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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20-09-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.21761 of 2013

M/s.S.V.C.Projects Private Ltd.,
Represented by its Managing Director,
Penmetsa Vishnu Kumar Raju,
Having Office at :
Defence Land-A1, N.G.O.Colony,
4th Street, Nanganallur,
Chennai-600 061 Represented by its
Power of Attorney Agent, I.V.Jaganadha Rao. ... Petitioner

..Vs..

1.The Superintending Engineer,
CEDC/South,
The Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
Chennai.

2.The Assistant Executive Engineer/O&M,
The Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
Nanganallur Sub Division, CEDC/South,
Nanganallur,
Chennai-600 061.

3.The Assistant Electrical Engineer/O&M,
The Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
Nanganallur Sub Division, CEDC/South,
Nanganallur,
Chennai-600 061.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings pursuant to the order dated 31.7.2013 in Lr.No.AEE/ O&M/NGLR/CI/F.T.O.E/D 134/2013 of the second respondent herein and the order dated 5.8.2013, served on the petitioner only on 19.7.2013 in Lr.No.UMP/NANGA/VM/K.Kattu/2013 of the third respondent herein and quash the same.



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For Petitioner : Mr.AR.Karthik Lakshmanan for
M/s.AL.Ganthimathi

For Respondents: Mr.S.K.Raameshuwar,
Standing Counsel for
Electricity Board.

O R D E R

The demand notice issued in proceedings dated 31.7.2013 and the calculation sheet issued by the second respondent in respect of the usage of electricity by the writ petitioner, are under challenge in this writ petition.

2. The learned counsel for the writ petitioner-Company states that the writ petitioner-Company is the consumer and using the electricity power in accordance with the terms and conditions stipulated by the respondent-Board. However, the writ petitioner received the demand notice, which has no basis.

3. The respondents had not given any opportunity to the writ petitioner-Company to put forth their contentions in respect of the demand notice. The blanket calculation sheet furnished to the writ petitioner-Company is silent in respect of the reasons and the manner in which the calculations are provided. In other words, in the absence of the details, the writ petitioner-Company was unable to understand the nature of the calculations and the manner in which the demand was quantified.

4. The learned Standing Counsel for the respondents clarifies that in respect of the allegations of theft of energy, the details of the calculations were provided to the writ petitioner-Company and a notice of opportunity was also given, including the provisional assessment order. The procedures contemplated were followed as far as the commission of the offence of the theft of energy is concerned. However, in respect of other assessments, this Court is of an opinion that the same procedures ought to have been followed by the respondents, while issuing the calculation sheet.

5. When the learned Standing Counsel for the respondents states that proper provisional demand notice was issued in respect of theft of energy, the same procedures had not been adopted. The learned Standing counsel for the respondents states that the working sheets were provided to the writ petitioner-Company enabling them to understand the nature of calculations. Thus, there is no infirmity in respect of the orders issued to the writ petitioner-Company by the Competent Authorities.



6. This Court is of an opinion that the nature of usage made by the writ petitioner-Company and the calculations in details, cannot be adjudicated in the present writ petition. Such complex facts and circumstances are to be adjudicated before the Competent Forum, by producing documents and by adducing evidences. This Court is not an Expert Body in respect of assessing or quantifying such usage of electricity powers by the writ petitioner-Company or otherwise.

7. The allegation against the writ petitioner-Company is that the electricity powers used by them was contrary to the terms and conditions of the Board and in violation of the conditions imposed on the writ petitioner-Company for the usage of the electricity power in their premises. Under these circumstances, the facts and circumstances are to be ascertained by the Competent Authorities and accordingly, a final order is to be passed. The writ petitioner-Company is also entitled for an opportunity to defend their case in the manner known to law. In view of certain discrepancies now raised by the writ petitioner-Company and in view of the fact that the calculation sheet do not contain the details and other reasonings, this Court is of an opinion that reconsideration of the issues involved is certainly imminent. Accordingly, the present writ petition is a fit case for remand.

8. In this view of the matter, the first respondent-Superintending Engineer is directed to issue a comprehensive show cause notice, containing all the details and particulars, to the writ petitioner-Company, within a period of four weeks from the date of receipt of a copy of this order. On receipt of such show cause notice, the writ petitioner-Company shall submit their explanations/objections and the documents, if any, within a period of two weeks thereafter.

9. On receipt of all the explanations/objections from the writ petitioner-Company, the first respondent-Superintending Engineer is directed to consider the materials available on record and the objections to be submitted by the writ petitioner-Company and pass final orders on merits and in accordance with law. Thereafter, the writ petitioner-Company shall settle the dues in the manner known to law. It is brought to the notice of this Court that the writ petitioner-Company had already paid a sum of Rs.2,16,783/- on 8.8.2013. However, the amount already paid by the writ petitioner-Company is to be adjusted, at the time of passing of final orders to be passed in this writ petition.



10. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs.

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s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

Svn

To

1. The Superintending Engineer,
CEDC/South,
The Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
Chennai.

2. The Assistant Executive Engineer/O&M,
The Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
Nanganallur Sub Division, CEDC/South,
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Nanganallur Sub Division, CEDC/South,
Nanganallur,
Chennai-600 061.

+1 CC to Mr.S.K.Raameshuwar, Advocate sr 65657.

+1 CC to Ms.A.L. Gandhimathi, Advocate sr 65883.

WP No.21761 of 2013

VGII (CO)
SP(11/10/2018)