



W.P.(MD) No.17494 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.17494 of 2015

and

M.P.(MD) No.1 of 2015

Vairamani

.. Petitioner

Vs.

The Assistant Engineer,
Operation and Maintenance,
TANGEDCO,
Athirampattinam,
Pattukkottai Taluk,
Thanjavur District.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned order passed by the respondent vide its proceedings in க.எண்.உ.மிபொ/இப/நகர்ஜ/அதிரை/கோ.தணிக்கை/அ.எண்.44/2015, dated 13.08.2015 and to quash the same.

For Petitioner : Mr.T.Sathiyathan

For Respondent : Mr.B.Ramanathan
Standing Counsel



W.P.(MD) No.17494 of 2015

WEB COPY

ORDER

Challenging the demand notice dated 13.08.2015, the petitioner is before this Court to quash the same.

2. The case of the petitioner is that the demand had been made against him on the basis of average consumption for the period between April, 2012 and April, 2013. The reason was that during the month of April, 2012 due to the fire accident, the meter had burnt and the same was installed only in the month of December, 2012. He would further submit that from the month of December, 2012 to February, 2013, an assessment has been made on the basis of the new meter and again was assessed on average charges. But however, the impugned order was passed based upon an audit report as if the meter was fault in the entire period between April, 2012 and April, 2013. Even though the audit report indicates that a new meter had been fixed on 01.11.2012, it is not stated as to on what date, even the new meter had become defunct. According to him, till February, 2013, the meter was performing perfectly and only thereafter, again due to the rain, the meter got burnt



W.P.(MD) No.17494 of 2015

and therefore, the audit report itself is bad. Hence, he seeks to set aside the demand.

3. Countering his arguments, the learned Standing Counsel appearing for the Department would vehemently contend that the audit report clearly indicates that the average consumption charge had been calculated based upon the report of the newly fixed meter from the month of April, 2013. He would also submit that due to the usage of electricity by the petitioner, the petitioner had also been granted with an additional load of 63 Kw on 09.01.2014. Therefore, there is no error in the report of the audit. There was short levy for the said period and the Audit Branch of the respondent had assessed an amount of Rs.5,09,567/- as short levy for the said period. Hence, he would submit that there is no error or infirmity in the order passed by the respondent.

4. Even though various contentions have been raised by the learned counsel appearing on either side on the merits of the audit report and the demand, a reading of the demand notice would indicate that no prior notice had been issued to the petitioner. It is not a case that the



W.P.(MD) No.17494 of 2015

petitioner had failed to make the electricity charges. He had paid the electricity charges as demanded by the petitioner. However, the audit report pointed out a short levy based on the calculation it had arrived. The petitioner had not been put on notice before the calculation for him to repudiate the same. In such an event, I am inclined to set aside the demand notice dated 13.08.2015 as impugned in the writ petition and remit the matter back to the respondent to consider the representation of the petitioner, which shall be made by the petitioner within a period of four weeks from today (20.10.2024) and thereafter, the petitioner shall also be provided with an opportunity of hearing before any orders are being passed by the respondent in this matter.

5. With the aforesaid direction, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes/No

20.11.2024

Index : Yes/No

Note: Issue order copy by 22.11.2024

abr



W.P.(MD) No.17494 of 2015

WEB COPY

To

The Assistant Engineer,
Operation and Maintenance,
TANGEDCO,
Athirampattinam,
Pattukkottai Taluk,
Thanjavur District.



WEB COPY



W.P.(MD) No.17494 of 2015

K.KUMARESH BABU, J.

abr

W.P.(MD) No.17494 of 2015

Dated: 20.11.2024