

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.15290 of 2003

M/S.EID PARRY (INDIA) LTD
REP BY ITS SR.MANAGER-LEGAL
MR.S.SHAMSUDEEN [PETITIONER]

Vs

- 1 THE EXECUTIVE ENGINEER
NILGIRIS ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU ELECTRICITY BOARD,
UDAGAMANDALAM.
 - 2 THE ASST.ENGINEER-TOWN WEST
NILGIRIS ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU ELECTRICITY BOARD,
UDAGAMANDALAM.
- [RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Ceriorarified Mandamus to call for the records relating to the impugned order dated 7.5.2003 Ref:L.R.No.AE/T/W/Ooty/F Audit/ONO/2003 passed by the second respondent and quash the same and consequently direct the respondents authorities not to disturb the electricity supply connection S.C.No.209/Finger Post/Ooty in the petitioner's premises known s 'GLEN ELLIS bearing Door No.198 to 201, Ward No.12, Ooty, by accepting the actual electricity consumption charges.

For Petitioner : Mr.S.Thanka Sivan

For Respondents :Mr.S.K.Rameshuwar

O R D E R

Heard Mr.S.Thanka Sivan, learned Counsel appearing for the petitioner and Mr.S.K.Rameshuwar, learned counsel for the respondents.

2.The petitioner which is a company incorporated under the Indian Companies Act, has challenged the proceedings issued by the second respondent dated 7.5.2003, by which the second respondent has demanded a sum of Rs.1,19,405/- from the petitioner, alleging that it was towards the current consumption charges for the period from May 2000 to March 2002.

3.The petitioner has challenged the impugned proceedings mainly on the ground that it has been passed in violation of the principles of natural justice.

4.However, it is seen that there are enclosures to the impugned order, which gives the details of the manner in which the amount has been computed. Further, from the counter affidavit, it is seen that based on the audit report, a notice under section 156 of the Act along with copy of the audit report to pay the extra levy amount has been served on the petitioner. The petitioner neither appeared for clarification nor any request for payment by instalments. That apart, it is seen that at that stage of the matter, the petitioner has not raised any dispute.

5.The learned counsel for the respondent Board that in terms of Supply Code, there is an effective alternate remedy available to the petitioner in terms of clause 11(7) of the Supply Code, which provides for a remedy to the consumer to approach the respective Consumer Grievance Redressal Forum.

6.Since the dispute in the instant case is on factual aspects as to whether there is justification for the additional current consumption charges and what was the basis for such demand etc., the same has to be adjudicated only by the competent authority and such exercise cannot be undertaken in a writ petition under Article 226 of the Constitution of India. Therefore, this Court is of the view that the petitioner should be directed to avail such remedy available under the Supply Code.

7.Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to approach the Consumer Disputes Redressal Forum, within a period of eight weeks from the date of receipt of a copy of this is order and if such application is filed, the said Forum shall consider the same in accordance with law after affording an opportunity of personal hearing to the representative of the petitioner and take a final decision at

the earliest, preferably within a period of three months from the date on which the application is filed by the petitioner. Till such orders are passed by the Forum, no coercive steps shall be taken against the petitioner, in the light of the fact that the petitioner has already paid 50% of the amount demanded when the order of stay was granted by this Court and the same was also made absolute.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy
Sub Assistant Registrar

To

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UDAGAMANDALAM.

+1cc to M/S.S.Thankasivan, Advocate Sr.67793
+1cc to Mr.S.K.Raameshuwar, Advocate sr.68644

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svi[co]
srg 29/12/2015

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