

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10750 of 2016

and

WMP Nos.9386 and 9387 of 2016

M/s.Exide Industries Ltd.,
Rep. by its Regional Manager -Administration,
Mr.K.Saravanan
Hosur Taluk, Krishnagiri District

.. Petitioner

Versus

1. Tamilnadu Generation and Distribution
Company Limited (TANGEDCO),
Rep. by its Chairman,
No.144, Anna Salai,
Chennai - 600 002.

2. The Superintendent Engineer,
Tamilnadu Generation and
Distribution Company Limited,
Krishnagiri Electricity Distribution Circle,
Krishnagiri.

3. M/s.Prathyusha Power Gen Private Ltd.,
103, Prince Towers,
No.25/26, College Road,
Chennai - 600 006.

4. M/s.Rajkumar Impex Pvt. Ltd.,
No.119, St.Mary's Road,
Abiramapuram,
Chennai - 600 0018.

5. Vana Vidyut Pvt. Ltd.,
6/21, Aladiyan Koil Street,
Nattarasankotti,
Sivaganga - 630 556.

6. M/s.ES Logic Power,
Door No.16, HIG New Housing Board,
2nd Phase, Krishnagiri - 635 001.

7. M/s.Sai Venkat Enterprises,
No.127-A, North Red Hills Road,
Janakiram Reddy Colony,
Villivakkam, Chennai - 600 049

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorari, calling for the records pertaining to the proceedings bearing Lr.No.SE/KEDC/ DFC/AO/AAO/ HT/AS/RCS-HT/F, HTSC.216/D.No.216/16 dated 03/04.03.2016 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.Jayesh B.Dolia
for M/s.Aiyar and Dolia

For Respondents : Mr.M.Varun Kumar (for R1 and R2)
Standing counsel for TANGEDCO

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the communication sent by the 2nd respondent dated 03/04.03.2016, in and by which the petitioner has been directed to pay a sum of Rs.7,77,43,468.80p, being the short levy for the period mentioned in the impugned communication. Several grounds have been raised by the petitioner challenging the impugned proceedings and elaborate submissions were made.

3. The learned standing counsel for TANGEDCO, after accepting notice for respondents 1 and 2, on instructions submitted that though, the demand has been issued, the 2nd respondent has fixed a personal hearing on 24.03.2016, in which the petitioner has been called upon to attend, so that the petitioner can be heard in person.

4. Since, the 2nd respondent has already issued a notice of personal hearing, obviously, the 2nd respondent cannot enforce the impugned demand till the petitioner is heard in person and their objections are considered. At this stage, it is needless to point out that after receipt of the impugned demand, the petitioner has submitted a representation on 16.03.2016 raising various contentions and therefore, necessarily, the 2nd respondent has to consider the same in accordance with law. One more factor which has to be taken note by the 2nd respondent is that during the course of personal hearing, the parties who have supplied power viz., respondents 3 to 7 have to be heard in the matter. Without hearing respondents 3 to 7, the 2nd respondent is not entitled to pass any order because, they are power suppliers and their stand in the matter would definitely have a bearing on the issue.

5. In the light of the above, there will be a direction to the 2nd respondent to keep the impugned demand under abeyance and issue notice of enquiry to the petitioner, respondents 3 to 7 as well as the Superintending Engineer/Tuticorin and Superintending Engineer/Tirunelveli, who have submitted certain statements, which appear to be the basis of the impugned order, calling upon them to appear in person with all records and after hearing the parties in person or through authorised representatives, the 2nd respondent is directed to consider all the issues raised and pass a speaking order on merits and in accordance with law. The above direction shall be complied with by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chairman,
Tamilnadu Generation and Distribution
Company Limited (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.

2. The Superintendent Engineer,
Tamilnadu Generation and
Distribution Company Limited,
Krishnagiri Electricity Distribution Circle,
Krishnagiri.

+1 cc to M/s.Aiyar and Dolia Advocate sr.18213

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aa23/03/2016