



W.P.(MD)Nos.6654 of 2010 and 10495 of 2014

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON : 21.02.2023

DELIVERED ON : 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.6654 of 2010 and 10495 of 2014
and M.P(M.D).No.2 of 2014

W.P.(MD)No.6654 of 2010

S.Muralidharan
M/s.Parks Chemicals,
Door No.4/126/4, Sevalur,
Katangulam Village,
Tuticorin Taluk,
Tuticorin District.

... Petitioner

vs.

1.The Executive Engineer (Distribution)/Rural,
Tamil Nadu Electricity Board,
Tuticorin.

2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai – 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for



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WEB COPY issuance of a Writ of Certiorari, to call for the records of the 1st respondent in

Lr.No.EE/V/U/TTU/UV/D.No.A.530/10 dated 13.4.2010, and quash the same.

For Petitioner : Mr.C.S.Krishnamoorthy, Senior Counsel
for Mr.Sivanchandran
For Respondents : Mr.S.Deenadhayalana
Standing Counsel

W.P.(MD)No.10495 of 2014

S.Muralidharan
Door No.8515/12,
Subbiah Mudhaliyar Puram,
3rd Street, Tuticorin.

... Petitioner

vs.

1.The Executive Engineer
TANGEDCO/TNEB (Rural),
Tuticorin Distribution Circle,
Tuticorin - 2.

2.The Superintending Engineer (Distribution),
TANGEDCO/TNEB,
Tuticorin Distribution Circle,
Tuticorin – 2.

... Respondents

For Petitioner : Mr.C.S.Krishnamoorthy, Senior Counsel
for Mr.P.Thiagarajan
For Respondents : Mr.S.Deenadhayalan
Standing Counsel

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the 1st respondent in



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letter No.Exe.Engineer/Distribution/Rural/Tuticorin Vo.Va/Ko. KA/ A.No.1362/1 dated 23.09.2013, and quash the same.

COMMON ORDER

The petitioner being the proprietor of M/s.Parks Chemicals was a consumer under the respondents having been provided with a High Tension service connection with permitted demand of 365 KVA.

2.The first respondent alleged that there is a theft of energy which is punishable under the provisions of the Electricity Act, for which a Provisional Assessment Order estimating a loss for a sum of Rs.76,79,145/- was issued. Thereafter, a Final Assessment Order was also issued which is subject matter of W.P.No.6654 of 2010. Pending this writ petition, the due under the Final Assessment Order was directed to be included in the domestic service connection of the petitioner by order dated 23.09.2013, which had been challenged by the petitioner in W.P.No.10495 of 2014.

3.Heard Mr.C.S.Krishnamoorthy, learned Senior Counsel, appearing for Mr.Sivanchandran, learned counsel for the petitioner in W.P.No.6654 of 2010 and



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WEB COPY for Mr.P.Thiagarajan, learned counsel for the petitioner in W.P.No.10495 of 2014 and Mr.S.Deenadhayalan, learned standing counsel for the respondents in both the writ petitions.

4.Mr.C.S.Krishamoorthy, learned Senior Counsel would submit that the petitioner had originally been a proprietor of Parks Chemicals involved in the manufacture of carbide. He had availed a High Tension service connection in service connection No.236 with a permitted demand of 365 KVA and has been regularly remitting the current consumption charges. While that be so, on 27.02.2010, the first respondent had issued a Provisional Assessment Order claiming a sum of Rs.76,79,145/-. The said demand has been made based upon the inspection note issued by the Assistant Executive Engineer and the Assistant Engineer. The petitioner was forced to pay an amount of Rs.18,25,000/- towards compounding of offences. Immediately on receipt of the Provisional Assessment Order, the petitioner had submitted a detailed objection. He had also questioned the issuance of notice to one Kalidass who was alleged to be the Manager working under the petitioner. He would contend that there was no recording of any foul play by the inspection team. He would also submit that there was no

