

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

C O R A M

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.1550 of 2016
and

W.M.P.Nos.1321 and 1322 of 2016

M/s.ANS Industries
51/4B, Perumbadi Road
Nellorepet, Gudiyatham
Gudiyatham-632 602

... Petitioner

-Vs-

1. Tamil Nadu Generation and
Distribution Corporation Limited
Rep. By its Managing Director
144, Anna Salai, Chennai-600 002
2. The Chief Engineer/Distribution
Tamil Nadu Generation and
Distribution Corporation Limited
Vellore Region
Vellore-6
3. The Superintending Engineer
Tirupattur Electricity Distribution Circle
Tirupattur-635 602

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent in Lr.No.019639/TaPo/Va/Kanak/Thu.Ni.K.A Kamay/vu.1/Ko.HT2015 dated 26.12.2015, quash the same, and further direct the respondents to provide a Low Tension connection.

For petitioner : Mr.V.Raghavachari

For respondents : Mr.Varun Kumar

O R D E R

Heard Mr.V.Raghavachari, learned counsel for the petitioner and Mr.Varun Kumar, learned Standing counsel for the respondents. By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner is before this court for the second time for virtually the same relief sought in earlier Writ Petition filed challenging the order passed by the 3rd respondent dated 04.09.2015, stating that the same is illegal and without jurisdiction.

3. The petitioner is an Industry and the dispute raised by the petitioner was in respect of a High Tension Service Connection No.103/2015. Its objection was forwarded to the third respondent, who, ultimately rejected the same. Pursuant to which, demand was issued to the petitioner on 26.06.2015 demanding a total amount of Rs.2,54,640.00, being the current consumption charges and monthly minimum charges, 50% disconnection fees and belated payment surcharges, after deducting the security deposit from the total amount of Rs.6,52,148.00. In the said order, it was stated that if the petitioner has got any grievance against the same, he may prefer an appeal to the Chief Engineer, viz., the 2nd respondent within a period of 30 days. The petitioner has preferred an appeal by challenging it through proper channel viz., the Office of the 3rd respondent, however, the appeal once again came to be rejected by the 3rd respondent, viz., the original authority. When the order was put to challenge before this Court, this court found the procedure adopted by the third respondent in rejecting the petitioner's appeal was not correct and therefore, set aside the order of the third respondent. After setting aside the order dated 04.09.2015, a direction was issued to the 2nd respondent to consider the petitioner's objection independently on merits and in accordance with law, uninfluenced by any observation made by the 3rd respondent in the proceedings dated 04.09.2015 and a time limit was fixed for the orders to be passed and that it was specifically directed that the 2nd respondent shall consider the petitioner's objection after following the principles of natural justice and pass a reasoned order on merits and in accordance with law.

4. The petitioner, on receipt of the certified copy of the order on 09.12.2015, submitted a representation to the 2nd respondent on 11.12.2015. However, without affording opportunity to the petitioner and without compliance of the principles of natural justice, the 2nd respondent has passed the

impugned order on 26.12.2015. Though in the impugned order, the 2nd respondent has extracted the operative portion of the order passed by this court in W.P.No.35688 of 2015, dated 04.11.2015, nevertheless, he has failed to adhere to the principles of natural justice and no opportunity has been granted to the petitioner.

5. The 2nd respondent, being an appellate authority is bound to afford an opportunity to the petitioner to put forth their grievance. Since there may be certain complicated principles involved in passing assessment proceedings and though the statute does not provide for any opportunity of personal hearing, in order to ensure that principles of natural justice are complied with, courts have held that such statutory appellate authority should afford an opportunity to the appellant before passing an order. Since these basic parameters have not been fulfilled, the impugned order calls for interference. Accordingly, the Writ Petition is allowed. The impugned order is quashed and the matter is remitted to the 2nd respondent for fresh consideration, who shall issue notice of hearing to the petitioner or their authorised representative in person, peruse records and pass orders in accordance with law on merits. The above direction shall be complied with within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nvsri

To

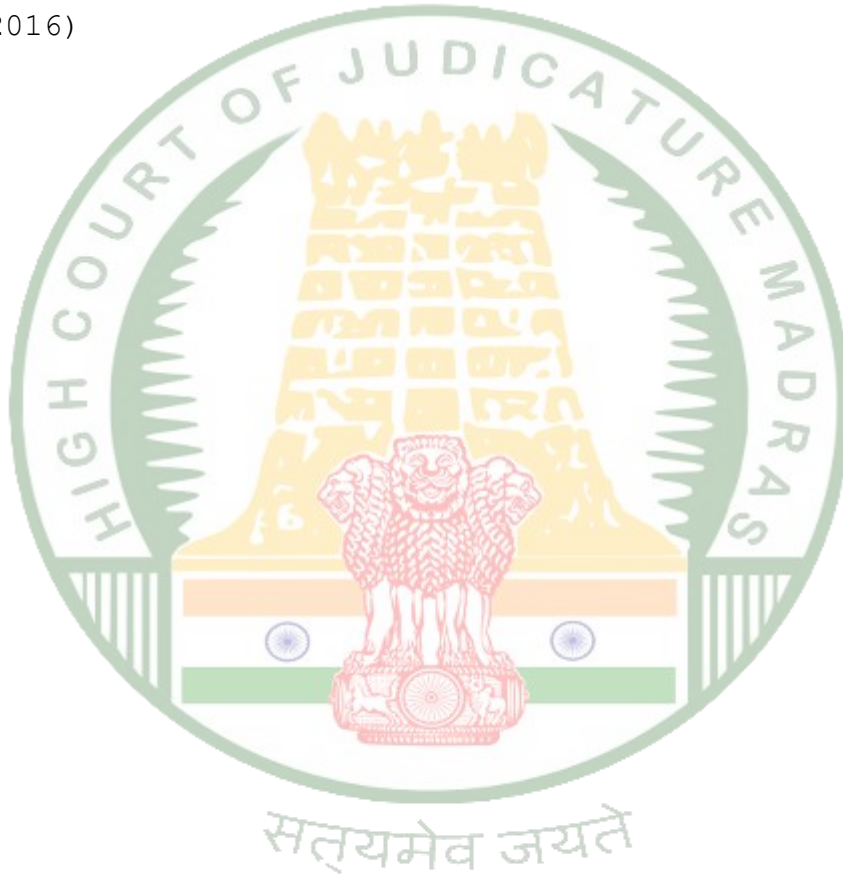
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+1cc to Mr.Varun Kumar, Advocate, S.R.No.8808
+1cc to Mr.V.Raghavachari, Advocate, S.R.No.8784

W.P.No.1550 of 2016

CTK(CO)
CA(22/02/2016)



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