

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.25298 of 2015

and

M.P.No.1 of 2015

B.Devendra Chopra

...Petitioner

Vs.

1. The Appellate Authority/
Executive Engineer/Operation,
Tamil Nadu Generation and Distribution
Corporation Limited,
Nethimedu,
Salem - 636 002.
2. The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Suramangalam,
Salem - 636 005.

...Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to the order dated 25.07.2015 made in Lr.No.EE/O/SLM/TRANSCO/F.Doc/PR 457/2015 passed by the 1st respondent, quash the same, consequently, direct the 1st respondent to entertain and decide the statutory appeal filed by the petitioner under section 127 (1) of the Electricity Act, 2003 against the final order of assessment made in Lr.No.AEE/O&M/SUR/C.I./F.TOE/D.No.072/15-16 dated 26.06.2015 passed by the second respondent without insisting the pre-conditional deposit of 50% of the amount assessed.

For Petitioner : Mr. N.Manokaran
For Respondents : Mr.S.K.Raameshuwar,
Standing Counsel for TNEB

ORDER

Mr.S.K.Raameshuwar, learned Standing Counsel for TNEB, takes notice for the respondents.

2.The petitioner has been charged for unauthorised using of electricity and compensation of Rs.12,21,806/- has been levied on him. Aggrieved over the same, an appeal has been preferred under section 127 of the Electricity Act. As per section 127 (2) of the Electricity Act 2003, deposit of 50% of the demanded amount is mandatory for filing Appeal. To waive the said mandatory deposit of 50% of the demanded amount, the petitioner has come forward before this Court challenging the order refusing to entertain the appeal filed by the petitioner without depositing 50% of the demanded amount.

3. Heard Mr.N.Manokaran, learned counsel appearing for the petitioner and Mr.S.K.Raameshuwar, learned counsel appearing for the respondents.

4. A perusal of section 127 of the Electricity Act 2003, particularly, subsection (2), would make it very clear that 50% of the demanded amount is mandatory for filing an Appeal. As the appeal is not maintainable, the respondents have rightly returned/rejected the appeal. However, considering the nature of business carried on by the petitioner, instead of 50%, this Court directs the petitioner to deposit a sum of Rs.4,00,000/- (Rupees four lakhs only) as a pre-condition for filing appeal against the order dated 26.6.2015. On such deposit, the first respondent is directed to entertain the Appeal and dispose of the matter on merits and in accordance with law.

5. Though the learned counsel appearing for the respondents opposed for fixing the said amount, which is below 50% of the demanded amount, and due to peculiar facts and circumstances of the case, this Court passes this order and it should not be treated as a precedent.

6. With the above observation, the Writ Petition is disposed of.
The connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Appellate Authority/
Executive Engineer/Operation,
Tamil Nadu Generation and Distribution
Corporation Limited,
Nethimedu, Salem - 636 002.
2. The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Suramangalam, Salem - 636 005.

1 CC to Mr. N.Manokaran, Advocate SR.No. 43037

1 CC to Mr.S.K.Raameshuwar, Advocate SR.No. 43151

सत्यमेव जयते

W.P.No.25298 of 2015
and
M.P.No.1 of 2015

GR (CO)
PSI (11.09.2015)

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