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5.He would further submit that the assessment period viz., between 06.08.2009 and 27.02.2010 is also without any basis and therefore, the calculations arrived at by the first respondent is wholly erroneous. He would also submit that when the seal was broke-open during the inspection on 26.02.2010 and the same has been resealed and it was certified to be ok. When that be so, the allegation of theft is a figment of imagination of the first respondent for the reasons best known to him. He would further submit that once the alleged theft has been compounded, there is no question of any civil liability whereby the petitioner would have to pay for the alleged consumption charges as claimed in the order impugned in the writ petition. He would further submit that the inspection, the Provisional Assessment Order and the Final Assessment Order were passed by the same Authority and therefore, there has been procedural violation committed by the respondents and therefore on that ground alone, the order impugned in W.P.No.6654 of 2010 should be set aside. He would further submit that the levy had been made mechanically.

6.He would submit that the Authority had not considered the objection



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raised by the petitioner to the Provisional Assessment Order and had passed the Final Assessment Order without any reasoning as to why the objections raised by the petitioner should be rejected. He would further submit that the Authorities have not conducted any proper enquiry. He would also further submit that only the Special Court under the provisions of the Indian Electricity Act has the power to determine the amount and the Authorities under the Electricity Board have no power whatsoever to assess the alleged damages. He would also further submit that the respondents had no Authority to club the demand made under the Final Assessment Order in respect of High Tension service connection to the domestic service connection of the petitioner. He would submit that the provisions under Section 36 relating to clubbing of the earlier dues belonging to one person to another service connection held by the same person would only contemplate and apply to the dues viz., the charges of the electricity.

7. According to him, the petitioner had already paid the charges due for the supply of electricity in respect of High Tension service connection, and what is demanded under the Final Assessment Order is on the basis of allegation of theft of energy against which matter is subjudice before this Court in the other writ petition. He would further contend that the dues could only be recovered as per



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the provisions of the Tamil Nadu Electricity Board (Recovery of Dues) Act, 1978.

Therefore, he would submit that the clubbing of the demand under High Tension service connection to the domestic service connection is also without any authority.

8.He would heavily rely upon a judgment of the Division Bench of this Court in W.A.No.646 of 2003 dated 23.02.2007 to contend that the Authority does not have the power to include the charges in one service connection to the other. He also relied upon a similar judgment of this Court dated 08.03.2017 made in W.P.(MD)No.2155 of 2017 and contend that they should have to initiate separate proceedings for recovery of dues but cannot include the dues of one connection that too a commercial connection to the domestic connection. On the same line, he would also rely upon another judgment of this Court in W.P.No.311 of 2022 dated 22.06.2022.

9.In reply, Mr.S.Deenadhayalan, learned standing counsel would submit that the entire contention of the petitioner, according to him, is without any merits



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and is contrary to the well established provisions of the Indian Electricity Act and the Supply Code. He would at the outset submit that the writ petition itself is not maintainable as against the Final Assessment Order, as there is statutory appellate remedy, without exhausting the same the petitioner had approached this Court. He would further contend that the submissions made by the learned Senior Counsel as regards that the assessment made by the Authority viz., the Executive Engineer is without any basis, according to him, is contrary to the facts. The first respondent after detailed analysis of various aspects had passed the impugned Final Assessment Order.

10.He would further submit that the contentions raised regarding that when the offence had been compounded, the Authority do not have any power to make the order of Provisional Assessment and further proceed with Final Assessment, he would submit that the said argument is contrary to the provisions of the Electricity Act. He would submit that under the Electricity Act when a theft of energy is deducted, the consumer is liable to be prosecuted as well as being assessed for the value of the energy which had been unauthorizedly utilized by the consumer. The compounding of the offence would only mean that the



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consumer would wriggle out from facing a criminal prosecution against him whereas it will not absolve the consumer from the statutory assessment.

