

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.11314 of 2018

Armstrong Spinning Mills (P) Ltd., HT SC No.83,
178, Mennkarampalayam,
Lagampalyam Village,
Gobi Taluk, Erode - 638 462
rep by its Manager Saravana Suresh

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.

2. The Superintending Engineer,
Tamil Nadu Generation And Distribution
Corporation Limited,
Gobi Electricity Distribution Circle,
Gobichettipalayam - 638 452.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 2nd respondent to permit the petitioner to pay the additional security deposit of Rs.48,07,839/- alone in 6 equal monthly installments along with the regular current consumption charges.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.S.K.Rameshuwar,
Standing Counsel

ORDER

The Writ Petition has been filed seeking to issue a Writ of mandamus directing the 2nd respondent to permit the petitioner to pay the additional security deposit of Rs.48,07,839/- alone in 6 equal monthly installments along with the regular current consumption charges.

2.The learned counsel appearing for the petitioner submitted that the petitioner is a Company registered under the Companies Act, 1956 having its Industry at 178, Mennkarampalayam, Lagampalyam Village, Gobi Taluk, Erode - 638 462. It is having a HT Service Connection bearing No.83, which is coming under the jurisdiction of the 2nd respondent herein. The petitioner Company is manufacturing yarn products and giving employment opportunities to several hundreds of rural people. This apart, the petitioner is also keeping a Security Deposit (CCD) of Rs.31,19,311/-. While so, as per the Regulation 5 (5)(ii)(a) of the Tamil Nadu Electricity Supply Code, 2004, the CCD should be two times of the average of the electricity charges for the preceding 12 months prior to April for the monthly billed consumer. In view thereof, the Superintending Engineer, Tamil Nadu Generation And Distribution Corporation Limited, Gobi Electricity Distribution Circle, Gobichettipalayam/the 2nd respondent herein, vide his letter dated 21.04.2018 sought the petitioner to pay additional security deposit of Rs.48,07,839/- over and above the existing deposit of Rs.31,19,311/- in one lump sum failing which the petitioner was informed that the service connection would be disconnected. Hence, the present Writ Petition.

3.The learned counsel for the petitioner further submitted that on an earlier occasion, when a similar issue was brought to the notice of a Division Bench of this Court in W.A.Nos.407 of 2012 etc., batch, taking note of the fact that the appellants therein have made 3 installments as per the order passed by the learned Single Judge, granted three more installments and altogether 6 installments were granted to pay the additional security deposit. Therefore, the petitioner herein may also be granted 6 installments to pay the additional security deposit of Rs.48,07,839/-. The learned counsel for the petitioner also placed on record various orders passed subsequent to the order of the Division Bench cited supra, viz., orders passed by a learned Single Judge of this Court in W.P.No.9049 of 2016 dated 04.05.2016, W.P.No.11500 of 2017 dated 05.05.2017, W.P.No.13283 of 2017 dated 24.05.2017 and W.P.No.8308 of 2015 dated 20.05.2015 respectively.

4.Mr.C.Mani Shankar, learned Additional Advocate General assisted by Mr.S.K.Raameshuwar, learned Standing Counsel for the respondents submitted that the prayer made by the petitioner for grant of 6 installments on the basis of the Regulation 5 (5)(ii)(a) of the Tamil Nadu Electricity Supply Code, 2004, is wholly misconceived. Contending further, the learned Additional Advocate General submitted that although similar matter was considered by the Division Bench of this Court in W.A.Nos.407 of

2012 etc., batch dated 02.08.2012, the Division Bench has granted only 3 installments as per the Regulation 5 (5)(ii)(a) of the Tamil Nadu Electricity Supply Code, 2004, taking note of the fact that the said Company was unable to pay the balance amount of security deposit, that cannot be mistaken that the Division Bench has granted 6 installments. Again drawing the attention of this Court to Paragraph-7 of the judgment of the Division Bench in W.A.Nos.407 of 2012 , the learned Additional Advocate General submitted that as per the amended provision to Regulation 5 (5)(iv), the additional security deposit should be collected only in 3 installments. Therefore, the petitioner may be granted 3 installments, but not 6 installments. The reason being the Division Bench has also given 3 installments, this has been wrongly misinterpreted before this Court as though the 3 installments given by the Division Bench should be counter with the 3 installments taken by the petitioner therein.

