

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.34028 of 2017

M/s. Alvittas Electrical Private Limited
No.60, (Old No.33) Kasturi Rangan Road,
Alwarpet, Chennai-18
rep. Ashok Kumar Kantilal Modi
S/o Kanthilal Ochhavlal Modi

... Petitioner

vs.

1. MICRO, Small Enterprises Facilitation
Council, Chennai Region,
Sidco Corporation Building,
Guindy, Chennai - 600 032.
rep. By its Chairman.

2. The Chief Engineer/ Transmission,
TANTRANSCO Ltd.,
144, Anna Salai,
Chennai - 600 002.

... Respondents

Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in O.P.No.MSEFC/CR/78/2015 and the orders passed thereon by the 1st respondent dated 18.10.2016 and quash the same and direct the 1st respondent to refer the claim dated 15.09.2015 of the petitioner to Arbitration in accordance with provisions of Section 18(3) of MSMED Act, 2006.

For Petitioner : Mr.S.Elamurugan

For Respondents : Mr.V.Viswanathan,
Standing Counsel for R2

O R D E R

The petitioner is aggrieved against the order of the first respondent in rejecting the claim of the petitioner for payment of interest by the second respondent to the tune of Rs.12,66,591/- for the belated payment made by them to the

petitioner in respect of supply of certain goods by the petitioner to the second respondent.

2. Heard both sides.

3. There is no dispute to the fact that the principal amount has been settled by the second respondent and the present dispute is only with regard to the payment of interest towards such principal amount by claiming that such principal amount was paid belatedly. However, while considering the said issue, the first respondent Council has to follow certain procedures which are enumerated under the relevant statute, namely, The Micro, Small and Medium Enterprises Development Act, 2006. However, in this case, it is admitted by both sides that no such procedure has been followed by the first respondent before passing the impugned order. Therefore, the learned counsel appearing for the petitioner as well as the second respondent are fair enough to state that the matter may be remitted back to the first respondent to decide the matter afresh after following the due procedure as enumerated under the above said Act. In support of such contention, learned counsels relied on the decision passed by this Court in W.P.Nos.18282 to 18287 of 2015 dated 24.11.2015 wherein this Court has passed an order and remitted the matter back to the Council by issuing a specific direction as follows:

"Accordingly, the writ petitions are allowed setting aside the orders of the first respondent. The matters are remitted back to the first respondent to decide the matters afresh, first, as per sub-section 2 of Section 18 and in the event of termination of conciliation proceedings, then as per sub-section 3 of Section 18 of the MSMED Act by following the provisions of the Arbitration and Conciliation Act, 1996, as has been stated in the provisions of Section 18 itself, after affording reasonable opportunities to both the parties, within a period of ninety days from the date of receipt of a copy of this order. However, there will be no order as to costs. Connected M.Ps. are closed."

4. Accordingly, this writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent to decide the matters afresh, first, as per sub-section 2 of Section 18 and in the event of termination of conciliation proceedings, then as per sub-section 3 of Section 18 of the MSMED Act by following the provisions of the

Arbitration and Conciliation Act, 1996, as has been stated in the provisions of Section 18 itself, after affording reasonable opportunities to both the parties, within a period of ninety days from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

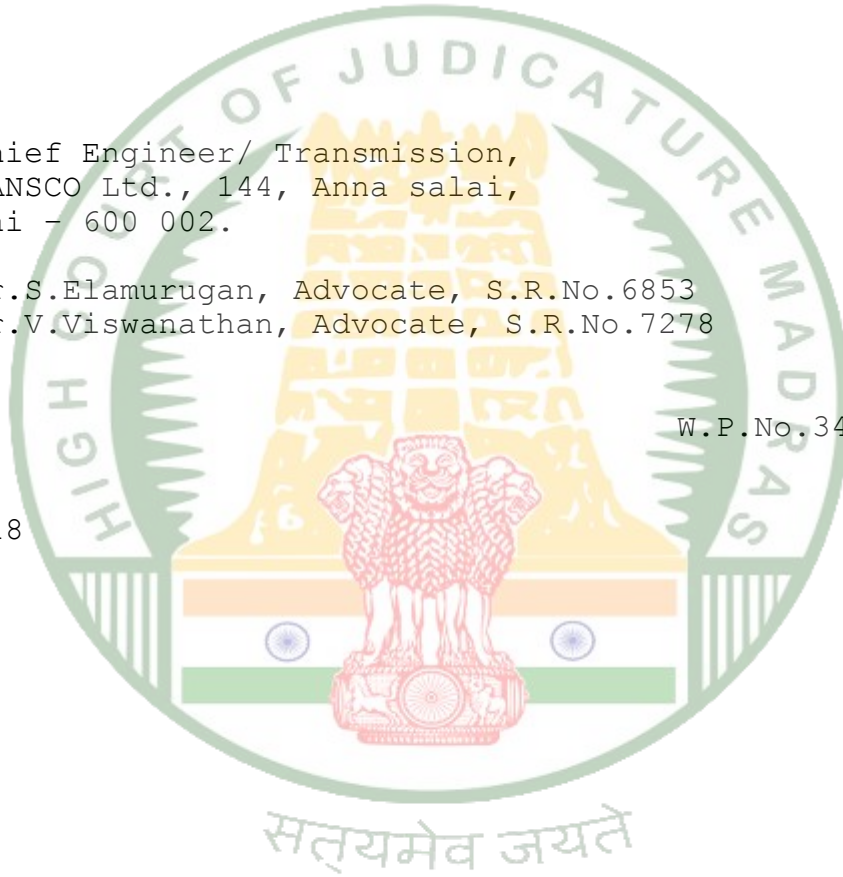
1. The Chief Engineer/ Transmission,
TANTRANSCO Ltd., 144, Anna salai,
Chennai - 600 002.

+1cc to Mr.S.Elamurugan, Advocate, S.R.No.6853

+1cc to Mr.V.Viswanathan, Advocate, S.R.No.7278

W.P.No.34028 of 2017

NRJK (CO)
CS/12/02/18



WEB COPY