

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.8563 of 2011

and

M.P.Nos.1 of 2011 & 1 of 2014

M/s.Easyweld Electrodes P. Ltd.,
rep. by its Director L.Jebaraj,
having office at Plot Nos.F54 and F55,
Sipcot Industrial Complex,
Gummidipoondi-601 2001,
Tiruvallur District. Petitioner

vs.

The Chairman and Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Limited,
No.19-A, Rukmani Lakshmipathy Road,
Post Box No.7223, Egmore,
Chennai-600 008. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue Writ of Certiorarified Mandamus calling for the records pertaining to the notice in Ref.No.DII/SICG/Easyweld/85 dated 22.02.2011 passed by the respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice and consequently direct the respondent to consider the petitioner's representation dated 10.03.2011 and pass appropriate orders within a stipulated period of time in accordance with law.

For Petitioner : Mr.A/Rajesh Kanna

For Respondent : Mrs.Sudharshanasunder

ORDER

Heard Mr.A.Rajesh Kanna, learned counsel appearing for the petitioner and Mrs.Sudharshasunder, learned counsel appearing for the respondent.

2. The petitioner has challenged the show cause notice dated 22.02.2011 issued by the Chairman and Managing Director, State Industries Promotion Corporation (SIPCOT). M/s.Easyweld Electrodes Private Limited, the petitioner herein was allotted industrial plots bearing plot Nos.F54 and F55 measuring an extent

of 2 acres in SIPCOT Industrial Complex, Gummidipoondi, Tiruvallur District. Pursuant to the allotment, lease deed was executed on 10.12.1985. In terms of Clause 8(i) of the lease deed, the allottee has to utilise the plot, failing which, the respondent is entitled to terminate the lease and resume possession. Though the allotment/lease deed was executed in 1985, the petitioner did not use the plot completely and effectively till 2011. Therefore, the respondent has issued the impugned show cause notice to the petitioner.

3. The learned counsel for the petitioner has invited the attention of this Court to the legal battle, which the allottee had faced. Since action was initiated by the Employees Insurance Corporation and other statutory bodies, the petitioner was forced to approach this Court by filing W.P.No.177 of 2008, challenging the action of the recovery made by the Employees Insurance Corporation and the said writ petition was disposed of by this Court by order dated 01.02.2008. Therefore, the petitioner would state that there were several other labour issues, which prevented them to carry on their business activities. By letter dated 18.03.2011 while submitting reply to the show cause notice, the petitioner had stated that the factory could not commence its production on or before 01.07.2011 as the factory was sealed by the Employees Insurance Corporation authorities on 10.03.2008 and stated that after negotiating for settlement, the factory will be opened within a period of three months. This statement was made in 2011, but till date no steps have been taken by the petitioner to open the factory that too when there was an interim order of stay in force. It appears that even as on date, no effective steps have been taken by the petitioner to open the factory.

4. From the counter-affidavit filed by the SIPCOT, it is seen that the person, who was the Director at the time of allotment, is no longer in Management. This could be seen from the averments made in the counter-affidavit, more particularly, in paragraphs 12, 14 and 17.

5. In the absence of any approval from the SIPCOT, there cannot be any transfer of allotment or induction of another set of people to manage the affairs of the Company in whose favour the allotment was granted. Therefore, if any such arrangement had been entered into by the original allottee, viz. P.S.Maruthappan, who represented as the Managing Director of the Company, then such arrangement itself is illegal. Be that as it may, the proceedings impugned in this writ petition is only a show cause notice. Therefore, it is well open to the respondent to consider the reply given by the petitioner and pass orders on merits and in accordance with law.

6. Accordingly, the writ petition is disposed of and the respondent is directed to consider the petitioner's reply dated 18.03.2011 and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy

of this order. No costs. Consequently, M.P.Nos.1 of 2011 and 1 of 2014 are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

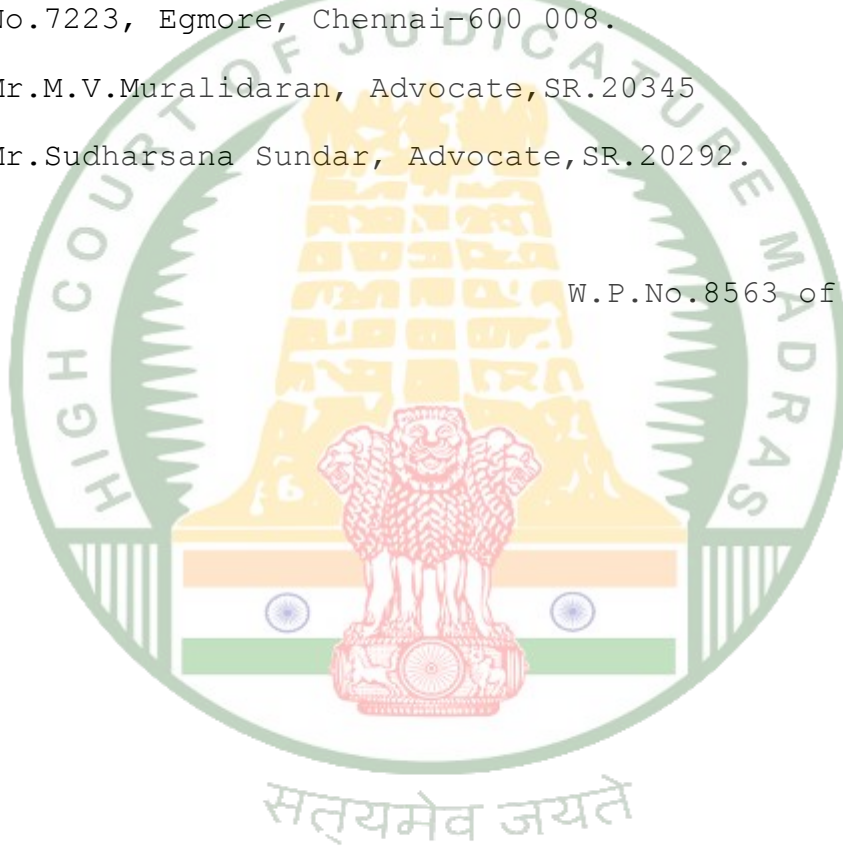
The Chairman and Managing Director,
SIPCOT, No.19-A, Rukmani Lakshmipathy Road,
Post Box No.7223, Egmore, Chennai-600 008.

+1 cc to Mr.M.V.Muralidaran, Advocate, SR.20345

+1 cc to Mr.Sudharsana Sundar, Advocate, SR.20292.

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W.P.No.8563 of 2011



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