5.Again, the learned counsel for the petitioner submitted that in various similar cases, in view of 6 installments granted to several other Companies, similarly placed like that of the petitioner, which faced financial crunch due to economic slow down, has been paying the additional security deposit in 6 installments. Since the petitioner Company has to pay the security deposit in addition to the previous security deposit (CCD) of Rs.31,19,311/-, no prejudice would be caused to the respondents, if the petitioner is also granted 6 installments as they are not able to cope up with the present economic crisis.

6.This Court agrees with the submissions made by the learned counsel for the petitioner that the amended Regulation 5(5)(iv) of the Tamil Nadu Electricity Supply Code stipulates 3 installments to pay the additional security deposit. Therefore, following the earlier orders passed by this Court including the one passed by this Court in W.P.No.9049 of 2016 dated 04.05.2016, W.P.No.11500 of 2017 dated 05.05.2017, W.P.No.13283 of 2017 dated 24.05.2017 and W.P.No.8308 of 2015 dated 20.05.2015, taking note of the financial status of the petitioner, this Court grants 6 equal monthly installments to clear the balance security deposit of Rs.48,07,839/-. The 1st installment is payable on or before 15.05.2018, the 2nd installment on or before 15.06.2018, the 3rd installment on or before 15.07.2018, the 4th installment on or before 15.08.2018, the 5th installment on or before 15.09.2018 and the 6th installment on or before 15.10.2018. It is made clear that if the petitioner commits any single default, it is for the respondents to take appropriate action against them.

7.With the above observation and direction, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

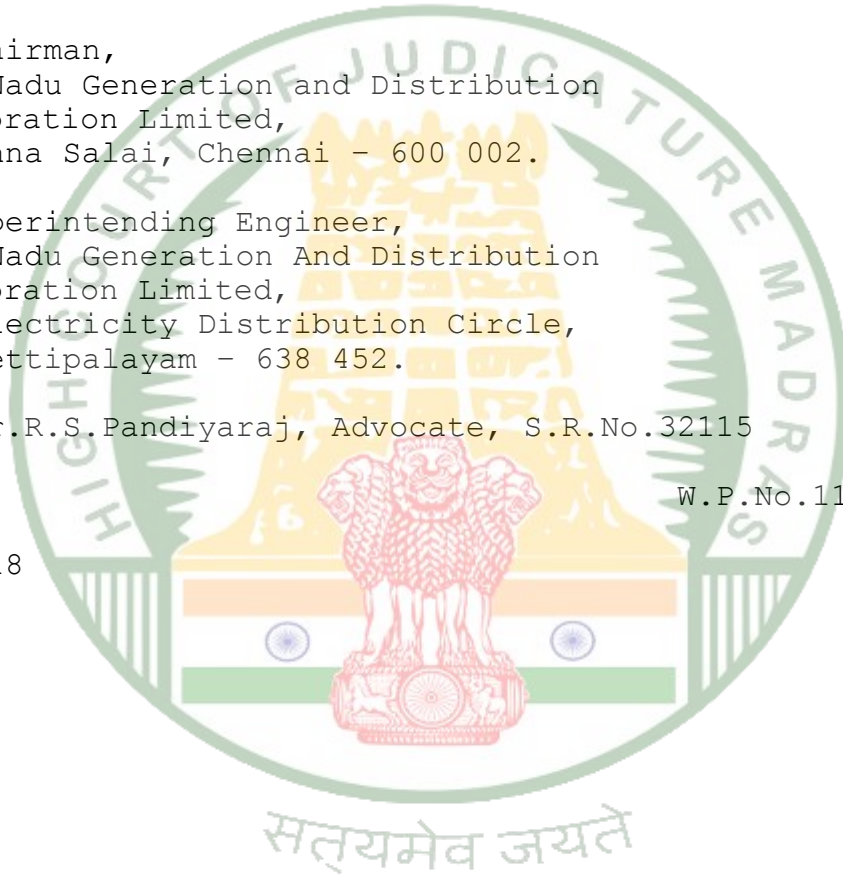
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To

1. The Chairman,
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144, Anna Salai, Chennai - 600 002.
2. The Superintending Engineer,
Tamil Nadu Generation And Distribution
Corporation Limited,
Gobi Electricity Distribution Circle,
Gobichettipalayam - 638 452.

+1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.32115

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CS/14/05/18



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