

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.669 of 2015
and M.P.No.1 of 2015

M/s.Sandfits Foundries (P) Ltd.,
Unit-II, H.T.Sc.No.299,
SF.NO.191/2,
Selakarichal Road,
Appanaickenpatti (Post)
Palladam Taluk,
Coimbatore - 641402.

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002,
2. The Deputy Financial Controller (I/C),
Office of SE/TEDC/Tirupur,
TANGEDCO,
Tirupur,
3. The Superintending Engineer,
Office of SE/TEDC/Tirupur,
TANGEDCO,
Tirupur.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari to call for the records of the 3rd respondent in Lr.No.SE/TEDC/TPR/AO/DFC/F.HT/BOAB/D. /14 dated 08.12.2014 in respect of the petitioner's service connection bearing HT SC.No.299, quash the same.

For Petitioner : Mr.N.L.Rajah

For Respondents: Mr.S.K.Rameshwar

O R D E R

By consent of the learned counsel appearing on either side, the writ petition itself is taken up for hearing.

2. The petitioner is a continued process industry. By the impugned order dated based upon the audit objection in audit slip dated 26.11.2014, the petitioner was directed to pay short levy of Rs.24,38,853/-. The Order also states that failure to make payment would result in disconnection.

3. Learned counsel appearing for the petitioner has submitted that that the order has been passed without affording an opportunity of hearing to the petitioner and the petitioner has got a valid case. The issue of load shedding has not been taken into consideration. Therefore, it is submitted that the impugned order will have to be set aside.

4. Based upon the counter affidavit filed, learned counsel appearing for respondents submitted that the order impugned has been passed based upon the audit slip, which is perfectly illegal. It has been further submitted that the power purchased during holidays has to be adjusted against the consumption in holidays only and not otherwise. Hence, no interference is required.

5. In a writ of certiorari, this Court is concerned with the decision making process as against the decision. A perusal of the order impugned would show that it has been passed based upon the audit slip and without affording an opportunity of being heard.

6. Certainly, the impugned order has got civil consequences as it demands a specified amount of money. It is also well settled principle that the impugned order cannot be improved by way of a counter affidavit. A perusal of the order also would indicate that except the audit slip no reasons have been assigned.

7. Therefore, the writ petition is allowed setting aside the order impugned giving liberty to the 3rd respondent to issue a fresh show cause notice indicating the basis upon which the amount is sought to be recovered and quantified. After receipt of the said show cause notice, the petitioner can furnish reply.

Thereafter, appropriate final orders will have to be passed by the 3rd respondent by way of a speaking order. The entire exercise will have to be done within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002,
2. The Deputy Financial Controller (I/C),
Office of SE/TEDC/Tirupur,
TANGEDCO,
Tirupur,
3. The Superintending Engineer,
Office of SE/TEDC/Tirupur,
TANGEDCO,
Tirupur.

+1cc to Mr.S.R.Rameshwar, Advocate, S.R.No.8578

+ 1 cc to Mr.N.L.Rajah, Advocate Sr 8254 (14/3/16)

सत्यमेव जयते

W.P.No.669 of 2015

lrs (CO)
srg (24/02/2016)

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