11.He would further contend that the claim of the learned Senior Counsel that only the current consumption dues could be added to another account is also without appreciating the fact that what has been assessed is the dues for the electricity that the consumer had unauthorizedly consumed. Therefore, according to him, even if the contention of the learned Senior Counsel is to be accepted, then the Final Assessment Order, which is authorized, could be added to the other service connection of the petitioner. He would further submit that the judgments relied upon by the learned Senior Counsel would not be applicable to the facts and circumstance of the case as they were all judgments rendered in a case where the property was sold and the charges of the previous owner were sought to be levied on the new owner.

12.Therefore, the principle laid down in those judgments could not be applied to the facts of the instant case. He further relied upon a judgment of this



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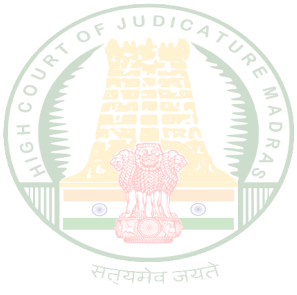
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Court in W.A.(MD)Nos.332 and 336 of 2012 dated 04.01.2023 and would submit that if a consumer is aggrieved against the Assessment Order under Section 126, the consumer shall challenge the same before the Appellate Authority under Section 127 of the Act. Relying upon the said judgment, he would further submit that the Assessment Order under Section 127 of the Electricity Act is independent of the prosecution under Section 154 of the Act. In this case, he would contend that the petitioner compounded and hence that there is no question of any prosecution against the petitioner which could be adjudicated upon by a Special Court under Section 154. He would also rely upon a judgment of the Hon'ble Apex Court in *West Bengal State Electricity Distribution Company Ltd. & Ors. vs. M/s.Orion Metal Pvt. Ltd. & Anr.* reported in *2019 0 Supreme (SC) 906*.

13.I have considered the rival submissions made by the learned appearing on either side and perused the materials available on record.

14.The petitioner had been issued with the Provisional Assessment Order alleging theft of energy by communication dated 27.02.2010. Pursuant to the Provisional Assessment Order, the petitioner had submitted a detailed objection to the said order and therefore, the Final Assessment Order came to be passed in

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15.Learned Senior Counsel had vehemently contended at the outset that the entire proceedings initiated by the respondent is without any authority. The reasons assigned by the learned Senior Counsel firstly is that the petitioner had compounded the offence and secondly for assessing under the provisions of the Electricity Act this only a Special Court could make the assessment.



WEB COPY 16. For better appreciation, the relevant provisions are extracted hereunder:

Section 126: (Assessment):

(1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

[(3) The person, on whom an order has been served under sub- section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by such person.]

(4) Any person served with the order of provisional



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assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:

[***]

[(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.]

(6) The assessment under this section shall be made at a rate equal to [twice] the tariff applicable for the relevant category of services specified in sub-section (5).

Section 127. (Appeal to Appellate Authority):

(1) Any person aggrieved by the final order made under section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed.



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(2) *No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to [half of the assessed amount] is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.*

(3) *The appellate authority referred to in sub-section (1) shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.*

(4) *The order of the appellate authority referred to in sub-section (1) passed under sub-section (3) shall be final.*

(5) *No appeal shall lie to the appellate authority referred to in sub-section (1) against the final order made with the consent of the parties.*

(6) *When a person defaults in making payment of assessed amount, he, in addition to the assessed amount shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen per cent, per annum compounded every six months.*

Section 135. (Theft of Electricity):

[(1) Whoever, dishonestly, --



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(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,

(d) uses electricity through a tampered meter; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:



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Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use -

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting



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Provided also that if it is proved that any artificial means or means not authorized by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee or supplier, as authorized for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection:



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Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.]

(2) [Any officer of the licensee or supplier as the case may be,] authorized in this behalf by the State Government may --

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity [has been or is being,] used unauthorisedly;

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, or is being, used for unauthorized use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.



