

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.3.2016

CORAM

THE HON'BLE MR.JUSTICE T. S. SIVAGNANAM

W.P.No.29039 of 2015 and

M.P.No.1 of 2015

M/s.Aroma Restaurants & Resort
Pvt Ltd. & Sachin Ka Dhabba No.183 SIDCO
Industrial Estate Ambattur Chennai-600 098 .. Petitioner

Vs

- 1 The Chairman Cum Managing
Director Tamil Nadu Generation And
Distribution Corporation Ltd. 10th Floor
NPKRR Maaligai 144 Anna Salai Chennai-600
002.
- 2 The Director (Distribution)
Tamil Nadu Generation And Distribution
Corporation Ltd. Eastern Wing (10th Floor)
NPKRR Maaligai 144 Anna Salai Chennai-600
002.
- 3 The Asst. Executive Engineer/
Operations & Maintenance/Industrial Estate
Ambattur Chennai Electricity Distribution
Circle West Chennai-600 098. .. Respondents

This Writ Petition filed under Article 226 of the
Constitution of India praying this Court to issue a writ of
Mandamus directing the respondents herein to restore the
Electricity Service Connection of the Petitioner bearing Service
Connection No. 430-001-901 provided in No.183 Sidco Industrial
Estate Ambattur Chennai 600 098 pending disposal of the Appeal
dated 9-9-2015 which is pending before the 2nd respondent.

For Petitioner : Mr.T.R.Rajagopalan Sr. counsel
for Mr.K.Azhagu Raman

For Respondents : Mr.P.R.Dhilip Kumar (TNEB)

O R D E R

The petitioner is a private limited company stated to be producing food products to be supplied to chain of restaurants. An allegation was made against the petitioner of unauthorized use of electricity for other purposes by tampering the meter. Based on such allegation, a notice of provisional assessment has been issued to the petitioner demanding extra levy along with electricity's tax to the tune of Rs.18,53,517/-. The petitioner is stated to have filed an appeal before the Director (Distribution), TANGEDCO by an appeal memorandum dated 09.09.2015. On a perusal of the grounds of appeal filed before the Director, it is seen that the appeal has been filed as against the order passed by the respondent, dated 02.09.2015. Admittedly, the said proceedings is not a final order, but a provisional assessment. If the said proceeding is a provisional assessment, then the petitioner is entitled to raise their objection and if an objection is raised, they are also entitled to be heard in person. Of course, the petitioner has to exercise such an option. Even in cases where consumers have not exercised such an option, this Court had held that opportunity of personal hearing has to be granted since intricate factual details would be involved and it would be better for the assessing authority to hear the consumer in person. Since there was a threat of disconnection, the petitioner prayed for interim orders and this Court granted a conditional interim order while entertaining the writ petition, and the said condition having been complied with, the interim order is in force as on date and the service connection which was initially disconnected has been reconnected.

2. As I had already stated, the proceedings dated 02.09.2015 being only a provisional assessment, the petitioner should be permitted to raise all their objections to such assessment and the authority has to thereafter, proceed to make the final assessment in the matter after hearing the consumer/petitioner in person. In the objections, the petitioner is entitled to raise all the contentions as to how the demand is not tenable. However, in the meantime, the electricity connection should not be disconnected since the petitioner has complied with the conditional order passed by this Court and remitted 50% of the demand.

3. In the light of the above, the writ petition is disposed of by directing the petitioner to submit their objections to the provisional assessment order dated 02.09.2015 within a period of four weeks from the date of receipt of a copy of this order. On receipt of objections, the respondents shall afford an opportunity of personal hearing to the petitioner, peruse the documents produced by the petitioner and pass a reasoned order

on merits and in accordance with law within a period of eight weeks from the date of which, the personal hearing is concluded. Till orders are passed by the respondent, in terms of the above direction, the electricity connection shall not be disconnected. It is needless to state that the current consumption charges shall be paid by the petitioner without default.

4. Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

- 1 The Chairman Cum Managing,
Director Tamil Nadu Generation And
Distribution Corporation Ltd. 10th Floor,
NPKRR Maaligai 144 Anna Salai,
Chennai-600 002.
- 2 The Director (Distribution),
Tamil Nadu Generation And Distribution,
Corporation Ltd. Eastern Wing (10th Floor),
NPKRR Maaligai 144 Anna Salai,
Chennai-600 002.
- 3 The Asst. Executive Engineer/
Operations & Maintenance/Industrial Estate,
Ambattur Chennai Electricity Distribution,
Circle West Chennai-600 098.

+2cc to Mr.K.Azhaguraman, Advocate sr.14353
+1cc to Mr.P.R.Dhilipkumar, Advocate sr.14088

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W.P.No.29039 of 2015

vgi (CO)

srg(18/03/2016)