

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.14797 of 2018 and
W.M.P.Nos.17491 & 17492 of 2018

M/s.Rajkumar Impex P. Ltd., HT SC No.282,
S.F.No.18/1, Thanoothu Village,
Aniabaranallur Post, Tuticorin - 628 851
rep by its Authorized Signatory
D.Thiyagarajasundaram

... Petitioner

Vs.

- 1.Tamil Nadu Electricity Regulatory Commission
rep by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore, Chennai - 600 008.
- 2.The Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai - 600 002
rep by its Chairman
- 3.The Director Finance,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.
- 4.The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
TANGEDCO, Tuticorin.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorari calling for the records of the 3rd respondent's impugned circular memo CFC/R/FC/R/DFC-R1/F.HTLT-RTI/D.30/2015 dated 03.02.2016 insofar as the para 3 (iii) is concerned and the consequential impugned demand notice bearing Lr.No.282/SE/TEDC/TTN/DFC/AO/AAO/REV/A3/F.BOAB AUDIT dated 07.04.2018 issued by the 4th respondent, quash the same as illegal, arbitrary and without authority of law and against Electricity Act, 2003.

For Petitioner	: Mr.R.S.Pandiyaraj
For Respondents	: Mr.S.K.Raameshuwar, Standing Counsel (R2 to R4)

O R D E R

This Writ Petition is directed against the impugned order 07.04.2018 wherein it has been mentioned that excess allotment was made over and above the SLDC approved quantum to a tune of Rs.74,96,214/- and directs the petitioner to remit the amount.

2.The learned counsel appearing for the petitioner, assailing the impugned order, submitted that the basis on which the finding is given that excess allotment was made over and above the SLDC approved quantum to a tune of Rs.74,96,214/-, is denied by the petitioner for the reason that no enquiry was conducted and no opportunity of personal hearing was given by the respondents to ascertain whether there was any allotment over and above the SLDC approved quantum to the tune of Rs.74,96,214/-. In the circular Memo No.CFC/R/FC/R/DFC-R1/F.HTLT-RTI/D.30/2015 dated 03.02.2016 issued by Tamil Nadu Generation and Distribution Corporation Limited, Chennai, they have given the guidelines that the consumer should be requested to show cause within a time limit (15 days) as to why any demand shall not be levied against them. Only after giving an opportunity to the consumer to represent whenever the claim is made, detailed order can be passed. But in the present case, even the impugned communication dated 07.04.2018 does not speak about issuance of prior notice calling for explanation from the petitioner or providing personal hearing.

3.In similar circumstances, this Court in its order dated 27.04.2016 passed in W.P.No.16226 of 2016 had set aside the impugned proceedings finding that no opportunity of personal hearing was given to the petitioner and the same cannot be enforced and directed the petitioner to submit a reply to the show cause notice and the respondent was directed to consider the issue after receiving the reply and after affording personal hearing to the petitioner.

4.In the present case, the impugned order proceeds on the basis of an audit objection. But the petitioner was not provided with the details of the audit objection, enabling them to give their reply.

5.In such view of the matter, the impugned order dated 07.04.2018 is set aside and the Writ Petition is disposed of with a direction to the respondents to furnish a copy of the audit objection to the petitioner within ten days from the date of receipt of a copy of this order. On receipt of the same, the petitioner is directed to give explanation/representation as per clause 3.0) (iv) of the circular Memo No.CFC/R/FC/R/ DFC-R1/F.HTLT-RTI/D.30/2015 dated 03.02.2016 within two weeks, thereafter. The respondents shall afford an opportunity of

personal hearing to the petitioner and pass appropriate orders on merits. The respondents are at liberty to issue fresh Current Consumption Bill, deducting the amount shown in the impugned proceedings. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore, Chennai - 600 008.
- 2.The Chairman,
The Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai - 600 002
- 3.The Director Finance,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.
- 4.The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
TANGEDCO, Tuticorin.

+1cc to Mr.S.K.RAMESHUWAR, Advocate, S.R.No.38382
+1cc to Mr.R.S.PANDIYARAJ, Advocate, S.R.No.38242

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TR(02/07/2018)

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