



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.19519 of 2017

and

WMP(MD) Nos.15816 and 15817 of 2017

M/s.Aruna Alloy Steels Pvt. Ltd.,
rep.by its Managing Director,
A.Arun

... Petitioner

vs.

1. The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution Circle,
Theni.

2. The Deputy Financial Controller,
TANGEDCO
Theni Electricity Distribution Circle,
Theni.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Lr.No.SE/ TEDC/ Theni/DFC/As/Wind/ F.IDC- Interest A.G.Audit / D.No.254/17 dated 06.10.2017 and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioner : Mr.B.Saravanan

For Respondents : Mrs.S.Srimathy

ORDER

This writ petition has been filed seeking to quash the impugned order passed by the first respondent in Lr.No.SE/ TEDC/ Theni/DFC/As/Wind/ F.IDC- Interest A.G.Audit / D.No.254/17, dated 06.10.2017.



2. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondents.

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3. The case of the petitioner, in brief, is as follows:

(i) The petitioner is a company registered under the Companies Act, which is engaged in manufacturing of rough steel castings and it owns three wind mills. The Chief Engineer of the Tamil Nadu Electricity Board, by the proceedings dated 04.03.2010, directed the petitioner to pay a sum of Rs.49,54,159/- towards IDC charges. The petitioner also paid 50% of the said amount and the Chief Engineer granted time to pay the remaining amount. While so, the first respondent issued show cause notices dated 29.11.2016, directing the petitioner to show cause as to why a short levy of sum of Rs.4,95,000/- and Rs.4,08,639/- should not be recovered, for which, the petitioner has given a reply dated 21.12.2016 and 30.12.2016 stating that the entire amount has already been paid as per the demand made and no amount is due towards IDC charges and interest.

(ii) On 15.02.2017, again the first respondent directed the petitioner to remit the said amount of Rs.4,95,000/-, for which also, the petitioner has replied that there is no due towards IDC charges. The petitioner has also made a representation dated 22.09.2017 to the second respondent to issue No Objection Certificate to the effect that there is no due payable to the second respondent. While so, the first respondent passed the impugned proceedings dated 06.10.2017 stating that only after remittance of the short levy amount of Rs.4,08,634/-, No Objection Certificate would be issued to the petitioner. Aggrieved by the same, the petitioner is before this Court with the above prayer.

4. After elaborate arguments, both the learned counsel on record mutually agreed to place this matter before the Chief Engineer, who is the competent authority to look into the proposal and who passed the order in the year 2010 quantifying levy.



5. Now, the specific claim of the petitioner is that the petitioner is not liable to make payment of Rs.4,08,634/-. Such short levy is nothing but an error committed by the Superintending Engineer, which shall be looked into by the Chief Engineer and necessary orders be passed subject to payment of Rs.4,08,634/- by the petitioner within a period of two weeks from the date of receipt of a copy of this order. The Chief Engineer is directed to pass appropriate orders, after affording an opportunity to the petitioner within a period of four weeks thereafter.

6. At this juncture, learned counsel appearing for the respondents submitted that on payment of Rs.4,08,634/-, No Objection Certificate would be issued forthwith. The said statement is recorded.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, WMP(MD) Nos.15816 and 15817 of 2017 are closed.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

+1cc to M/S.B.SARAVANAN, Advocate SR.No.86020.
+1cc to M/S.S.M.S.JOHNNY BASHA, Advocate SR.No.85875.

W.P(MD) No.19519 of 2017
08.11.2017

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