

(2013) 06 MAD CK 0242

In the Madras High Court

Case No : Writ Petition No. 16659 of 2013 and M.P. No's. 1 and 2 of 2013

Fuso Glass India Pvt. Ltd.

APPELLANT

Vs

Superintending Engineer and Another

RESPONDENT

Date of Decision : 21-06-2013

Acts Referred:

Citation : (2013) 5 MLJ 831

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : T.V. Lakshmanan, for the Appellant; P. Gunaraj for TNEB, for the Respondent

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—With the consent of both parties, the writ petition itself is taken up for final disposal. Heard both sides.

2. The petitioner is a High Tension consumer. The first respondent issued the impugned order dated 22.4.2013, directing the petitioner to pay Additional Current Consumption Deposit of Rs. 7,02,283/-. The petitioner has filed the writ petition seeking to quash the same.

3. The learned counsel for the petitioner has raised two contentions. The first contention is that Regulation 5(5)(i) of the Tamil Nadu Electricity Supply Code contemplates that the "adequacy of security deposit may be reviewed and refixed once in a year in the case of HT Consumers" and therefore, it is not mandatory for the first respondent to review once in a year, since the word "shall" is not used. Regulation 5(5)(i) of the Tamil Nadu Electricity Supply Code reads as follows:

The adequacy of security deposit may be reviewed and refixed once in a year in case of HT consumers and once in every two years in case of LT Consumers taking into account the interest due for credit. Such reviews shall be made in the month of April/May. The rate of interest on the security deposit shall be on the

basis of the Commission's directive to the licensees in this regard.

4. I am not in agreement with the submission made by the learned counsel for the petitioner. In my view, the word "may" that is occurring in Clause 5(5)(i) shall be read as "shall". The security deposit has nexus with the consumption charges. Hence, the review has to be done once in a year and that could be the proper interpretation of the clause.

5. The second contention is that the impugned order is passed contrary to Clause 5(5)(ii)(a) of the Tamil Nadu Electricity Supply Code. Clause 5(5)(ii)(a) reads as follows:

The adequacy of security deposit shall be based on the periodicity of billing for the respective category.

(a) For the categories of consumer under monthly billing, the security deposit is equivalent to two times of the monthly average of the electricity charges for the preceding twelve months prior to April.

6. The grievance of the petitioner is that while the security deposit that has to be calculated shall be equivalent to two times of the monthly average of the electricity charges, the first respondent has committed error in taking the highest consumption charges. It is submitted that the first respondent should have taken the average consumption charges of twelve months viz., the consumption charges of all the twelve months should be added and divided by 12 and thereafter, it should be multiplied by two to arrive at the figure under this clause.

7. I am in agreement with the second contention raised by the learned counsel for the petitioner. A perusal of the impugned order would show that the first respondent has taken the highest monthly consumption charges and the same is multiplied by two. Hence, the impugned order is liable to be set aside.

8. Accordingly, the impugned order is quashed and the matter is remitted back to the first respondent to pass fresh order in accordance with Clause 5(5)(ii)(a) of the Tamil Nadu Electricity Supply Code, within a period of two weeks from the date of receipt of a copy of this order. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.