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W.A.No.975 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.04.2026

DELIVERED ON : 30.04.2026

CORAM :

THE HONOURABLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.975 of 2026
and C.M.P.No.10080 of 2026

M/s.Sri Krishna Alloys,
Rep. by its Partner N.Anbalangan,
262/1B-3, Manjakkalpatty Village,
Akkampet Post, Sankari - 637 301.

.. Appellant(s)

Vs

1.The Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam-1

2.The Superintending Engineer (Metro),
Tamil Nadu Electricity Board,
Coimbatore Electricity Distribution Circle,
Coimbatore.

.. Respondent(s)

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2025 passed by the learned Single Judge in W.P.No.17976 of 2024.

For Appellant(s):

Mr.R.Parthasarathy
Senior Counsel
for Mr.A.S.Balaji



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W.A.No.975 of 2026

For Respondent(s):

Mr.P.Wilson
Senior Counsel
for Mr.I.Syed Sibghatulla
Standing Counsel for R1 and R2

JUDGMENT

G.ARUL MURUGAN, J.

This intra-court appeal is filed challenging the order of the writ court dated 09.06.2025 in W.P.No.17976 of 2024, whereby the challenge to the assessment notice dated 12.04.2023 directing the appellant to pay a sum of Rs.4,18,77,084/- came to be rejected.

2. The appeal has a chequered history and shorn of unnecessary details, the relevant facts are as follows;

2.1. The appellant Industry is running a steel rolling unit. The Industry was provided with high tension power supply in HTSC No.110 by the respondent Board in the year 1992. The officials of the respondent Board conducted a surprise check on 06.05.2003 and found that the electronic meter was tampered.



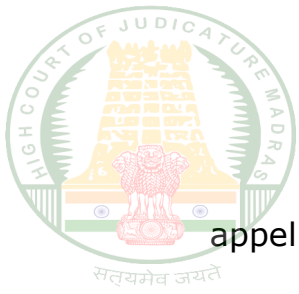
W.A.No.975 of 2026

WEB COPY

2.2. Based on the complaint given by the respondent Board, an FIR in Crime No.459 of 2003 came to be registered for theft of electricity. Apart from registering the criminal case, the respondent Board proceeded to assess the loss. The appellant had filed atleast 4 writ petitions in respect of the assessment and levy of the liability, thereby ensuring that the proceedings are protracted at every stage.

2.3. The 1st writ petition in W.P.No.19852 of 2003 was filed by the appellant challenging the communication dated 10.07.2003 for furnishing the relevant records, which was positively disposed of and the records were furnished. The 2nd writ petition in W.P.No.24848 of 2003 was filed by the appellant seeking for change of an enquiry officer. The same was also positively disposed of and the enquiry officer was changed.

2.4. The 3rd writ petition was filed by the appellant in W.P.No.32341 of 2003 challenging the communication dated 28.10.2003, which was disposed of on 31.12.2019 permitting to proceed with the enquiry after upholding the jurisdiction of the 2nd respondent herein to adjudicate on the alleged theft of energy. The



W.A.No.975 of 2026

appellant had filed W.A.No.2940 of 2021 challenging the order passed in the 3rd writ petition dated 31.12.2019, which came to be dismissed by the Division Bench of this Court on 07.06.2024.

2.5. Thereafter the 4th writ petition was filed by the appellant in W.P.No.17976 of 2024 challenging the assessment in levying a sum of Rs.4,18,77,084/-, which came to be dismissed through the impugned order of the writ court dated 09.06.2025. Now, the dismissal of the writ petition challenging the order of assessment is assailed in the present writ appeal.

3. The writ court had observed that the appellant had successfully pulled on the case for more than 20 years, whereby presently the liability has accumulated to nearly 20 crores and the respondent Board was not able to recover even a single rupee from the appellant. The writ court while dismissing the writ petition had also lamented upon the attitude of the appellant by observing that the conduct was not proper.

