



W.P(MD)No.5803 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 05.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.5803 of 2015 and
MP(MD) No.1 of 2015

S.S.D.Spinning Mills Ltd.,
Registered Off: 722-A, Main Road,
Kovilpatti – 628 501
Rep by its Manager
C.Pushpaganesh

Petitioner

Vs

- 1.The Tamilnadu Electricity Board,
Rep by its Chairman,
No.800, Anna Salai,
Chennai – 600 002.
- 2.The Superintending Engineer,
Tamilnadu Electricity Board,
Tuticorin Electricity Distribution Circle,
Tuticorin.

Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in his impugned CC bills No. 179 dated 01.09.2014 , 01.10.2014 ,



W.P(MD)No.5803 of 2015

01.12.2014, 02.01.2015 , 01.02.2015 and 03.03.2015 quash the same as illegal , arbitrary, without the authority of law and against the provision as contained in clause 6 of The Tamil Nadu Electricity Supply Code , 2004 and consequently direct the Respondent to treat the Petitioner's HTSC NO. 179 as disconnected from the date of Petitioner s application dated 04.07.2014.

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.S.Deenadayalan
Standing Counsel

ORDER

The petitioner, a private limited Company, namely, S.S.D.Spining Mills Ltd., was registered under the Companies Act, 1956 and has availed High Tension electricity service connection No.179 for 500 KVA from the second respondent Board. Subsequently, the petitioner has decided to close down his Unit and therefore he has made a request on 04.07.2014 to the respondent Board to disconnect the electricity service connection in Service connection No. 179 permanently and to refund the security deposit made by him on that service connection. The second respondent has directed the petitioner to give undertaking in a stamp paper stating that if any arrears in respect of HT Service connection No.179, the



W.P(MD)No.5803 of 2015

same may be included in the monthly CC bill of the petitioner's another HT Service connection No.97. The petitioner has also furnished the same. Thereafter, the electricity service connection in HT Service connection No.179 was disconnected on 22.09.2014. The petitioner has filed this writ petition challenging the electricity demand notice for the electricity tax demanded by the respondent for the period from 01.09.2014 to 03.03.2015.

2.The learned counsel for the petitioner submits that the petitioner has made a request for disconnecting the electricity service connection on 04.07.2014 and it was also disconnected w.e.f. 27.08.2014. The petitioner has complied with all the requirements for disconnecting the service connection permanently. While so, the second respondent has not justified in demanding CC charges for the service connection No.179 for the month of September 2014 to March 2015. He further submits that the CC Bill for the month of October 2014, dated 02.11.2015, the second respondent has levied a sum of Rs.18,456/- towards demand charges at Rs.300/- per KVA for



W.P(MD)No.5803 of 2015

61.52 KVA under serial No.7 'Demand charges' 20% of the quota demand i.e 20% of 307.6 KVA = 61.52 KVA as per Clause 6(a)(i) of the Tamil Nadu Electricity Supply code, 2004. However, in all other impugned CC Bill for the month of November 2014, December 2014, January 2015, February 2015 and March 2015, the second respondent has levied monthly minimum charges at Rs.350/- per KVA for 100 KVA instead of 20% of quota demand during Restriction and Control measures I.e, 20% of 307.7 KVA = 61.52 KVA.

3.The learned counsel has relied upon the provision under Clause 6(a) of the Tamil Nadu Electricity Supply Code, 2004 and submits that minimum monthly charges are payable even when no electricity is consumed in a month. In case of disconnection of electricity supply, the monthly minimum charges should be restricted to 20% of the sanctioned demand/quota demand respectively. The relevant provision is extracted as under:-



6.Minimum charges.- The consumer shall pay to the licensee[minimum charges]in respect of every connection as detailed below. The minimum monthly charges are payable even when no electricity was consumed or supply disconnected by orders of Court or when the price of electricity supplied is less than the minimum charges.

(a) For the H.T. services disconnected as per licensee's right to disconnect supply, the following monthly minimum charges based on the KVA demand shall be collected: -

(i) If the disconnection is for the full month, then, 20% of the sanctioned demand.

(ii) If the disconnection is for part of a month, the actual recorded demand or such percentage of sanctioned demand as declared by the Commission whichever is higher.

