



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD).No.17372 of 2013 and
M.P.(MD).Nos.1 and 2 of 2013

K.Kathirvel .. Petitioner

Vs.

1.The Assistant Electrical Engineer,
Distribution,
TANGEDCO,
Sindhupatti,
Madurai District.

2.The Assistant Electrical Engineer,
TANGEDCO,
Alwar Nagar Electrical Circle,
Madurai -19. .. Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned orders passed by the 1st respondent in his proceedings Ka.No.Vu.Me.Po/Sindhu/K.Case/A.No.141/13, dated 21.09.2013 and the consequential order passed by the 2nd respondent in his proceedings Ka.No.Vu.Me.Po/Pa/Alwar/Ko.Case/A.No.221/13, dated 01.10.2013 and quash the same as illegal and without jurisdiction and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner :Mr.B.Saravanan

For Respondents :Mr.M.Johnny Basha for TNEB

ORDER

The prayer in the writ petition is for a Writ of Certiorari calling for the records relating to the order passed by the first respondent in his proceedings Ka.No.Vu.Me.Po/Sindhu/K.Case/A.No.141/13, dated 21.09.2013 and the consequential order passed by the second respondent in his proceedings Ka.No.Vu.Me.Po/Pa/Alwar/Ko.Case/A.No.221/13, dated 01.10.2013 and quash the



2. Heard both sides.

3. The present writ petition has been filed challenging the impugned order passed by the first respondent pertaining to the alleged theft of energy said to have been happened in the HT connection stands in the of M/s.Sri Mappillai Vinayagar Spinning Mill Limited, wherein the present petitioner is one of the Directors. As against the very same incident of alleged energy theft already Form 10 was issued by the respondent TANGEDCO against the company and the same was put in challenge before this Court by the said Company i.e. M/s.Sri Mappillai Vinayagar Spinning Mill Limited in W.P.(MD).No.9405 and 9406 of 2008, wherein this Court vide order dated 20.06.2016, passed the following order:-

"The petitioner challenges the proceedings on the ground that notice in Form 10 has not been issued before fastening with liability.

2. It is the case of the respondent that Form 9 was issued prior to the finalisation of assessment.

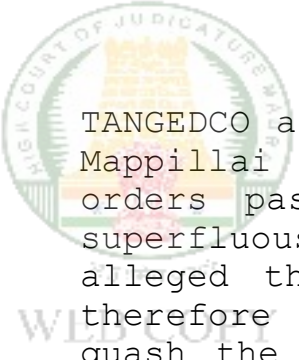
3. Though the respondents have filed a counter affidavit, the contention regarding the non issuance of notice in Form 10 has not been expressly denied with supporting documents. Such being the factual position, I am of the view that opportunity should be given to the petitioner to submit objections before fixing the liability.

4. The orders impugned in this writ petitions are set aside and the matter is remitted back to the 1st respondent. The respondent is directed to issue an order in Form 9 to the petitioner afresh. The petitioner should be given reasonable time to submit objections. It is open to the 1st respondent, thereafter, to pass appropriate orders on merits and in accordance with law.

5. The writ petitions are disposed of with the above directions. No costs."

4. The learned standing counsel appearing for the respondent TANGEDCO submitted that pursuant to the above-said order passed in the above-said writ petition, where Form 10 issued against the Mill was quashed, Form 9 was issued against the Mill. Mill is not yet responded to the said Form 9 issued against them. If once they responded, the respondent TANGEDCO would proceed further in accordance with law.

5. Against the very same alleged energy theft, already the respondent TANGEDCO proceeded against the company, i.e. M/s.Sri Mappillai Vinayagar Spinning Mill Limited, in which the present petitioner is one of the Directors and in respect of the said proceedings, writ petitions already filed, wherein direction was issued. In compliance of the directions issued by this Court, the respondent



TANGEDCO also proceeded further against the Mill, namely M/s.Sri Mappillai Vinayagar Spinning Mill Limited. Hence, the impugned orders passed against the petitioner herein is nothing but a superfluous as there cannot be two proceedings in respect of one alleged theft, which was said to be happened in the Mill and therefore in that view of the matter, this Court is inclined to quash the impugned orders which is under challenge in this writ petition with a liberty to the respondent TANGEDCO to proceed against the company i.e. namely M/s.Sri Mappillai Vinayagar Spinning Mill Limited as against whom already proceedings were initiated pursuant to the direction in the judgment referred above. With this direction, the writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(c)

/True Copy/

Sub Assistant Registrar

To

1.The Assistant Electrical Engineer,
Distribution,
TANGEDCO,
Sindhupatti,
Madurai District.

2.The Assistant Electrical Engineer,
TANGEDCO,
Alwar Nagar Electrical Circle,
Madurai -19.

+1cc to Mr.B.Saravanan, Advocate Sr.No.5950

jikr
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