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WP No. 11792 of 2010



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

**WP No. 11792 of 2010
& M.P.Nos. 1 & 3 of 2010**

Hari Madhawa Alloys (p) Ltd.,
Registered Office No.11/1, Muthu
Nagar, Upplipalayam Post,
Coimbatore-641015, Represented By
S.Soundararajan, Managing Director.

Petitioner(s)

Vs

1. The Executive Engineer,
(O & M), Gopi Electricity Distribution
Circle, Sathiyamangalam.

2.The Superintending Engineer,
Gopi Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Gopichettipalayam.

Respondent(s)

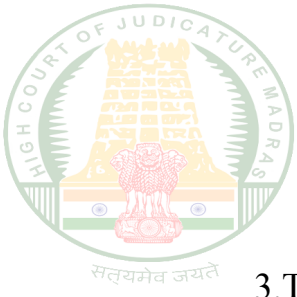
For Petitioner(s): Ms.Kavitha Rameshwar
For Respondent(s): Mr.P.Kumaresan,
Additional Advocate General
Asst. by Mr.I.Syed Sibghatulla



ORDER

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2.The case of the petitioner is that the petitioner's company was incorporated on 30.05.2008 and that in order to establish an Alloy Industry, the petitioner made an application for power supply to the third respondent 21.10.2008 for 3100 KVA, and paid a sum of Rs.24,80,000/- on 25.10.2008 towards EMD (Earnest Money Deposit). Since there was inordinate delay in sanctioning of 3100 KVA, the petitioner approached the Chief Engineer Commercial TNEB Chennai, who, in turn informed the petitioner that it was not feasible to sanction 3100 KVA and advised the petitioner to restrict to 2250 KVA. Since the petitioner has invested huge amount for establishing the industry, he had no other option, except to restrict to 2250 KVA.

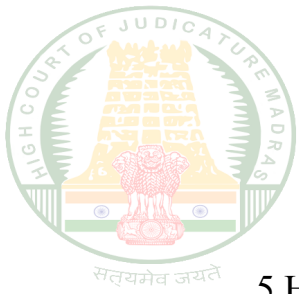


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3.The further case of the petitioner is that 2250 KVA was sanctioned on 24.02.2009 and that towards development charges, meter caution deposit and estimate amount, a sum of Rs.11,78,900 was paid by the petitioner to the TNEB.

Further that the electricity supply was effected on 20.05.2009 and production was commenced on 23.05.2009. The service connection number being HTSC No.145.

4.That being so, the petitioner made an application for additional demand of 850 KVA on 29.09.2009 to the third respondent and since there was no response from the third respondent, the petitioner moved this Court with W.P.No.21489 of 2009 for a direction to the third respondent to sanction additional 850 KVA. This Court Vide order dated 26.10.2009 disposed of the Writ Petition directing the third respondent to consider the application of the petitioner and to pass appropriate orders on merits, within a period of four weeks.



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5. However, out of nowhere the second respondent on 14.02.2010 alleged that there was theft of energy in the above service connection. Further, the first respondent coerced the petitioner to accept the offence and threatened him that wide publicity will be given in electronic media and newspapers if the same was not accepted. Left with no option, the petitioner accepted the offence and for compounding of the offence under Section 152 of the Electricity Act 2003. Thereafter, a compounding fee of Rs.1,12,50,000/- was demanded from the petitioner. The petitioner had paid a sum of Rs.2,50,000/- in cash against the compounding fee and gave a cheque for the balance sum of Rs.1,10,00,000/-. However, when the cheque was presented for clearance, the same was dishonored. Since the offence was not compounded, the respondents filed a criminal case in Crime No.101/2010 before the Cheyur Police Station and a Criminal case in CrI.O.P.No.9609 of 2010 is pending before the Competent Court. In the meantime, the first respondent passed the provisional assessment order on 18.02.2010 and the final assessment order on 13.05.2010 demanding a sum of Rs.7,52,90,016/- towards the energy loss for a period of 194 days.

