

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.31148 of 2015

and

M.P.Nos.1 & 2 of 2015

M/s.Dhanam Process,
Represented by its partner
Mr.S.Gopala Krishnan,
S/o.K.Subramaniam,
TS No.4/1 and 4/2, Semmettuth Thottam
Kangeyam Road, Tiruppur - 641 604. ... Petitioner

Vs

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
No.144, Anna Salai,
Chennai - 2.
2. The Assistant Executive Engineer,
Operations and Maintenance - North,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Tiruppur - 641 603. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for entire records in connection with the impugned Provisional Assessment Order issued by the 2nd respondent vide his letter in Lr.No. AEE/O&M/NORTH/TPR/F.DKT/UAE/D.No.39/2015 dated 16.09.2015 demanding a sum of Rs.14,23,789/- towards the Provisional Assessment as per Sub Sections (5) and (6) of Section 126 of the Electricity Act, 2003, quash the same.

For Petitioner : Mr.V.Raghavachari
for Mr.P.Nethaji

For Respondents : Mr.S.K.Rameshwar
Standing Counsel for TNEB

ORDER

Heard Mr.V.Raghavachari, learned counsel assisted by Mr.P.Nethaji, the learned counsel for the petitioner and Mr.S.K.Rameshwar, learned Standing Counsel for the respondent and with their consent, this Writ Petition is taken up for final disposal.

2. The petitioner in this Writ Petition has challenged the Provisional Assessment Order issued by the second respondent under Section 126 of the Electricity Act, 2003 (hereinafter referred as "Act"). The petitioner is an Industry engaged in the processing of leather. Two Service Connections have been obtained by the owner and occupier of the premises bearing Sc.No.207-005-286 with the connected load of 109.9 KW and Sc. No.207-005-4343 with the connected load of 112 KW respectively.

3. The allegation in the impugned Provisional Assessment Order is that during inspection, it was found that the loads of 37.7KW of the Service Connection No.207-005-286 were unauthorizedly utilised in the premises, where Service Connection No.207-005-4343 stands, which is in the name of Tmt.Dhanabagyam, the mother of the petitioner. It is further alleged that out of 112 KW, a load of 37.7KW of Service Connection No.207-005-286 was unauthorizedly utilised in the nearby premises. With these allegations, the petitioner has been directed to submit their objections to the Provisional Assessment of Rs.14,23,789/- in terms of sub sections (5) & (6) of the Act.

4. Though several grounds have been raised by the petitioner in the Writ Petition, the petitioner would state that the Industry is a leather industry and both the connections are being given in the neighbouring rooms and one connection is used for wetting process and the other for drying process and when it is a continuous process, the allegation of unauthorized utilisation is unsustainable.

5. The primary ground on which the impugned order is challenged is by contending that the petitioner has not been afforded full and effective opportunity of hearing and also the full text of the inspection report has not been furnished to the petitioner.

6. The learned Standing Counsel appearing for the respondents submitted that the supply of electricity authorized for utilization in Service Connection No. 207-005-286 has been extended to the adjacent premises having Service Connection No. 207-005-4343 and the unauthorized extension of electricity has been utilised for running the Dyeing Machine of 50 HP Power Load. Therefore, even as per the case of the respondent, it is a case of unauthorized extension of electricity.

7. It has to be seen that the impugned proceedings is only a Provisional Assessment and even in the impugned proceedings, an opportunity is afforded to the petitioner to file his objections and if objections were filed with relevant documents, enquiry will be conducted by the second respondent. Therefore, the petitioner need not have any apprehension that straightaway the impugned proceedings would be enforced. Therefore, the proper course for the petitioner is to raise objections to the impugned proceedings for which purpose, the second respondent shall communicate the full text of inspection report within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner is at liberty to file their objections along with relevant documents within two weeks thereafter and after which, the second respondent shall conduct an enquiry into the matter and pass a reasoned order on merits and in accordance with law within a period of three weeks thereafter.

8. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

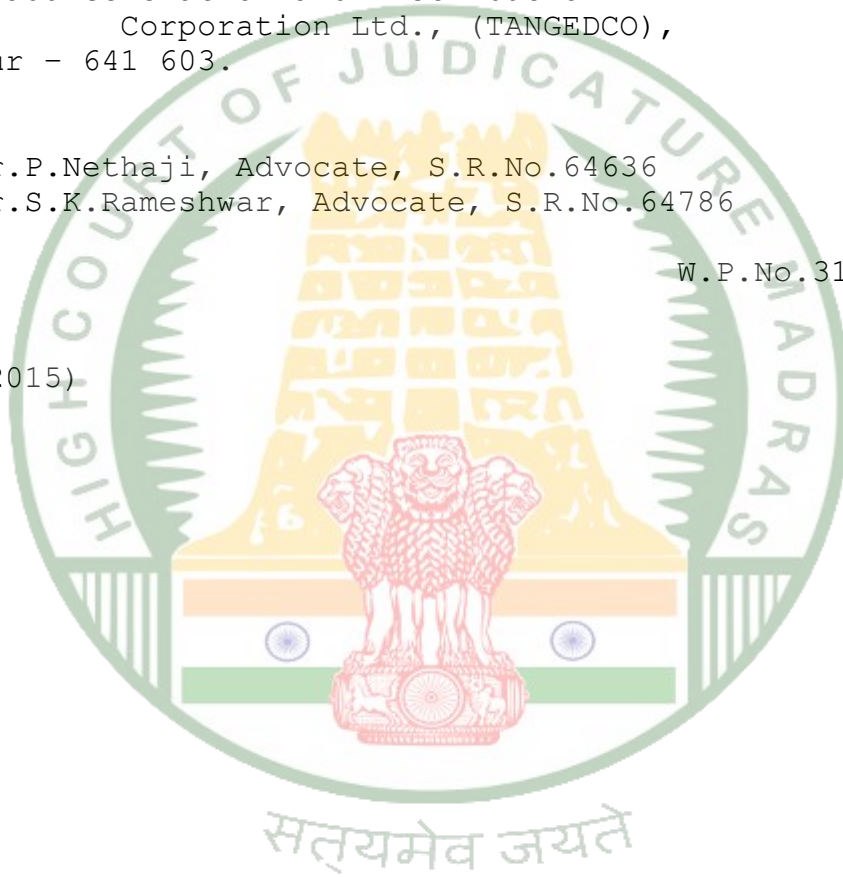
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Tiruppur - 641 603.

+lcc to Mr.P.Nethaji, Advocate, S.R.No.64636

+lcc to Mr.S.K.Rameshwar, Advocate, S.R.No.64786

W.P.No.31148 of 2015

VS (CO)
CA(08/12/2015)



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