

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.23981 of 2015

and

M.P.Nos.1 to 3 of 2015

M/s.DCW Limited
Rep. by its Senior General
Manager (Electrical)
358, Anna Salai,
Thousand Lights,
Chennai - 600 006.

... Petitioner

vs.

1. Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
147, Anna Salai,
Chennai - 600 002
Rep. By its Managing Director

2. Chief Financial Controller-Revenue,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.

3. The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
Ettayapuram Road,
Tuticorin - 628 002.

... Respondents

Prayer:- Writ petition filed under Article 226 of the constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the 2nd respondent CFC/Rev/FC/Rev/AS.3/D.214/2015 dt.15.07.2015 and consequential demand of the third respondent in ref SE/TEDC/TTN/AO/REV/AS/WM/F.DCW/D.441/2015 dated 21.7.2015 and quash the same as being arbitrary and illegal and consequently forbear the respondents, their officers, employees, subordinates or any other persons acting or claiming under

them from demanding or collecting any amount towards the accrued Open Access Charges payable by the petitioner without adjusting the same against the payment security deposit lying to the credit of the petitioner's account and refunding the balance forthwith.

For Petitioner : Mr.Rahul Balaji
For Respondents : Mr.P.H.Aravind Pandian,
Additional Advocate General
assisted by
Mr.P.Gunaraj,
Standing Counsel for
Electricity Board

ORDER

The petitioner has come before this Court challenging the order passed by the second respondent as well as the consequential order passed by the third respondent and further forbearing the respondents from demanding or collecting any amount towards the accrued Open Access Charges payable by the petitioner without adjusting the same against the payment security deposit lying to the credit of the petitioner's account and refunding the balance forthwith.

2. The petitioner is engaged in the production of chemicals and also generating powers for his own use and for third parties. The petitioner has deposited a sum of Rs.1,42,10,970/- as three months payment security for sale of power under intra state open access with the respondent. According to the petitioner, the contract with the respondent has come to an end. The respondent raised open access charges of Rs.45,08,850/-and Rs.9,64,115/- from the said amount. However, the same was rejected by the respondent stating that it cannot be deducted and that the petitioner is required to pay the monthly open access charges demanded for the month of May and June 2015 and thereafter only, his request for refund of the security deposit would be considered.

3. Heard Mr.Rahul Balaji, learned counsel appearing for the petitioner and Mr.P.H.Aravind Pandian, learned Additional Advocate General.

4. It is seen that the contract of the petitioner with the respondent has come to an end and therefore retaining the sum of Rs.1,42,10,970/- paid by the petitioner as security deposit is unnecessary. However, the petitioner is duty bound to pay the amount

demanded by the respondent, namely Rs.45,08,850/-and Rs.9,64,115/- towards open access charges for the month of May & June 2015 and thereafter he can demand refund of the security deposit paid by him.

5. In view of the above, the petitioner is directed to pay the monthly open access charges for the month of May & June 2015 amounting to Rs.45,08,850/-and Rs.9,64,115/- respectively, on or before 07.08.2015 as per the demand raised by the respondent. On such deposit, the respondent shall refund the amount of Rs.1,42,10,970/- paid by the petitioner as security deposit, within a period of two weeks thereafter.

6. The writ petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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To

Sub Assistant Registrar

1. The Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
147, Anna Salai,
Chennai - 600 002
2. Chief Financial Controller-Revenue,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
Ettayapuram Road,
Tuticorin - 628 002.

+1cc to M/s.Satish Parasaran, Advocate, S.R.No.40847

+1cc to Mr.P.Gunaraj, Advocate, S.R.No.40530

W.P.No.23981 of 2015

VSN(CO)
CA(19/08/2015)