

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. No.23232 of 2016
& W.M.P.Nos.19927 & 19928 of 2016

M/s.ATC Ltd.,
No.35, Rajaji Nagar,
SIPCOT Industrial Layout,
Hosur - 635 126, Tamil Nadu
India, HTSC No.41
Rep.by its Manager, Mr.Narottam Thanvi .. Petitioner

Vs.

- 1.The Chairman and Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.
- 2.The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
TANGEDCO, Krishnagiri.
- 3.Accounts Officer [Revenue],
TANGEDCO,
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002. .. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent with respect to the undated letter bearing reference Lr.No.SE/KEDC/DFC/AAO-HT/AS/F.AS/Harmonics-Inst./2016 issued by the second respondent in the month of June 2016 pertaining to HTSC No.41 belonging to the petitioner and quash the same as illegal and forbear the respondents, their men, agents and representatives from levying or enforcing compensation charges for harmonics accumulation in respect of the petitioner's HTSC No.41 connected with 11 K.V. supply lines.

For Petitioner : Mr.Krishna Srinivas
for M/s.S.Ramasubramaniam & Asso.
For Respondents : Mr.M.Varunkumar
Standing Counsel for TNEB

O R D E R

The petitioner is the manufacturer of Tobacco products and it is having service connection, namely, HTSC No.41, availing 11 K.V. The petitioner has been paying current consumption charges for the High Tension Service Connection availed by them. The respondents made inspection on 02.01.2015 in respect of harmonics deposit by communication dated 21.01.2015, which was received by the petitioner on 28.01.2015 calling upon the petitioner to install harmonic filter in the petitioner's company, within a period of three months to bring down the harmonics within the limit. Immediately, the petitioner installed the harmonic filter on 15.04.2015 and the same was informed to the respondents by communication dated 15.04.2015 stating about the installation of harmonic filter by enclosing the harmonic report. However, the respondents have not immediately verified the same. On the other hand, they made inspection on 19.09.2015. Based on the inspection, they demanded harmonic penalty charges for a sum of Rs.25,77,928/- covering the period from 02.01.2015 to 19.09.2015. The said order is being challenged before this Court.

2. Heard Mr.Krishna Srinivas, learned counsel appearing for the petitioner and Mr.M.Varunkumar, learned Standing Counsel appearing for the respondents.

3. It is evident from the records that the petitioner was called upon to install harmonic filter by communication dated 02.01.2015 and the same was installed and informed to the respondents by communication dated 15.04.2015. Within three months, the petitioner is required to install the harmonic filter and the same has been complied with. Once the petitioner installed the harmonic filter within three months, the harmonic compensation cannot be levied on the petitioner.

4. However, without making inspection as soon as the respondents were informed about the installation of harmonic filter, the respondents took their own time and made inspection after five months, namely, 19.09.2015 and made the impugned demand towards harmonic compensation. As already stated, within three months, the petitioner installed the harmonic filter and therefore, there is no liability on their part and there was a failure on the part of the respondents to make inspection. Without making inspection, the respondents cannot slap harmonic compensation on the petitioner, the respondents cannot take advantage of their own failure and employ against the petitioner.

Therefore, the impugned order sans merits and the same is quashed.

5. With the above observations, the Writ petition is allowed. Consequently, connected Miscellaneous Petition are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman and Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
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TANGEDCO, Krishnagiri.
- 3.Accounts Officer [Revenue],
TANGEDCO,
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.

+1cc to Mr.M.Varunkumar, Advocate Sr.39486
+1cc to M/S.S.Ramasubramaniam Associates, Sr.38944

W.P. No.23232 of 2016

kji[col]
srg 28/07/2016