(b) For the H.T services disconnected on the request of the consumer, the monthly minimum charges based on the KVA demand shall be the actual recorded demand (when the disconnection is for part of a month) or such percentage of sanctioned demand declared by the Commission whichever is higher:



W.P(MD)No.5803 of 2015

Provided that where the licensee is prevented from supplying electricity owing to cyclone, floods, storms, fire, strike or lockout in the licensees' establishment or other occurrences beyond the control of the licensee, or if the licensee is satisfied that the consumer has been prevented from consuming electricity either in whole or in part for similar reasons, the licensee may recover from the consumer[minimum charges]at twenty per cent of the billable demand or recorded demand whichever is higher besides charges for the actual consumption of electricity.

4.According to the petitioner, when the supply is disconnected for the full month, the consumer is liable to pay monthly minimum charges at 20% of the sanctioned demand in normal circumstances and in case of restriction and Control measures in force the consumer is liable to pay 20% of the quota demand. It is submitted that Restriction and Control measures are in force in the State of Tamil Nadu from 2008 to till date. The learned counsel further submits that the second respondent has issued the impugned CC Bill for the month of August 2014 dated 01.09.2014, demanding a sum of Rs.1,35,000/- towards demand charges at



W.P(MD)No.5803 of 2015

Rs.300/- per KVA for 450 KVA under Serial No.7 'Demand Charges'. The second respondent has levied demand charges at 90% of the sanctioned demand i.e 90% of 500 KVA = 450 KVA, instead of charging 20% of the quota demand i.e 20% of 307.6 KVA = 61.52 KVA.

5.The learned Standing Counsel appearing for the respondent Board submits that as per the request made by the petitioner, the electricity service connection in HT Service connection No.179 was disconnected only on 22.09.2014. As per clause 6(a) of Tamil Nadu Electricity Supply Code, 2004, the petitioner is liable to pay minimum monthly charges when no electricity is consumed in a month. Therefore, there is no need to interfere with the order impugned in this writ petition.

6.This Court considered the rival submissions made and also perused the materials placed on record.



W.P(MD)No.5803 of 2015

WEB COPY

7. Admittedly, the petitioner, who was running a spinning mill has applied for electricity service connection for 500 KVA and the same was sanctioned vide Service connection No.179. Subsequently, when he made a request to the respondent Board to disconnect the electricity service connection and to refund the security deposit, which he had paid to the respondent Board, the electricity service connection was disconnected on 27.08.2014. However, the learned Standing counsel for the Board submits that it was disconnected only on 22.09.2014. As per clause 6(a) of Tamil Nadu Electricity Supply Code, 2004, the minimum monthly charges liable to be paid when no electricity is consumed in a month. As per clause 6(a)(4) of the Tamil Nadu Electricity Supply Code, 2004, if the disconnection is for the part of the month, actual recorded demand or such percentage, whichever is higher can be charged. The case of the petitioner is that though the petitioner was sanctioned 500 KVA, he was permitted to use only 307.6 KVA. Therefore, as per 6(a) of Tamil Nadu Electricity Supply Code, 2004, it has to be



W.P(MD)No.5803 of 2015

calculated only by charging 20% of the permitted demand and not on the sanctioned demand. Therefore, according to him, 20% of the permitted demand of 307.6 KVA is 61.52 KVA, the respondent is liable to demand only for 61.52 KVA. Since as per the Bill issued by the respondent Board, it appears that though the petitioner was sanctioned 500 KVA, he was permitted to use only 307.6 KVA. Therefore, the respondent Board shall calculate the amount as per 6(a) of Tamil Nadu Electricity Code 2004 for the permitted demand and issue a fresh demand notice.

8. Accordingly, the impugned order is set aside. This writ petition is allowed with a liberty to the respondent Board to provide an opportunity of hearing to the petitioner and thereafter pass an order as per the permitted demand within a period of two months from the date of receipt of a copy of that order. No costs. Consequently, connected Miscellaneous Petition is closed.

05.02.2024

NCC:Yes/No



W.P(MD)No.5803 of 2015

Index:Yes/No

Internet:Yes

vrn

WEB COPY

To

- 1.The Chairman,
Tamilnadu Electricity Board,
No.800, Anna Salai,
Chennai – 600 002.
- 2.The Superintending Engineer,
Tamilnadu Electricity Board,
Tuticorin Electricity Distribution Circle,
Tuticorin.



WEB COPY



W.P(MD)No.5803 of 2015

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.5803 of 2015 and
MP(MD) No.1 of 2015

05.02.2024