

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.08.2016

CORAM

The Honourable MR. JUSTICE N.KIRUBAKARAN

W.P.No.26748 of 2016
and W.M.P.No.22968 of 2016

Sri Balaji Castings Pvt. Ltd.
[Petitioner]
Rep. by its Director V.Stalin
SF No.179/2 3A,
106-2 Jaganathapuram Group II
Irulipattu Village Alinjivakkam Post
Ponneri Taluk Chennai-600 067.

Vs

- 1 The Chairman cum Managing Director
TANGEDCO Anna Salai
Chennai-600 002.
 - 2 The Assistant Executive
Engineer Tamil Nadu Generation &
Distribution Corporation Ltd. (TANGEDCO)
Operations & Maintenance Panjetty/CEDC
North Ponneri-601 204.
- [Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorified mandamus calling for the records pertaining to the Provisional Assessment order bearing Lr.No.AEE/O&M/Panjetty/F.TOE/D.No.camp/2017 dt.25.07.2016 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to restore electricity connection which was disconnected on 27.07.2016 for the service connection bearing LT CT 097.004.393 TF IIIB without insisting on the payment of Rs.44 91 694/- (Rupees Forty four lakh ninety one thousand six hundred and ninety four only) as claimed by the respondent in the provisional assessment order.

For Petitioner	: Mr.C.P.Sivamohan
For Respondents	: Mr.P.R.Dhilipkumar

ORDER

The writ petition has been filed challenging the order of the 2nd respondent 25.07.2016 and consequently to direct the 2nd respondent to restore electricity connection which was disconnected on 27.07.2016 for the service connection bearing LT CT 097.004.393

TF IIIB, without insisting on the payment of Rs.44,91,694/- (Rupees Forty four lakh ninety one thousand six hundred and ninety four only) as claimed by the respondent in the provisional assessment order.

2. The petitioner is a Company producing Aluminium Gravity Castings and Pressure Die Castings at S.F.No.179/2 3A, 106-2, Jagannathapuram Group II, Irulipattu Village, Ponneri Taluk. The petitioner is having two electricity service connections viz., LT CT 097.004.393 TF IIIB and a High Tension (HT) Electricity Service Connection bearing A/C No.1814. It is contended that the 2nd respondent inspected the property on 25.07.2016 and found that that LTCT connected has been used for manufacturing activities and therefore, a show cause notice was issued on the same day viz., 25.07.2016, calling upon the petitioner to stop the unauthorized use of electricity and remove the equipment used for such unauthorized use of electricity and also further calling upon the petitioner to deposit the provisionally assessed amount of Rs.44,91,494/- also giving time to file their objections. Accordingly, the petitioner gave his reply/objections on 27.07.2016. However, without passing any orders, by considering the petitioner's representation, on the very same day viz., 27.07.2016, the LTCT service connection of the petitioner was disconnected. Therefore, the petitioner has challenged the notice dated 25.07.2016.

3. Heard Mr.Sivamohan, learned counsel for the petitioner and Mr.Dhilip Kumar, learned counsel appearing for the respondents.

4. It is seen that as per Section 126 of the Electricity Act, 2003 (hereinafter referred to as "the Act"), on investigation, if the assessing officer finds that the electricity user is indulging in unauthorized use of electricity, provisional assessment with respect to the electricity charges to the best of his Judgment has to be made. As per sub-section (2) of Section 126 of the Act, the provisional assessment should be served upon the user and as per sub-section (3), on receipt of such assessment order, the consumer has got a right to file his objections and the assessing officer shall pass final orders within 30 days from the date of service of such order of provisional assessment. If the consumer is aggrieved with the order passed, he has got a right of appeal under Section 127 of the Act.

5. As far as the case in hand is concerned, admittedly, the provisional assessment was made on 25.07.2016, which was duly served on the petitioner. The objections were filed on 27.07.2016 by the petitioner. Without passing final orders on the objections filed by the petitioner, it is seen that the 2nd respondent had disconnected the electricity service connection. Due process of law is to be followed while disconnecting the electricity connection. As per sub section (3) of Section 126 of the Act, the assessing officer has to receive the objections and after affording reasonable opportunity of hearing to the consumer, has to pass final order of assessment within 30 days from the date of service

of provisional assessment. The said procedure has not been followed and hastily, the power connection was disconnected on the same day of filing of objections by the petitioner. Further, even for disconnecting electricity supply for failure in payment of the amount for consumption of electricity, the authority concerned has to resort to Section 56 or the Act, as per which, 15 days' time has to be given to the person concerned for making the payment.

6. Therefore, though the show cause notice has been challenged in this writ petition, by molding the prayer, this Court issues a writ of mandamus directing the 2nd respondent to restore the electricity service connection No. LT CT 097.004.393 TF IIIB immediately before 04.30 p.m. today (01.08.2016) and to pass final orders on the objections filed by the petitioner on 27.07.2016 in response to the provisional assessment dated 25.07.2016, after giving reasonable opportunity to the petitioner.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Call the matter for reporting compliance on 09.08.2016.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1 The Chairman cum Managing Director
TANGEDCO Anna Salai
Chennai-600 002.
- 2 The Assistant Executive
Engineer Tamil Nadu Generation &
Distribution Corporation Ltd. (TANGEDCO)
Operations & Maintenance Panjetty/CEDC
North Ponneri-601 204.

Copy to:
The Section officer,
Writ Posting, High Court,
madras.

+2 cc's to Mr.C.P.Sivamohan, advocate,sr.43472

+1 cc to Mr.P.R.Dhilipkumar, advocate,sr.43459.

scd(co)
krd 8/8

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