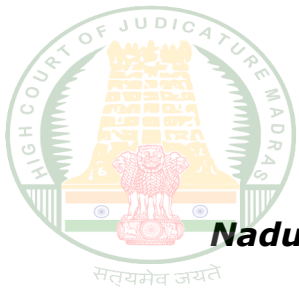
4. The learned Senior Counsel for the appellant mainly contended that the assessment order cannot be sustained as the civil



W.A.No.975 of 2026

liability cannot be fixed by the 2nd respondent Board. Pursuant to the enactment of the Electricity Act, 2003 [hereinafter referred to as "the Act"], as per Section 151 of the Act, a Special Court constituted by the Government would be the competent authority to decide the case in respect of any theft of energy and as per Section 154(5), the Special Court shall determine the civil liability also against a consumer for theft of energy. It is his further contention that when the criminal case registered for theft of energy has been transferred to a Special Court and is pending, the Special Court alone has the power to determine the civil liability under Section 154(5), and therefore the impugned assessment order made by the respondent Board and confirmed by the writ court is illegal, unsustainable and without jurisdiction.

5. The learned Senior Counsel further submitted that no proper enquiry was conducted by affording a reasonable opportunity, and the impugned assessment was passed while the writ appeal was pending, which is arbitrary and unsustainable. In support of his contentions, the learned Senior Counsel relied on the decision of the Hon'ble Supreme Court in the case of **Gujarat Urja Vikas Nigam Ltd., v. Essar Power Ltd.** reported in **(2008) 4 SCC 755** and the decision of the Division Bench of this Court in the case of **The Chairman, Tamil**



W.A.No.975 of 2026

Nadu Electricity Board & others v. A.R.Metallurgicals Private

Limited reported in **2016 Writ L.R. 851.**

WEB COPY

6. Per contra, the learned Senior Counsel for the respondent Board argued that the appellant had successfully protracted the payment of assessment towards theft of energy for more than 2 decades by filing one case after another and abusing the process of the court.

7. The learned Senior Counsel further submitted that when the very same argument raised regarding the jurisdiction of the authority was decided, holding that the respondents had jurisdiction to decide the liability and confirmed in writ appeal, the present challenge made is hit by res judicata. In support of his contentions, the learned Senior Counsel relied on the decision of the Division Bench of this Court in **W.A.No.1808 of 2009 dated 08.04.2019 [M/s.Emkay Alloys (P) Ltd. v. The Executive Engineer].**

8. Heard the rival submissions and considered the materials available on record.



W.A.No.975 of 2026

9. The appellant, a steel rolling Industry, was provided with high tension power supply in HTSC No.110 by the respondent Board in the year 1992. Pursuant to a surprise inspection conducted by the officials of the respondent Board on 06.05.2023, they found the electronic meter was tampered and there was theft of electricity. In this regard, a complaint was lodged by the respondent Board and FIR in Crime No.459 of 2003 was registered against the partners of the appellant Industry.

10. The respondent Board, inspite of taking all efforts to assess and levy the liability of the appellant for the theft of energy, was not able to recover even a single rupee for more than two decades in view of the protracted proceedings undertaken by the appellant, filing at least 4 writ petitions and 2 writ appeals.

11. As referred above, the writ court had commented upon the attitude and conduct of the appellant, where the respondent Board was not able to recover even a single rupee from the appellant when the theft of energy was assessed at Rs.4,18,77,084/-, which presently accumulated to more than 20 crores, causing a huge loss to the respondent Board.



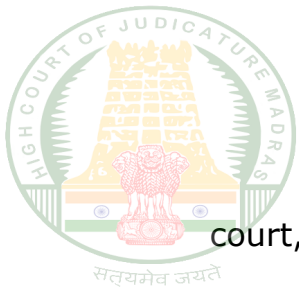
W.A.No.975 of 2026

WEB COPY

12. The sum and substance of the challenge in this appeal is the power and jurisdiction of the respondent Board to assess the liability in view of Section 154(5) of the Act.

