

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-06-2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.15900 of 2015

and

M.P.No.1 of 2015

M/s.Hallmark Foundations Ltd.,
Rep. By its General Manager
No.35, Developed Plot Estate
Guindy, Chennai 600 032. .. Petitioner

vs

- 1.The Chairman & Managing Director
TANGEDCO
144, Anna Salai, Chennai 600 002
- 2.The Superintending Engineer
TANGEDCO
CEDC/South
110 KV, SS Complex
K.K.Nagar, Chennai 600 078
- 3.Accounts Officer (Revenue)
TANGEDCO
Electricity Distribution Circle - South
Chennai 600 078. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandus calling for the records of the second respondent pertaining to the order bearing letter No.SE/CEDC/South/AEEGL/AEGL/F-Harmonics/D.983/2015 dated 10.4.2015, and quashing the same and consequently forbear the respondents from proceeding in the matter without first conducting a test in the presence of the petitioner, after giving an adequate prior notice to the petitioner.

For Petitioner : Mr.Srinath Sridevan
For Respondent : Mr.P.Gunaraj

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that it is running an I.T. Park within the Small Industrial Development Corporation Developed Plot Estate in Guindy and the I.T. Park is having a sanctioned demand of 750 KVA under Service Connection No.546. The petitioner would state that it is aggrieved by the act of the respondents in taking steps to levy penalty upon the petitioner in respect of a particular electrical phenomenon called "Harmonics", and according to them, it

is sought to be done by the second respondent without any prior notice to them.

3.The petitioner would further state that several Electricity Boards across the country, attempted to levy penalties for consumers, who injected harmonics into electricity grid, and the Central Electricity Authority, taking into consideration the said fact, has framed the CEA (Technical Standards for Connectivity to the Grid) Regulations, 2007, and subsequently, Tamil Nadu Electricity Supply Code was issued by the Tamil Nadu Electricity Regulatory Commission on 21.1.2010, which also provides for levy of harmonics penalty and as per Rule 4(1)(iv) of Notification No.TNERC/SC/7-17 dated 20.1.2010, issued by the Tamil Nadu Electricity Regulatory Commission, additional charges for harmonics dumping can be levied, and the same reads that "Where any equipment installed by a consumer generates harmonics, the consumer shall provide adequate harmonic suppression units to avoid dumping of harmonics into Licensee's distribution system and the Licensee is at liberty to provide suitable metering equipment to measure the harmonic level pursuant to such harmonic. Where the consumer fails to provide such units, shall be liable to pay compensation at such rates as the Commission may declare from time to time."

4.The specific case of the petitioner is that the phenomenon of harmonics itself is something, which is very difficult to pinpoint, and it is generated on account of variety of different conditions and there can be no question of levying any penalty upon a consumer for harmonics, unless and until, it undoubtedly exists and is also not fixed.

5.The grievance expressed by the petitioner, is that the second respondent vide impugned notice dated 10.4.2015, has stated that the petitioner was requested to bring down the harmonics within the limit specified by the CEA before 5.6.2015, and furnish a confirmation report on the same and if the harmonics level is not brought down below the limit before the due date, 15% compensation charges of respective tariff will be levied for the petitioner's HT SC No.546 with effect from 5.6.2015. The petitioner in response to the said notice, submitted it's detailed representation dated 21.5.2015, wherein, it took a specific stand that the harmonics level test was conducted arbitrarily and unilaterally, without any prior intimation or notice, and as a result, only a junior staff member was present during the so called test and he was not competent to clarify the technical issues arising out of the so called test and prayed for conducting another test in their presence, in an equitable manner, after giving prior notice to them. The apprehension expressed by the petitioner, is that in spite of receipt of the response to the impugned notice, further steps are being taken to levy 15% of the compensation charges and hence, the petitioner came forward to file this writ petition challenging the legality of the notice dated 10.4.2015.

6.Mr.Srinath Sridevan, learned Counsel appearing for the petitioner, has drawn the attention of this Court to Clause 6.1 of Suo-Motu Determination of Tariff for Generation and Distribution issued by the Tamil Nadu Electricity Regulatory Commission vide SMT

Order No.9 of 2014 dated 11.12.2014, relating to General Provisions applicable for High Tension Supply, and would submit that Clause 6.1. (ii) deals with harmonics and it would state among other things, that the measurement of harmonics shall be done by the Distribution Licensee using standard meters/equipment in the presence of consumers or their representatives and TANGEDCO shall give three months clear notice to all consumers under these categories stating that they shall pay 15% compensation charges, if the harmonics introduced by their load, is not within the limits set by CEA, and it shall implement the compensation provision after three months period from the date of measurement, if the harmonics measured, is more than the permissible limits and while issuing the impugned notice, the said procedure has been given a complete go-by by the second respondent and hence, prays for interference.

7.The Court heard the submissions of Mr.P.Gunaraj, learned Counsel, who accepted notice for the respondents 1 to 3, and he would submit that all the procedural formalities have been complied with before issuing the impugned notice dated 10.4.2015.

8.This Court has carefully considered the rival submissions and also perused the materials placed before it.

9.Though the petitioner prayed for a larger relief of quashment of the impugned communication dated 10.4.2015, issued by the second respondent, this Court, in the light of the above stated facts and circumstances, directs the second respondent to consider and dispose of the petitioner's reply/response dated 21.5.2015, to the notice dated 10.4.2015, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and till then, defer further decision pursuant to the impugned notice dated 10.4.2015. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To:

1.The Chairman & Managing Director
TANGEDCO
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2.The Superintending Engineer
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3.Accounts Officer (Revenue)
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Electricity Distribution Circle - South
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+1 cc to Mr.P.Gunaraj, Advocate,SR.26966

+1 cc to Mr.Srinath Sridevan, Advocate,sR.27039.

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krd 19/6

W.P.No.15900 of 2015



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