



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.2604 of 2016

and

W.M.P (MD) No.2309 of 2016

M/s. Jayjothi Foods Private Limited,
Rep. by its Director,
P.Jayasankar

... Petitioner

Vs.

The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai.

... Respondent

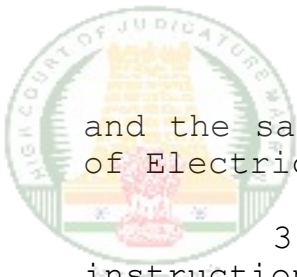
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings Ka.No.MeyPo/MaMePaVa/Madu/ThuNiKaA/UMeA/KaMey/Ko. UMe.76/A No.354/2016 dated 08.01.2016 and quash the same as illegal and consequently directing the respondent to treat the petitioner as Captive Generator and adjust the electricity consumed by the petitioner through HT SC.No.76 against the electricity generated in WEG HT SC.No.4293.

For Petitioner : Mr.B.Saravanan
For Respondent : Ms.S.Srimathy, Standing Counsel

ORDER

The petitioner-company, which is engaged in Food Manufacturing business, is before this Court, seeking to quash the impugned order of the respondent dated 08.01.2016, vide which, the company's request to declare it as a Captive Generator is rejected and for a further direction to the respondent to recognise it as a Captive Generator.

2. The case of the petitioner is that the petitioner-company (in short "the Company") has approached the authorities with necessary documents for its recognition as Captive Generator with an intention to adjust the electricity generated in WEG HT SC.No.4293 against the electricity consumed by the Company through HT SC No.76



and the said request was negatived, simply by citing the Twin Rules of Electricity Rules, 2005.

3. Per contra, the learned Standing Counsel, on instructions, submitted that as the service connection stood in the name of the Company's lessor, the authorities are not in a position to adhere to its claim.

4. At this juncture, the learned Counsel for the petitioner-company brought to the attention of this Court that by representation dated 05.01.2015, a request was made to the authorities for name transfer, which was subsequently rejected by the respondent, stating that the name transfer is effected only for services, which are not under disconnection.

5. Heard the learned Counsel for the petitioner-company and the learned Standing Counsel appearing for the respondent and perused the documents available on record.

6. A perusal of the impugned order would show that the observation made in it is not so specific with reference to the relevant provisions of the Tamil Nadu Electricity Rules and for better understanding, the relevant portion made in the impugned order is extracted as follows:

"Hence, the name transfer of the existing service connection M/s.Mappillai Vinayagar Spinning Mills, HT.SC.No.76 in the name of the lessee M/s.Jayjothi Foods based on the lease deed could not be considerable one in accordance with the regulation 5(7) of the TNE Supply Code, 2004. Similarly, M/s.Jayjothi Foods could not be permitted to use the wind energy as "captive generator" as per twin rules of Electricity Rules, 2005."

7. On a bare reading of Sections 9 and 42 of the Tamil Nadu Electricity Rules, it is apparent that the said provisions stipulate generation of captive plant as well as regularization, which factor has been completely ignored by the authority concerned and without discussing the legal aspects involved in the matter, the present impugned order came to be passed in a hurried manner, that too, without providing any opportunity of hearing to the petitioner.

8. Therefore, this Court is of the view that the impugned order would not stand in the eye of law and the same is liable to be set aside. In result, this petition is allowed and the impugned order dated 08.01.2016 is set aside. The matter is remitted to the respondent for fresh consideration. The petitioner-company is directed to produce all the materials as well as legal submissions before the respondent and on its appearance and production of documents, the respondent shall pass fresh orders thereon, on merits and in the light of the provision contemplated under the Tamil Nadu Electricity Rules, after affording due opportunity of hearing to the



petitioner as well as on due perusal of those documents, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai.

+ 1 CC TO Mr.S.M.S.JOHNNY BASHA, ADVOCATE IN SR No. 85106

GK

TE/SKN-RSK/SAR-I : 10/11/2017 : 3P/3C

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