



WP(MD) No.16659 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
13.12.2024

PRONOUNCED ON
31.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.16659 of 2016 &
WMP.(MD)No.12109 of 2016

S.Raghavan

... Petitioner

VS.

1.TANGEDCO,
Rep., by its Chairman
Anna Salai, Chennai

2.The Superintending Engineer,
TANGEDCO,
Trichy Electricity Distribution Circle,
Metro, Trichy – 20.

3.The Executive Engineer,
TANGEDCO, Operation and Maintenance (Urban),
Tennur, Trichy.

4.Rajendravigai,
Executive Engineer,
TANGEDCO, Operation and Maintenance,
Tennur, Trichy.

5.The Assistant Engineer,
TANGEDCO, Operation and Maintenance,
Srinivasa Nagar, Trichy.

... Respondents



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PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the third respondent in Lr.No.SePo/Eka/Naka/Thiru/Varai/Ko.Kattu/No450/16, dated 12.06.2016 quash the same, and direct the fifth respondent to refund the sum of Rs. 20,000/- and pass such further order.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.S.Deenadhayalan
Standing counsel

ORDER

The Writ Petition had been filed to quash the impugned proceedings passed by the third respondent and to direct the fifth respondent to refund a sum of Rs.20,000/-.

2. Heard Mr.M.Saravanan, learned counsel appearing for the petitioner and Mr.S.Deenadhayalan, learned Standing counsel appearing for the respondents.



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3.The learned counsel appearing for the petitioner would submit that the petitioner is running a small scale milk chilling unit and has also been provided with the registration certificate by the Director of Industries, Government of India. He had taken a low tension power supply with permission to use 10HP under Tariff III-A and had been in payment of regular charges in respect of the same. On 14.09.1999, the representatives of the fifth respondent inspected the unit and the machinery installed in the petitioner's unit. On 19.12.1999, the petitioner shocked to receive a notice from the fifth respondent alleging that the Tariff has been wrongly applied in the case of the petitioner unit and therefore, had called upon him to make good the shortfall of levy. The said communication was challenged by the petitioner before this Court in W.P.No.20052 of 1999 and this Court had set aside the same as being in violation of principles of natural justice and remitted the issue back to the respondents.

4.Again by a communication, dated 05.02.2000, the claim was reiterated and being aggrieved against the same, the petitioner had preferred a Writ Petition in W.P.No.3286 of 2000 and this Court by its order, dated 06.11.2006 had set aside the same and remitted the matter back to the



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respondents to pass orders in accordance with law. Again by further proceedings dated 07.02.2007, reiterated the demand. Against which the petitioner had preferred a representation to the Consumer Redressal Forum, which was returned to the petitioner. Therefore, the petitioner had approached this Court by filing a Writ Petition in W.P.(MD)No.10942 of 2007 and this Court by order dated 21.01.2009, recording the admission made by the learned Standing counsel appearing for the respondents that there was a mistaken impression on the scope of jurisdiction, only upon which the representation of the petitioner was returned, had directed the petitioner to represent the papers before the Consumer Redressal Forum.

5.Pursuant to which the petitioner had also represented the same and the same was not entertained by the Consumer Redressal Forum driving the petitioner to approach this Court again by filing a Writ Petition in W.P. (MD).No.3760 of 2009. The said Writ Petition was disposed of by this Court on 28.06.2016, directing the respondents to transfer the papers of the petitioner to the Appellate Authority constituted under Section 127 of the Electricity Act, 2003 and the Appellate Authority was directed to consider the appeal and pass appropriate orders on merits as per law after affording



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an opportunity to the petitioner. The petitioner also filed an Appeal Petition before the Appellate Authority raising many grounds as to his right to pay electricity charges under the Tariff IIIA. However, without considering the appeal, the Tariff IIIB was applied to the petitioner's case by holding that the Milk Chilling Centre and Cold Storage Plants had been brought under Tariff IIIB by memo dated 04.11.1997 and therefore, there is no error in the demand made by the fifth respondent. He would submit that the petitioner does not carry out the Ice Plant Unit and is running only a small scale chilling unit, which is used for storing of milk. He would submit that the respondents, the Appellate Authority had not given a proper opportunity of hearing to the petitioner and had proceeded to decide the case and hence, he would seek interference with the orders impugned in this Writ Petition.

6. On the contrary, the learned Standing counsel appearing for the respondents would submit that the service connection was granted under Tariff IIIA to the petitioner for running a Milk Chilling and Ice Factory Unit on 11.01.1997. When an inspection was conducted by the Anti Power Theft Squad, it was found that the Tariff that was applicable to the petitioner was IIIB and not IIIA, since from 17.02.1997, Tariff IIIB was only applicable



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and hence, there was an advise to collect the correct charges from the petitioner. The petitioner has also been issued with the Registration Certificate from the Small scale Industries Department for running a Milk Chilling Plant. He had also placed on record the Government Order in G.O.Ms.No.17, Energy Department, dated 14.02.1997, to contend that the Tariff IIIA would apply to Cottage and Tiny industries, Small Gem cutting units where cutting operation is done with or without power, powerlooms and sericulture and that Tariff IIIB would be applicable to the coffee grinding, Ice factory, body building unit, saw mill, rice mill, flour mill, prawn farming, poultry farming, battery charging unit and industries not covered under Low Tension Tariff III. Therefore, he would submit that even assuming that the petitioner is running a Milk Chilling Unit, the same is neither specifically covered under Tariff IIIA and therefore, the Tariff IIIB would be only applied. Hence, the respondents would seek dismissal of the Writ Petition.

7.I have heard the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.



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8.The issue that is to be decided in this Writ Petition is to whether the

Tariff IIIA or Tariff IIIB is applicable to the petitioner industry.

Admittedly, the petitioner had established his unit for running a Milk Chilling Plant. A Government Order in G.O.Ms.No.17, Energy Department, dated 14.02.1997, had been issued for amending the Schedule to the Tamil Nadu Revision of Tariff Rules and Supply of Electrical Energy. Part B of the Schedule deals with low tension supply. The petitioner has also been admittedly granted a low tension power supply Tariff IIIA had included certain types of industries, which are as follows:-

Low Tension Tariff-III A

Cottage and Tiny Industries, Small Gem Cutting units where cutting operation is done with or without power, powerlooms and Sericulture.

9.Similarly under Tariff IIIB categories of Industries have also been mentioned, which are as follows:-

Low Tension Tariff-IIIB

Coffee grinding, Ice Factory, Body Building Unit, Saw Mill, Rice Mill, Flour Mill, Prawn Farming, Poultry Farming, Battery charging unit and Industries not covered under Low Tension Tariff III.



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10.The Unit of the petitioner cannot be said to be covered under Tariff IIIA, as it does not cover a Milk Chilling Plant on the other hand Tariff IIIB covers not only the named industries, but also covers industries not covered under low tension tariff III. The unit of the petitioner would fall within the clause of an industry, not covered under low tension tariff III, even assuming the petitioner's claim that the petitioner is not an Ice Factory is taken into consideration.

11.In such view of the matter, I do not find any infirmity in the order impugned herein and accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

31.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
Pbn



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K.KUMARESH BABU.,J.

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A Pre-delivery order made in
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