

(2010) 07 MAD CK 0363

In the Madras High Court

Case No : Writ Petition No. 18900 of 2000

V.M. Prabakaran

APPELLANT

Vs

Executive Engineer, The Assistant Engineer and The Assistant
Accounts Officer, Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 16-07-2010

Acts Referred:

Citation : (2010) 07 MAD CK 0363

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Advocate : S.G. Jeremiah, for the Appellant; P. Srinivas, for the Respondent

Final Decision : Dismissed

Judgement

S. Nagamuthu, J.—The Petitioner is the Proprietor of Hari Water Service, having its business at Gandhi Road-6, Arakkonam Taluk, Vellore District. The said unit was registered as a Small Scale Tiny Unit by the District Industries Centre, Directorate of Industries, Government of Tamil Nadu, by its proceedings in D. Dis. No. 237/D2/98. The only activity going on in the said unit is water servicing the automobile vehicles. A permanent registration certificate for the same was issued by the District Industries Centre by order dated 12.06.1998. The Petitioner unit has got electricity service connection under Service connection No. I3598/G from the Tamil Nadu Electricity Board. From its inception, the electricity charges were collected for the said service connection as per Low Tension Tariff III-B as per the Tamil Nadu Revision of Tariff Rates on supply of Electrical Energy Act 1978 (Tamil Nadu Act 1 of 1979) as amended with effect from 07.01.2000.

2. While so, the second Respondent by his proceedings in Lr. No. AE/O&M/T/AK/F. Audit/ A424/2000 dated 10.10.2000 has converted the tariff from Low Tension Tariff No. III-B to Low Tension Tariff No. V and has directed the Petitioner to pay the differential tariff amount for the period between 20.10.2002 and 15.03.2001. Challenging the same, the Petitioner is before this Court with this writ petition.

3. The main contention of the Petitioner is that the Petitioner, being an industry registered by the District Industries Centre is entitled for Low Tension Tariff No. III-B and therefore, the impugned order covering the tariff to Low Tension Tariff No. V is not correct. But, it is contended by the Respondents that the Petitioner is not an industry and therefore, Low Tension Tariff No. III-B is not applicable to him. Since, it is a commercial activity which is undertaken by the Petitioner, Low Tension Tariff No. V alone is applicable, it is contended.

4. In this regard, it would be worthwhile to refer to the relevant provisions of the tariff Act. As per the same, the following are the tariff for various kinds of consumers:

(i) Low Tension Tariff III-A relates to the following institutions:

Cottage and Tiny Industries, Small Gem Cutting units where Cutting operation is done with or without power, Powerlooms, Sericulture and Flo-riculture:

1. Fixed Charges - Rs. 30 per service per month of Rs. 60 per service for 2 months

PLUS

2. Energy Charges-

a) For consumption upto 250 KWH per month/upto 500 KWH for two months -140 paise per KWH

b) For consumption upto 251 KWH to 750 KWH per month from 501 KWH to 1500 KWH for two months -225 paise per KWH

c) For consumption of 751 KWH and above per month/ 1501 KWH and above for two months -250 paise per KWH Minimum monthly charges - Rs. 30 per service

Provided that the connected load shall not exceed 10 Horse Power. Supply to welding sets will be classified under Low Tension Tariff III B:

(ii) Low Tension Tariff III-B relates to the following institutions:

Coffee grinding, Ice Factory, Body Building Unit, Saw Mill, Rice Mill, Flour Mill, Prawn Framing, Poultry Farming, Battery Charging Unit and Industries not covered under Low Tension Tariff III A:

(iii) Low Tension Tariff V relates to the following institutions:

Commercial and all categories of consumers not covered under Low Tension Tariff IA, IB, IIA, IIB, IIIA, IIIB and IV.

5. A perusal of the above would go to show that if only, the Petitioner is an industry, then the same can fall under Low Tension Tariff III-A or III-B, otherwise, the appropriate tariff would be Low Tension Tariff No. V. Curiously, the term "Industry" has not been defined in the Act.

6. The Learned Counsel for the Respondents would rely on the definition of the term "Industry" as made in the Industries (Development and Regulation) Act, 1951 which would not cover the automobile service station within the ambit of industry.

7. Per contra, the Learned Counsel for the Respondents would submit that as per the definition of the term "Industry" in the Industrial Disputes Act, 1947 an automobile service station is an industry and therefore, it is entitled for tariff under the tariff III-B.

8. As I have already stated, the Tamil Nadu Revision of Tariff Rates on supply of electrical Energy Act, 1978 is silent and it is not defined therein as to what is an industry. The definition of the term "Industry" as made in the Industrial Disputes Act, as well as in the Industries (Development and Regulation) Act, 1951 cannot be imported to the present case sine those definitions are for the purpose of that relevant enactment.

9. Therefore, this Court has to fall back on dictionary meaning of the word "Industry" as found in various dictionaries and as per the understanding of the term "Industry" in the common parlance. In the concise Oxford Dictionary, 10th Edition, the meaning to the term "Industry" is as follows:

industry n.(pl.-ies) 1 economic activity concerned with the processing of raw materials and manufacture of goods in factories. A particular brach of economic or commercial activity: the tourist industry. 2. hard work: the kitchen became a hive of industry.

10. In Black's Dictionary, the meaning given to the term "Industry" is as follows:

industry. 1 . Diligence in the performance of a task. 2. Systematic labor for some useful purpose; esp., work in manufacturing or production. 3.A particular form or branch of productive labor; an aggregate of enterprises employing similar production and marketing facilities to produce items having markedly similar characteristics.

11. From the above, it can be easily understood that the term "Industry" means that it is a place where either processing of raw material takes place or manufacturing activity is undertaken. In my considered opinion, that is the understanding of the term "Industry" in parlance also. Admittedly, in an automobile water service station, there is neither processing of raw material nor any manufacturing activity is undertaken. Therefore, surely, such automobile water service station cannot be termed as "Industry" at all. Therefore, the Petitioner's unit is not entitled for tariff under Low Tension Tariff No. III-B.

12. A look into the Low Tension Tariff No. V would go to show that it is applicable to a unit which undertakes a commercial activity. Here, in this case, there can be no dispute that the Petitioner is doing a commercial activity in the unit and therefore, Low Tension Tariff No. V alone is applicable to the Petitioner unit.

13. The Learned Counsel for the Petitioner would submit that all along the Tamil Nadu Electricity Board treated such automobile water service stations only as industries and that is why, not only for the Petitioner's unit but for similar units throughout the State, the tariff was fixed at Low Tension Tariff No. M-B. Therefore, according to the Learned Counsel, there can be no reason to suddenly make a shift in the understanding of the said term "Industry". In my considered opinion, the said argument cannot be countenanced at all. It may be true that on account of misunderstanding of the provisions of the tariff Act, the Tamil Nadu Electricity Board would have been all along treating the automobile water service stations as industries, so as to bring the same under the Low Tension Tariff No. III-B. When they have now realised the mistake, there is nothing wrong on their part in converting the tariff thereby bringing the same under the proper tariff rate.

14. In view of all the above, I find no merit in the writ petition. Writ petition fails and accordingly the same is dismissed. No costs.

15. It is brought to the notice of this Court by the Learned Counsel for the Petitioner that on account of an interim order granted by this Court in this writ petition, the Petitioner has been paying all along 50% of the demand. In view of the present order, the Respondent may collect the balance of 50% of the arrears amount in installments as the Respondents may deem it fit and proper.