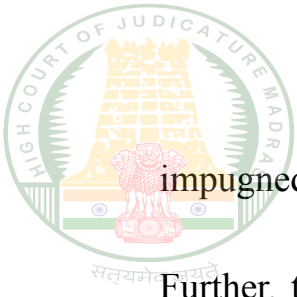


Challenging the final assessment order dated 13.05.2010, the present Writ
Petition has been filed.

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6.The learned counsel for the petitioner submitted that the huge demand made by the respondent is not sustainable since the petitioner company itself was commenced on 30.05.2008 and the electricity supply was effected only on 20.05.2009. Further, that the allegation of theft of electricity was made on 14.02.2010, within a period of nine months from the date of effecting the service connection. Further, the learned counsel for the petitioner also submitted that after the electricity connection was effected two inspection were conducted in the petitioner's premises on 25.08.2009 and 26.10.2009, however, there there was no charge of tampering or unauthorized usage of electricity.

7.The learned counsel for the petitioner further submitted that in cases where Section 135 of the Electricity Act, 2003 is invoked for 'theft of electricity', order has to be passed under Section 126 of the Electricity Act and not under Section 23 AA of the Electricity Supply Code. However, the



impugned order has not been passed under Section 126 of the Electricity Act.

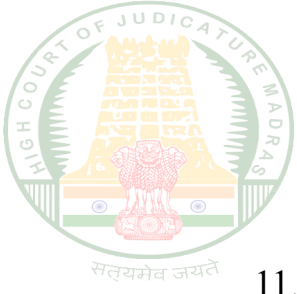
Further, the learned counsel for the petitioner also submitted that even after a lapse of 12 years since the filing of CrI.O.P.No.9609 of 2010, the final report/charge sheet has not yet been filed. On the other hand, the respondent Board has issued the assessment order/impugned order is violation of the provisions of the Electricity Act and hence, he prayed to set aside the impugned order.

8.Per contra, the learned Additional Advocate General appearing on behalf of the respondents submitted that the impugned order dated 13.05.2010 has been passed in terms of Section 126 of the Electricity Act and not in terms of the 23 AA of the Electricity Supply Code and that though the impugned order was passed on 13.05.2010 directing the petitioner to pay a sum of Rs.7,52,90,016/-, as on date no amount of money has been paid by the petitioner. He also added that the petitioner has a remedy before the Appellate Authority under Section 127 of the Electricity Act and hence, sought for the dismissal of the present Writ Petition.



9. Heard the learned counsel for the petitioner and the respondent and perused the materials available on record.

10. Though the learned counsel for the petitioner submitted that the charge sheet is yet to be filed in CrI.O.P.No.9609 of 2010, the learned Additional Advocate General appearing on behalf of the respondents submits that the charge sheet has been filed and the trial is yet to commence in the said Criminal Original Petition. Further, though the petitioner claims that the impugned order has been passed under Regulation 23(AA) of the Tamil Nadu Electricity Supply Code, 2004, the final assessment order dated 13.05.2010 has been passed in terms of Section 126 of the Electricity Act. In view of the above, this Court is of the view that the issue raised in the present Writ Petition can be litigated before the Criminal Court and the respondent is also entitled to recover revenue loss in terms of Section 126 of the Electricity Act before the said Court. Further, against the final assessment order, there is a appeal remedy available to the petitioner under Section 127 of the Electricity Act before the Appellate Authority.



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11. In view of the above, the Writ Petition is dismissed with liberty to the petitioner to file an appeal before the appellate authority. No costs.

Consequently, the connected miscellaneous petitions are closed.

22-09-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Executive Engineer,
(O & M), Gopi Electricity
Distribution Circle, Sathiyamangalam.

2. The Superintending Engineer,
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Tamil Nadu Electricity Board, Gopichettipalayam.



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M.DHANDAPANI J.

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