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(3) *The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:*

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) *The provisions of the Code of Criminal Procedure, 1973, (2 of 1974), relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.*

Section 152. (Compounding of offences):

(1) *Notwithstanding anything contained in the Code of Criminal Procedure 1973, (2 of 1974), the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:*

TABLE

Nature of service



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Rate at which the sum of money for Compounding to be collected per Kilowatt(KW)/Horse Power(HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere(KVA) of contracted demand for High Tension (HT)

(1)	(2)
1. Industrial Service	twenty thousand rupees;
2. Commercial Service	ten thousand rupees;
3. Agricultural Service	two thousand rupees;
4. Other Services	four thousand rupees:

Provided that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the



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Appropriate Government or an officer empowered in this behalf empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

Section 154. (Procedure and power of Special Court):

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), every offence punishable under [sections 135 to 140 and section 150] shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any Court in the course of any inquiry or trial that an offence punishable under [sections 135 to 140 and section 150] in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act :

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any



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Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

(3) The Special Court may, notwithstanding anything contained in subsection (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973, (2 of 1974), try the offence referred to in [sections 135 to 140 and section 150] in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial :

Provided that where in the course of a summary trial under this subsection, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:



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Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973, (2 of 1974), be deemed to have been tendered under section 307 thereof.

(5) The [Special Court shall] determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of Civil Court.

(6) In case the civil liability so determined finally by the



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Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

17. In the present case, the petitioner admits that he had compounded the offence on 27.02.2010 itself. A compounding of an offence would mean that the person concerned has accepted commission of an offence. Sub Section (3) of Section 152 provides for a deeming acquittal within the meaning of Section 300 Cr.P.C He agreed to compound the offence, in my view cannot be accepted, the Electricity Act only to protect the gullible consumer had vested that the powers with the Special Court to be constituted for the purpose to not only deal with the criminal liability of the consumer but also to go into the civil liability of the consumer. Had the petitioner being a bonafide person, he could have contested



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the proceedings initiated against him and could have appraised the Special Court and got himself acquitted and also got himself released from the civil liability.

18.The further contention of the learned Senior Counsel for the petitioner is that the assessment ought not to have been made by the first respondent, such power is vested with the Special Court is again without any merits. The reason for which I arrive at such a conclusion is from the provisions of the Electricity Act extracted supra. The consumer who is alleged to have committed theft of energy is liable to be proceeded under Section 126, 135 as well as under Section 154. The power under Section 126 is vested with the Electricity Authorities for arriving at an assessment originally provisionally made and based upon an objection to the provisional assessment a final assessment is made. The consumer is also liable for prosecution. These are two different procedures. What the learned Senior Counsel wants me to do is to mix up the provisions which, I am not inclined to do and I am also supported by a judgment of the Division Bench relied upon by the learned standing counsel for the respondent in W.A.(MD)Nos.332 and 336 of 2012.

This Court and the Hon'ble Supreme Court have held

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that the assessment order passed by the respondents under Section 126 of the Electricity Act is independent of the prosecution under Section 154 of the Act. If the consumer is aggrieved by the final assessment order made Section 126, he can challenge the order before the appellate authority under Section 127 of the Act. The Act further provides that in the event of the Special Court determining the liability for theft of energy and if the liability so determined by the Special Court is lesser than the amount deposited by the consumer pursuant to the assessment order, the excess amount deposited by the consumer shall be refunded to him. Therefore, we are of the view that neither the assessment order nor the final impugned notice can be faulted on the ground that they have no powers until the Special Court determines the liability. The respondents have independent powers to make the assessment and they need not await the final determination by the Special Court as held by the judgment of the Hon'ble Supreme Court.

19. In view of the aforesaid judgment, the arguments made by the learned Senior Counsel are without any merit and are liable to be rejected.

