



WEB COPY



W.P.No.5682 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.09.2025

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5682 of 2011

M/s.Jayalakshmi Alloys India Pvt.Ltd.
S.F.No.238/4C, Mettubhavi Village
Vdachaithur Post
Pollachi Taluk
Coimbatore
Rep.by its Director P.Ravichandran

... Petitioner

Vs

1.The Chairman
The Tamilnadu Electricity Board
No.144, Anna Salai
Chennai-600 002.

2.The Executive Engineer
TANGEDCO
Coimbatore Electricity Distribution Circle (South)
Nagamam
Coimbatore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 2nd Respondent in his Letter No.EE?O&M/NGM/DM/F.Theft/D.No.265/11 dated 2.3.2011, and quash the same as illegal, arbitrary and against the provisions of Electricity Act, 2003 and Electricity Supply Code 2004.



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For Petitioner : Mr.Janarthanan
for Mr.K.Seshadri

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mr.L.Jaivenkatesh, Standing Counsel
for R-1 & R-2

ORDER

Challenging the assessment order passed by the 2nd respondent, the petitioner has filed the present Writ Petition.

2. It is the case of the petitioner that, on an inspection by the 2nd respondent and his staff, the High Tension Service Connection in H.T.SC.No.631 which was sanctioned to the petitioner industry was disconnected alleging theft of energy by means of tampering of the seals and box cover provided in Secondary Terminal of Main and Check Metering Set and accordingly, the compound fee was paid by the petitioner, pursuant to which, the provisional assessment order dated 02.03.2011 came to be passed by the 2nd respondent directing the petitioner to pay a sum of Rs.4,44,11,855/- towards the theft of electricity. Challenging the same, the petitioner has come up with the present Writ Petition.

3. Learned counsel appearing for the petitioner submitted that, when the petitioner had paid the entire compounding fee towards the alleged theft of



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electricity, however, without considering the same, the present impugned order has come to be passed by the 2nd respondent thereby demanding the arrears which exorbitant and that the provisions contemplated under the Electricity Supply Code has not been followed with before passing the said order and therefore, the same is arbitrary and illegal.

4. Learned Additional Advocate General appearing for the respondents submitted that, admittedly, the petitioner had paid the compounding fee towards the theft of electricity in the subject premises in order to avoid the criminal prosecution. He further submitted that once the petitioner has accepted the guilt, necessarily he has to pay the provisional assessment amount as well and it is only the show cause notice calling upon the petitioner to pay the arrears of charges towards consumed electricity and if at all the petitioner is aggrieved, he has to putforth his explanation as to the non-payment of the same and if the petitioner fails to pay the assessment amount, consequential proceedings would be initiated under Sections 135 & 136 of the Electricity Act, 2003. However, in order to safeguard the interest of the respondent board, this Court may impose a conditional amount to be payable by the petitioner since he had not paid the arrears for the past 14 years. Accordingly, he prayed for dismissal of this Writ Petition.



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5. This Court heard the learned counsel appearing on either side and perused the materials available on record.

6. The petitioner has challenged the provisional assessment order passed by the 2nd respondent on the ground that procedures contemplated under Tamil Nadu Supply Code has not been followed before passing the same. It is seen that it is only a show cause notice and that the petitioner has prematurely rushed to this Court. However, it has been the consistent view of the Courts that the Courts cannot interfere with the show cause notice at the threshold. Therefore, the prayer sought for in the present Writ Petition cannot be entertained. The petitioner has to necessarily submit his explanation to the show cause notice by participating in the enquiry to be conducted by the 2nd respondent. Further, in view of the fact that the petitioner had not paid the arrears of charges for the past 14 years, in order to strike the balance between the petitioner as well as the respondent board, the petitioner is directed to deposit a conditional amount of Rs.50,00,000/- with the 2nd respondent within a period of four (4) weeks from the date of receipt of a copy of this order. Upon receipt of such deposit, the 2nd respondent is directed to pass appropriate orders in terms of the procedures contemplated under the Electricity Supply Code, 2004 within a period of eight (8) weeks thereafter by affording an opportunity of hearing to the petitioner and to any other interested parties.



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7 These Writ Petitions are dismissed in the above terms. There shall be no order as to costs.

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Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

Nhs

To

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