13. In this regard, when the theft of energy was detected in the surprise inspection conducted on 06.05.2003, the respondent Board initiated proceedings to assess the liability. When a communication dated 10.07.2003 for assessing the liability was challenged by the appellant in W.P.No.19582 of 2003, based on the directions issued, the records were furnished. Later, based on the writ petition preferred by the appellant in W.P.No.24848 of 2003, pursuant to the direction issued, the enquiry officer was also changed.

14. A communication dated 28.10.2003 fixing the enquiry on 14.11.2003 was again challenged by the appellant in W.P.No.32341 of 2003. It is to be noted that this writ petition was pending for nearly 16 years and ultimately, the writ petition came to be disposed of by order dated 31.12.2009. The appellant in this writ petition had specifically challenged the jurisdiction of the respondent Board to assess the damages, by relying on Sections 153 and 154(5) of the Act. The writ



W.A.No.975 of 2026

court, after analysing the facts and the provisions of the amended Act, 2003, made the following observations;

"72. The admitted fact was that, the occurrence taken place on 15.05.2003 was well before the 2003 Act came into effect. Even after the Act came in to effect, the Special Court was not immediately constituted and it was constituted only on 05.10.2006 as per G.O.Ms.No. 102, Energy (B.1) Department. Up to 15.06.2007 the word 'may' alone was employed in Section 154(5) of the 2003 Act, thereby it can only be construed that, the determination of civil liability of the consumer can be undertaken by the Special Court, that does not mean that only the Special Court should undertake the adjudicative aspect to fix the civil liability of the consumer.

73. Moreover in this case, had the petitioner not approached this Court one after another by filing series of writ petitions, the issue could have been decided very many years back, i.e., well before the 2007, amendment made in 154(5) of the 2003 Act.

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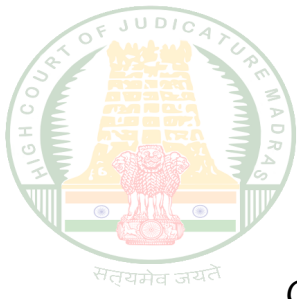
WEB COPY



W.A.No.975 of 2026

78. *The very mandatory effect of deciding the civil liability of a consumer at the hands of the Special Court has come into effect only from 15.06.2007 by virtue of the amendment made in this regard by employing the word 'shall' instead of 'may' in Section 154(5) of the 2003 Act. The said position cannot be visualised prior to the said date. Therefore what has been taken place or occurred in May 2003 cannot be considered to be the occurrence to be decided by the Special Court as has been mandated under Section 154(5) of the Act by the word 'shall' in the said subsection, merely because it came into effect by virtue of amendment only from 15.06.2007. **Therefore the attempt made by the learned Senior counsel appearing, for the petitioner that, once the 2003 Act came into effect and Sections 153 and 154 has been enacted and the Special Court was constituted in the year 2006 and the word 'shall' has been employed in Section 154(5) of the Act in 2007 as of now still the issue is pending, the same shall be decided by the Special Court, cannot be accepted by this Court.***

15. By arriving at such a finding, the writ court ultimately relegated the appellant to submit itself to the authority of the respondent Board under the 1910 Act and face the enquiry in accordance with law and passed the following orders:



WEB COPY



W.A.No.975 of 2026

"83. Resultantly, while disposing the writ petition, this Court passes the following orders :

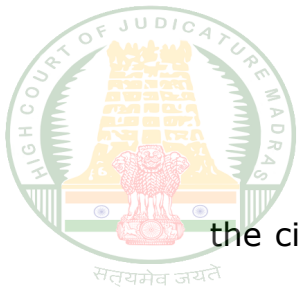
(i) that the impugned order is sustainable, as it does not require to be quashed.

(ii) Since the enquiry date fixed as 14.11.2003 already been gone by, the new enquiry date can be decided by the respondent and due intimation to be communicated to the petitioner.

(iii) The respondent while conducting the enquiry / adjudication shall not rely upon any documents other than what has been supplied to the petitioner.

