

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.23428 of 2015

and

M.P.No.1 of 2015

Ramprasad Tubes & Bars (P) Limited,
HTSC No.255, 818/1 Samanaickenpalayam,
No.4, Veerapandi P.O., Coimbatore-641 019,
rep. by Manager-Marketing R.Sridaran Petitioner

Vs

1. The Tamil Nadu Electricity Regulatory Commission rep. by its Secretary, 19-A, Rukmini Lakshmipathy Salai (Marshall's Road), Egmore, Chennai-8.
2. The Chairman, Tamil Nadu Generation and Distribution Corporation Limited, 144, Anna Salai, Chennai-600 002.
3. The Chief Engineer Commercial, Tamil Nadu Generation and Distribution Corporation Limited, 144, Anna Salai, Chennai-600 002.
4. The Superintending Engineer, Coimbatore Electricity Distribution Circle/ North, TANGEDCO, Coimbatore. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent in his No.SE/CEDC/N/CBE/AAO/HT/A5/F.AG Audit/d.74/2015, dated 11.06.2015 issued by the 4th respondent, quash the same as illegal, arbitrary, without the authority of law and against the M.P.No.10 of 2012 dated 28.09.2012 issued by the 1st respondent and consequently direct the 4th respondent to give refund/adjustment of the amount already collected from the petitioner.

For Petitioner	: Mr.S.P.Parthasarathy
For Respondents	: Mr.P.H.Aravind Pandian, Additional Advocate General Assisted by Mr.S.K.Raameshwar

O R D E R

The petitioner is a company manufacturing cast iron and SG iron castings having High Tension Electricity Supply to his company. The petitioner is having H.T. Supply with a maximum demand of 2530 K.V.A. to run the industry. The petitioner, after consumption of electricity, has been paying the bill amount very promptly. However, all of a sudden, without any show cause notice, based on AG's Audit Party objection, the petitioner was issued with an impugned excess demand over quota during power holiday period to the tune of Rs.40,74,326/-. The said demand is challenged before this Court.

2. Heard Mr.S.P.Parthasarathy, learned Counsel appearing for the petitioner and Mr.P.H.Aravind Pandian, learned Additional Advocate General assisted by Mr.S.K.Raameshwar, learned Counsel for the respondents.

3. Even though the learned Additional Advocate General would submit that notice was issued to the petitioner before issuance of the impugned order, a perusal of the impugned order would go to show that there is no reference about the issuance of any show cause notice before passing the impugned order. What has been referred to is only AG's Audit Party Audit Enquiry No.1 dated 17.04.2015. Based on the verification of CC Bills by the Audit General, it is found that the non-levy of penalty for exceeding demand quota during power holiday period is to be collected and therefore, the said demand was laid against the petitioner.

4. When the 4th respondent seeks payment of Rs.40,74,326/- as excess demand over quota during power holiday period, there should have been a show cause notice so as to comply with the principles of natural justice. As the records would reflect that no such show cause notice was issued to the petitioner, the impugned order suffers and therefore, the said impugned order is set aside. However, it is open to the 4th respondent to issue a show cause notice and to pass fresh orders after giving opportunity to the petitioner.

5. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

tsi

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
Tamil Nadu Electricity Regulatory
Commission,
19-A, Rukmini Lakshmi pathy Salai
(Marshall's Road), Egmore, Chennai-8.
 2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai-600 002.
 3. The Chief Engineer Commercial,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai-600 002.
 4. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/
North, TANGEDCO, Coimbatore.
- + 1 cc to Mr.S.K.Raameshuwar, Advocate SR 41825
- + 1 cc to Mr.R.S.Pandiyaraj, Advocate SR 41427

gj(co)
prk18/8

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