

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.10.2017
CORAM
THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU
W.P.No.27092 of 2017
and
WMP.No.28917 of 2017

M/s.Vishnu Papers Products (P) Ltd., HTSC No.39
S.F.No.179/3A & 3B, 180/2A&2B
Semangalam Village, Vanur Taluk
Villupuram - 605 602.

Represented by its Authorized Signatory
S.Loganathan

... Petitioner

vs.

- 1.The Tamil Nadu Electricity Regulatory
Commission repd. by its Secretary
19-A, Rukmini Lakshmipathy Salai
(Marshall's Road)
Egmore, Chennai-600 008.
- 2.The Chairman
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai-600 002.
- 3.The Director Finance
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai-600 002.
- 4.The Superintending Engineer
Villupuram Electricity Distribution Circle
TANGEDCO, Villupuram.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent in his No.SE/VEDC/VPM/DFC/AO/RCS/AS/F.As.No.14/D.216/ 17 dated 07.09.2017 and Notice No.SE/VEDC/VPM/DFC/AO/RCS/AS/F.As.No.7/D.215/17 dated 07.09.2017 issued by the 4th respondent and quash the same as illegal, arbitrary, without the authority of law and against the Circular memo dated 03.02.2016 issued by the 3rd respondent and Section 56(2) of the Electricity Act, 2003.

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.Varunkumar
Standing Counsel

O R D E R

Mr.Varunkumar, learned standing counsel takes notice for the respondents. By consent of the learned counsel for the parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved by both the proceedings of the fourth respondent dated 07.09.2017, wherein and whereby the petitioner was called upon to send a reply and also make the payment of Rs.2,56,182/- towards short levy of non-collection of optimum demand charges and Rs.50,476/- towards short levy of non-collection of required ACCD for the year 2014-2015, based on the Audit remarks, wherein some discrepancies and short fall due were stated to have been found.

3. The learned counsel for the petitioner submitted that the petitioner was not given any opportunity by furnishing such Audit report before passing the impugned orders, which not only seek for sending a reply but also direct the petitioner to pay the said sum towards such short fall. He further submitted that no other details are given in the impugned orders as to how such discrepancies and short fall had arisen. Thus, it is contended that the impugned orders are non-speaking orders.

4. The learned counsel for the respondents submitted that the impugned orders were passed based on the Audit report.

5. Heard both sides.

6. A perusal of the impugned orders would undoubtedly show that the same came to be passed based on the audit remarks. At the same time, it is evident on the face of the impugned orders that no other details are given as to how such quantum has been arrived at towards short levy of non-collection of optimum demand charges and short levy of non-collection of required ACCD for the year 2014-2015. No doubt, the petitioner was called upon to send their reply. However as the impugned orders also proceeded to demand the payment of the said amount from the petitioner by enclosing the copy of the Audit remarks, the petitioner is aggrieved. Needless to say that demanding the payment would arise only when the fourth respondent is not satisfied with the reply to be filed by the petitioner. Seeking the reply and making the demand cannot be done simultaneously. Therefore, it is for the petitioner to make their reply within a period of two weeks from the date of receipt of a copy of this

order. On receipt of such reply, the fourth respondent shall pass a fresh speaking order on merits and in accordance with law, within a period of four weeks thereafter. It is made clear that this Court is not expressing any view on the merits of the claim made by the petitioner, as it is for the fourth respondent to consider and decide the same. Till such decision is made by the fourth respondent, as directed supra, the impugned orders shall be deferred. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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- 4.The Superintending Engineer
Villupuram Electricity Distribution Circle
TANGEDCO, Villupuram.

+ 1cc to Mr.M.Varunkumar, Standing Counsel SR.NO.75190
+ 1cc to Mr.R.S.Pandiyaraj, Advocate in SR.NO.81668 (28/11/17)

W.P.No.27092 of 2017

CO(RK)
VS 16/11/2017