20. It is pertinent to note that Section 152 Subsection (3) deems that an compounding of an offence shall be an acquittal within the meaning of Section



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300 of Criminal Procedure Code. The Criminal Procedure Code under Section 320 provides for compounding of an offence given under the table to the said provisions. The judgements relied upon by the learned Senior Counsel as to the effect of acquittal all relates to an offence compounded by invoking the provision of Section 320. Section 152 (3) deems an acquittal insofar as it relates to Section 300. Section 300 of Criminal Procedure Code mandates that a person once convicted or acquitted of an offence should not be tried for the same offence. Section 300 of the Criminal Procedure Code could be traced to Article 20 Sub Clause (2) of the Constitution of India which mandates that “*no person shall be prosecuted and punished for the same offence more than once*”. this is a rule against double jeopardy. Section 300 of Criminal Procedure Code incorporates the principal of autre fois acquit which means that no one shall be punished or put in peril twice for the same offence. The basic principal of Section 300 of Criminal Procedure Code is that there must have been a trial of the accused for an offence charged against him, that the trial must have been by a Court of competent jurisdiction and there must have been a judgment or an order of acquittal. In stricto sensu, the said provision has interpreted by various Courts is not applicable to the present facts of the case. The object with which Section 152



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(3) of the Electricity Act has been made is only a benefit that had been vested with an offender as one time measure from being proceeded with under Section 135 of the Act. Therefore, the contention of the learned Senior Counsel that once he had been acquitted, he is absolved from all the offences in parimateria with Section 320 of Criminal Procedure Code is without any merits.

21. The further contention of the learned Senior Counsel that in respect of a service connection could not be added to the dues of other service connection as claimed by the respondent is not a due on the charges of electricity, as the alleged demand from the earlier service connection is a demand on the alleged theft of energy and not on the actual charges. The reliance placed upon by the learned Senior Counsel in respect of his contention as rightly pointed out by the learned counsel for the respondent would not be applicable to the facts of the case. Such invocation of power had been challenged by the subsequent purchaser of the property and not by the person against whom the dues were raised. It would be relevant to look into the provision dealing with the issue.



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Electricity Supply Code is extracted hereunder:

Where any consumer has more than one service connection, if the defaults in the payment of dues relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid notwithstanding the fact that the service connections are covered under separate agreements.

23.The said Rule provides for taking an action against another service connection of the concerned person in respect of dues of another service connection of the same person. The contention of the learned Senior Counsel that the claim of the respondent are not the dues of earlier service connection but are the charges from the alleged unauthorized use/theft of energy. Therefore, he had contented that this is not a due as contemplated under Rule 17(8) of the Supply Code. I am afraid that such a contention if is allowed to be accepted then, it will

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give raise to the offenders to escape his liability from making good the loss in public exchequer had suffered. Once it is assessed and found that a person who had been provided with service had committed an illegality then, he is liable to pay the charges based on the assessment under the Electricity Act. The said charges are for the unauthorized use of electricity which could only be termed as dues relating to the service connection which can be fastened with other service connection. Therefore, the contention of the learned Senior Counsel is rejected.

24.In fine, I do not find any infirmity in the orders passed by the first respondent dated 13.04.2010 and 23.09.2013 and accordingly, the writ petitions are dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

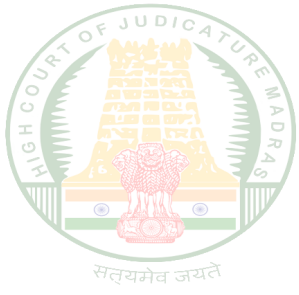
27.04.2023

Index : Yes / No
Speaking : Yes / No
pam

To

1.The Executive Engineer (Distribution)/Rural,
Tamil Nadu Electricity Board,
Tuticorin.

30/32

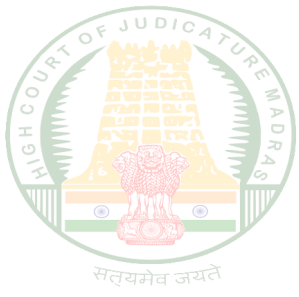


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- 2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai – 600 002.

- 3.The Superintending Engineer (Distribution),
TANGEDCO/TNEB,
Tuticorin Distribution Circle,
Tuticorin – 2.



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K.KUMARESH BABU, J.

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common order in
**W.P.(MD)Nos.6654 of 2010
and 10495 of 2014**

27.04.2023