IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.1628 of 2026
and CMP No.14909 of 2026

1. The Executive Engineer (O and M)
North, Kanchipuram
Tamil Nadu Generation and Distribution
Corporation Ltd, TANGEDCO,
Kanchipuram.

2. The Assistant Executive Engineer (O and M)
Town, Kanchipuram
Tamil Nadu Generation and Distribution
Corporation Ltd, TANGEDCO, Kanchipuram.

Appellant(s)

Vs

1. Nazeer John
W/o.Raja Basha,
No.57, Sheikpet Nadu Theru,
Kanchipuram.

2. T.Balasundaram alias
Manoharan
S/o.Thiruvengada Mudaliar,
No.57, Shiektpet Nadu Theru,
Kanchipuram.

Respondent(s)

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 25.11.2025 passed by the learned Single Judge in W.P.No.27775 of 2013 and allow the appeal.

For Appellant(s): Mr.Sandeep Harish
for Mr. L.Jai Venkatesh
Standing Counsel
for the Appellants

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

This intra-court appeal preferred under Clause 15 of the Letters Patent seeks to challenge and upend the judgment and order dated 25.11.2025 passed by the learned Single Judge in W.P.No.27775 of 2013. By the impugned order, the learned Single Judge confirmed the principal liability imposed upon the respondents, while scaling down the Belated Payment Surcharge (BPSC) to a consolidated equity-based adjustment. The appellant/Board, aggrieved by the truncation of its calculated surcharge, knocks at the doors of this court.

2.1. The facts in a nutshell are that the first respondent is the proprietary owner of the commercial premises situated at Door

No.57, Sheikpet Nadu Street, Kanchipuram, holding a three-phase electricity service connection (S.C.No.116). The second respondent occupies the said premises as a lessee, operating a traditional silk saree business. On 28.11.2000, a surprise inspection was carried out by the specialized wings of the appellant/Board (APTS, MRT, and O&M). It was discovered that the security seals of the meter were tampered with and replaced with artificial, spurious seals, causing an unregistered, dishonest consumption of energy.

2.2. A show-cause notice was subsequently generated on 11.12.2000, evaluating an approximate revenue loss of Rs.6,73,428/-. Concurrently, criminal prosecution was set in motion in C.C.No.366 of 2003 before the learned Judicial Magistrate No. I, Kanchipuram, culminating in an order of acquittal on 08.09.2009, on the ground that the prosecution failed to substantiate the falsity of the seals.

2.3. In the interregnum, the appellants' primary assessment order dated 29.09.2001 was challenged by the owner in W.P.No.19911 of 2001. By an order dated 08.07.2010, this Court quashed the assessment solely on the anvil of natural justice violations and remitted the matter for an explicit, personal, and speaking inquiry.

2.4. Upon remand, the first appellant passed the fresh impugned assessment order dated 19.09.2013. Through this order, while the principal extra levy was maintained at Rs.6,73,428/-, a sum of Rs.15,55,618/- was slapped upon the respondents under the nomenclature of BPSC calculated at an interest rate of 18% per annum retrospectively from the year 2000. This generated a collective demand of Rs.22,29,046/-.

2.5. Aggrieved by the aforesaid proceedings, the respondents approached this Court via W.P.No.27775 of 2013.

2.6. During the pendency of the writ petition, two vital events shifted the balance of equity:

(i) The respondents paid the entire principal amount of Rs.6,73,428/- across twenty monthly installments between 2013 and 2015.

(ii) Pursuant to a conditional interim direction of this Court dated 28.04.2021, the respondents deposited a further sum of Rs.5,00,000/- with the appellant Board.

2.7. The learned Single Judge, taking judicial note of the full discharge of the principal liability and the additional deposit of Rs.5,00,000/-, directed the appellant Board to adjust Rs.5,00,000/- as comprehensive interest and compensation, thereby wiping out the remaining surcharge demand, and allowed the writ petition on those terms.

3. Learned counsel appearing for the appellant/Board, vehemently contended that:

(i) The liability to pay BPSC and total interest cannot be severed from the principal liability once the factum of theft is established.

(ii) Regulations 21.01 and 21.03 of the Tamil Nadu Electricity Supply Code 2004 fully empower the Board to exact a surcharge on any outstanding civil compensation billed separately.

(iii) The learned Single Judge erred fundamentally in deleting a statutory interest component on sympathetical grounds, which disrupts the commercial revenue of the State distribution licensee.

4. We have considered the submissions advanced, scrutinized the statutory provisions invoked, and parsed through the records of the case.

5. It is a settled position of law that an acquittal in a criminal court does not *ipso facto* insulate a consumer from civil liabilities arising out of the unauthorized abstraction of energy. The standards of proof differ fundamentally. However, when examining the propriety of a statutory surcharge, a constitutional court cannot blind itself to the realities of a protracted litigation timeline.

6. In the case at hand, the original assessment order passed in 2001 was a legal nullity, as recognized by this Court in 2010,

when it was quashed for violating the basic tenets of natural justice. The quantification of the debt was firmly crystallized only via the fresh assessment order dated 19.09.2013. To demand a penal surcharge at a rate of 18% retrospectively from the year 2000 up to 2013, a period during which the consumer was successfully litigating against an invalid administrative action, is arbitrary and unconscionable.

7. Regulation 21.03 undoubtedly allows the charging of interest on uncleared separate bills. Yet, such provisions cannot be utilized to impose a financial penalty that turns a regulatory cost-recovery mechanism into a profiteering enterprise. The primary purpose of the surcharge is to compensate the distribution licensee for the time-value of delayed revenue. In the present case the principal loss stood at Rs.6,73,428/-. The respondents paid every single rupee of this principal sum by May 2015. Over and above the principal, the Board has received an additional sum of Rs.5,00,000/- towards interest or compensation. This additional payment represents nearly 74% of the principal amount paid purely as interest and compensation. We find that this volume of recovery

sufficiently indemnifies the appellant/Board for the delayed realization of its revenue.

8. The learned Single Judge has chosen a pragmatic middle path. Rather than allowing the respondents to walk away completely free of interest on account of their criminal acquittal, the writ court preserved the principal and awarded a consolidated sum of Rs.5 Lakhs toward interest. This approach of the writ court, in our considered view, represents a pragmatic mechanism to finally conclude a 26-year-old dispute. We find no error or perversity in the judgment delivered by the learned Single Judge.

As a sequel, the writ appeal is dismissed. The impugned order dated 25.11.2025 passed by the learned Single Judge is hereby affirmed. There shall be no order as to costs. Conseqeuently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
29.06.2026

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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