

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.16071 of 2016 &
WMP No.13877 of 2016

M/s.Umashankar Alloys (P) Ltd
HTSC No.147 Rep. by Manager

[PETITIONER]

Vs

- 1 The Chairman
Tamil Nadu Generation and Distribution
Company Ltd (TANGEDCO)
No.144 Anna Salai
Chennai-2.
- 2 The Superintendent Engineer
Tamil Nadu Generation and Distribution
Company Ltd
Krishnagiri Electricity Distribution Circle
Krishnagiri.

[RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records pertaining to the proceedings bearing Lr.No.SE/KEDC/DFC/ AAO/HT/ AS/RCS-HT/ F.HTSC.347/ D.No.309/16 dated 11.4.2016 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.J.Nedunchezhiyan

For Respondents : Mr.M.Varunkumar
Standing Counsel

O R D E R

Heard Mr.J.Nedunchezhiyan, learned counsel appearing for the petitioner and Mr.M.Varunkumar, learned Standing Counsel, accepting notice on behalf of respondents. By consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioner, a Private Limited Company, is aggrieved by the impugned proceedings dated 11.04.2016, by which, there is a demand for short levy. It is stated that in the impugned proceedings, while reviewing the power injection statement in respect of HT SC No.347, with SLDC approval for the period from 04/2013 to 03/2014, it was found that no allotment made for

the months of 08/2013, 10/2013 and 03/2014, but adjustments were made and therefore, the short levy for the said period has been worked out and demanded from the petitioner.

3. Mr.J.Nedunchezhiyan, learned counsel for the petitioner, after reiterating the factual averments contended that the impugned proceedings have been issued without notice to the petitioner and without considering the factual matrix that the petitioner have not purchased any Third Party Power for the aforesaid period viz. August 2013, October 2013 and March 2014. Further, it is stated that the impugned demand has been made after a period of three years without assigning any reason, except by stating that the same were noticed while reviewing the power injection statement.

4. Apart from the above contentions, several other contentions have also been raised in the Writ Petition. It is seen that the petitioner has submitted a representation dated 26.04.2016 to the second respondent requesting him to recall the demand and drop the demand and pass orders on merits after affording an opportunity of personal hearing.

5. In the light of the above, since the present demand is for the period stated to be from August 2013, October 2013 and March 2014, this Court is of the view that the petitioner should be afforded an opportunity of personal hearing to put-forth their objections, which they have already done vide their representation dated 26.04.2016.

6. In the light of the above, there will be a direction to the second respondent to consider the petitioner's representation dated 26.04.2016, afford them an opportunity of personal hearing and after perusing all the documents and records to be placed by the petitioner at the time of hearing, the second respondent is directed to pass a speaking order on merits and in accordance with law, within a period two weeks from the date on which the personal hearing is concluded. Till orders are passed by the second respondent, the impugned demand shall be kept in abeyance.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

- 1 The Chairman
Tamil Nadu Generation and Distribution
Company Ltd (TANGEDCO)
No.144 Anna Salai
Chennai-2.
- 2 The Superintendent Engineer
Tamil Nadu Generation and Distribution
Company Ltd
Krishnagiri Electricity Distribution Circle
Krishnagiri.

1 cc to Mr.J. Nedunchezhiyan, Advocate, Sr. 27656

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