 43, when electricity is supplied, the owner or occupier becomes a consumer only with respect to those particular premises for which electricity is sought and provided by the Electric Utilities;*
- c. For an application to be considered as a 'reconnection', the applicant has to seek supply of electricity with respect to the same premises for which electricity was already provided. Even if the consumer is the same, but the premises are different, it will be considered as a fresh connection and not a reconnection;*



- d. A condition of supply enacted under Section 49 of the 1948 Act requiring the new owner of the premises to clear the electricity arrears of the previous owner as a precondition to availing electricity supply will have a statutory character;*
- e. The scope of the regulatory powers of the State Commission under Section 50 of the 2003 Act is wide enough to stipulate conditions for recovery of electricity arrears of previous owners from new or subsequent owners;*
- f. The Electricity Supply Code providing for recoupment of electricity dues of a previous consumer from a new owner have a reasonable nexus with the objects of the 2003 Act;*
- g. The rule making power contained under Section 181 read with Section 50 of the 2003 Act is wide enough to enable the regulatory commission to provide for a statutory charge in the absence of a provision in the plenary statute providing for creation of such a charge;*
- h. The power to initiate recovery proceedings by filing a suit against the defaulting consumer is independent of the power to disconnect electrical supply as a means of recovery under Section 56 of the 2003 Act;*



W.P.No.30982 of 2023

- i. The implication of the expression “as is where is” basis is that every intending bidder is put on notice that the seller does not undertake responsibility in respect of the property offered for sale with regard to any liability for the payment of dues, like service charges, electricity dues for power connection, and taxes of the local authorities; and*
- j. In the exercise of the jurisdiction under Article 142 of the Constitution, the Electric Utilities have been directed in the facts of cases before us to waive the outstanding interest accrued on the principal dues from the date of application for supply of electricity by the auction purchasers.”*

7. In view of the above, this Court, without interfering with the impugned proceedings, directs the respondents 1 to 4 to consider and waive the belated payment surcharge on the principal arrears amount, within a period of six (6) weeks from the date of receipt of a copy of this order.”

6. In ***K.C.Ninan Vs. Kerala State Electricity Board & Ors.*** reported in **2023 0 Supreme (SC) 555**, the Apex Court by exercising his power under Article 142 of the Constitution of India, directed waiver of interest



W.P.No.30982 of 2023

component, by following the said judgment, this Court in W.P.No.10100 of 2020, dated 28.06.2023, directed the Official Respondents to consider the request of the subsequent purchaser to waive belated payment surcharge on the principal arrears amount.

7. Following the said order, this Court is inclined to issue a direction to the 1st respondent to consider the request of the petitioners to waive the belated payment surcharge component of the demand notice and pass final orders in accordance with law, within a period of six weeks from the date of receipt of copy of this order.

8. The learned counsel appearing for the petitioners submits that his clients already paid half of the principal amount and they are willing to pay the remaining half of the principal amount (Actual Consumption Charges – Belated Payment Surcharge) as per the demand. The said statement is recorded. The petitioner is directed to submit a formal representation before the 1st respondent seeking waiver of belated payment surcharge by expressing willingness to pay principal amount within two weeks from the date of receipt of copy of this order.



W.P.No.30982 of 2023

9. The 1st respondent is directed to consider the representation of the petitioners for waiver of surcharge by taking into consideration the willingness of the petitioners to pay the entire principal amount and pass final orders within four weeks from the date of receipt of such representation. It is made clear that if the 1st respondent favourably consider the request of the petitioners and waive the surcharge amount, the petitioners shall pay the entire principal amount before seeking temporary connection. It is also made clear that any order passed by this Court in this writ petition will not come in the way of respondents working out their remedy against the previous owner viz., M/s.J.K.Pharmas Limited in the manner known to law.

10. With the above directions and observations, the Writ Petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

20.11.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



W.P.No.30982 of 2023

To

WEB COPY

- 1.The Superintending Engineer
TANGEDCO, Cuddalore Electricity Distribution Circle,
Cuddalore District
- 2.The Assistant Engineer, O&M,
TANGEDCO, Cuddalore North
Cuddalore District



WEB COPY



W.P.No.30982 of 2023

S.SOUNTHAR, J.

dm

W.P.No.30982 of 2023

20.11.2024