

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.12.2017
CORAM
THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
W.P.No.40940 of 2002

M/s.Thangam Steels Ltd.,
235, Mint Street,
Chennai 600 003
rep. By its Director
Mr.P.Muthusamy

...Petitioner

-Vs-

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle (North)
Chennai.

2.The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai 600 002.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in Lr.No.SE/CEDC/N/AAO/HT/A.4/F.HT.1621/D801/2001, dated 19.07.2001 and quash the same and direct the first respondent to refund a sum of Rs.7,02,400/- with interest.

For Petitioner : Mr.C.S.Krishnamoorthy

For Respondents 1 & 2 : Mr.P.R.Dhilpkumar

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O R D E R

The prayer sought for in this writ petition is for a writ of Certiorarified Mandamus calling for the records of the first respondent in Letter No.SE/CEDC/N/AAO/HT/A.4/F.HT.1621/D801/2001, dated 19.07.2001 and quash the same and direct the first respondent to refund a sum of Rs.7,02,400/- with interest.

2. I have heard Mr.C.S.Krishnamoorthy, learned counsel for the petitioner and Mr.P.R.Dhilpkumar, learned standing counsel

appearing for the respondents.

3. In the impugned order dated 19.07.2001, the respondent had withdrawn the tariff concession already extended to the petitioner's HT/A.6/F.1621/D.1810/00. The reason adduced by the respondent for such withdrawal is that Board audit objection was made for extension of such concession of the HT service connection of the petitioner.

4. Though the said impugned order has been challenged on various grounds by the petitioner, learned counsel for the petitioner would contend that the prime ground is that, before issuance of the said impugned order dated 19.07.2001, no notice has been given and in fact, the tariff concession extended to the petitioner which was enjoyed by the petitioner has been abruptly withdrawn by an unilateral decision said to have been taken by the respondent department, without putting the petitioner on notice and therefore, the impugned order has to go, on the ground of violation of Principle of natural justice.

5. On the said submissions when the case came up for hearing on 14.12.2017 this Court directed Mr.P.R.Dhilpkumar, learned Standing Counsel appearing for the respondent Board to ascertain, as to whether any show cause notice was issued on the petitioner before issuance of impugned order.

6. Pursuant to the said directive issued by this Court, Mr.P.R.Dhilpkumar, learned Standing counsel appearing for the respondent Board submitted that, as per the record available with the respondent, no such notice has been issued to the petitioner before issuance of impugned order.

7. Hence, it is the fact that no show case notice has been issued by the respondent to the petitioner, seeking explanation or show cause as to why the concessional tariff extended to the petitioner's HT service connection shall not be withdrawn on the alleged objection raised by the Board of audit. When such notices have not been issued, admittedly the impugned order so passed, this Court is of the view that, would be unsustainable and accordingly, it is liable to be quashed on the ground of violation of Principle of natural justice.

8. It is the settled proposition that when adverse order is passed against any one it will have civil consequences. The person to whom such order is passed and the person going to be affected shall be put on notice and only after getting show cause, such adverse order can be passed. Against the said settled proposition, if any action is taken by the authority under law, that action would be vitiated as it would amount to

violation of Principle of natural justice and it is also in violation of Article 14 of the Constitution of India.

9. In view of the above facts and circumstances, the impugned order of the respondent dated 19.07.2001 is quashed and the matter is remitted to the second respondent for re-consideration. It is made clear that the second respondent shall issue a show cause notice to the petitioner, by giving a reasonable time to reply. Only after getting reply from the petitioner, within a time stipulated by the second respondent, further action can be initiated. It is also made clear that once a show cause notice is issued by the second respondent, within the time stipulated therein, the petitioner shall give reply in writing and it should be sent or handed over within the time stipulated, to the second respondent.

10. It is also made clear that if any relevant documents which is the route cause for issuance of such show cause notice is requested for by the petitioner for perusal and to reply, such relevant documents shall be furnished by the second respondent to the petitioner.

11. It is also made clear that once the petitioner seeking for any personal hearing, the second respondent shall also provide such opportunity to the petitioner and thereafter, a final decision can be taken by the second respondent. With this direction, this writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

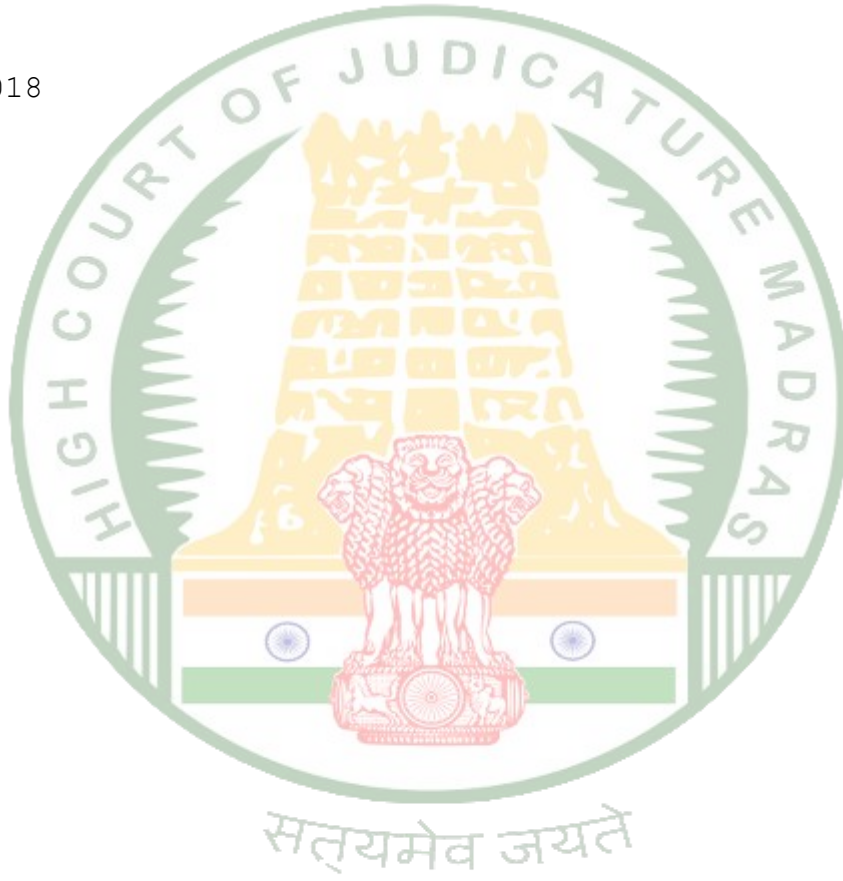
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+1 cc to Mr.C.S.Krishnamoorthi Advocate sr 91948
+1 cc to Mr.P.R.Dhilip kumar Advocate sr 91286

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