(iv) The respondent authority is very well entitled to or is having jurisdiction to conduct the enquiry or to adjudicate the issue to find out the civil liability on the petitioner, if any, on the alleged theft of energy case, dated 15.05.2003 and accordingly, such authority can proceed to determine the said issue in accordance with law."

16. The writ court, in the earlier writ petition, upheld the order of the respondent Board by holding that the respondent authority has jurisdiction to conduct the enquiry/to adjudicate the issue to find out



W.A.No.975 of 2026

the civil liability of the appellant, if any, on the alleged theft of energy found by the flying squad on 15.05.2003.

WEB COPY

17. Pursuant to the directions issued in the writ petition, the respondent Board issued atleast four notices to the appellant from 18.11.2020 to 11.08.2022 for hearing and proceeded with the enquiry. The appellant opted not to participate in the enquiry and avail the opportunity. However, the authority based on the materials available concluded the enquiry. Pursuant to which the assessment order dated 12.04.2023 came to be passed, fixing the extra levy payable by the appellant for the stolen energy at Rs.4,18,77,084/-, by annexing a detailed working sheet.

18. In the meantime, though the appellant had challenged the order of the writ court dated 31.12.2019 in W.A.No.2940 of 2021, admittedly no stay was granted from proceeding with the enquiry pending appeal, even though interim protection from disconnection of power supply was granted. The Division Bench of this Court ultimately, by order dated 07.06.2024, dismissed the writ appeal. The Division Bench had recorded that in view of the assessment order dated 12.04.2003, passed after conclusion of the enquiry proceedings, which



W.A.No.975 of 2026

was communicated and acknowledged by the appellant, the purpose of filing the writ appeal had vanished and no further adjudication was required.

19. When, by order of the writ court dated 31.12.2019, it was specifically held that the respondent Board has jurisdiction to conduct enquiry and adjudicate the issue to find out the civil liability based on the facts and circumstances of the case, and when the appellant had challenged the same in the writ appeal, it was for the appellant to have pursued the appeal and invited a decision on merits. Even otherwise, the appellant did not choose to challenge the order passed by the Division Bench dated 07.06.2024 in W.A.No.2940 of 2021 by preferring any appeal.

20. Therefore, the order passed by the writ court upholding the jurisdiction of the respondent Board to assess the liability of the appellant has attained finality. It is also to be noted that when the assessment order fixing the liability at Rs.4,18,77,084/- came to be passed as early as on 12.04.2003, which was communicated and acknowledged by the appellant, the appellant did not choose to assail the assessment till the writ appeal came to be decided on 07.06.2024.



W.A.No.975 of 2026

WEB COPY

21. Now, the learned Senior Counsel for the appellant once again seeks to reopen the issue of jurisdiction already decided against the appellant through the present proceedings by challenging the assessment order. When the very issue of jurisdiction has already been decided, the present challenge is barred by res judicata. The appellant cannot be allowed to reopen the decided issue, which already have attained finality, through the present proceedings.

22. By taking into account these aspects, the learned single Judge had rightly commented upon the attitude of the appellant having successfully pulled on the case for nearly 22 years and the respondent Board was not able to recover even a single rupee, thereby causing huge loss to the respondent Board. The writ court had rightly concluded that the challenge on the ground of jurisdiction was barred by res judicata. The decisions relied on by the learned Senior Counsel for the appellant do not support the specific facts and circumstances of the present case.

23. In view of the above deliberations, we do not find any error or infirmity in the order of the writ court warranting interference.



W.A.No.975 of 2026

Accordingly, the writ appeal is dismissed. There shall be no order as to costs. Consequently, interim applications stand closed.

WEB COPY

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN, J)
30.04.2026

Index : Yes
Neutral Citation : Yes
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To:

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W.A.No.975 of 2026

THE HON'BLE CHIEF JUSTICE
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G.ARUL MURUGAN,J.

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Pre-delivery Judgment made in
W.A.No.975 of 2026

30.04.2026