

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.03.2019

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THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.A.Nos.1812 and 1813 of 2009

M/s.Hi-Tech Mineral Industries Covai (P) Limited,
S.F.No.46, Kottagoundenpatty Village,
Omalar Taluk, Salem District-636 304,
Rep. by its Managing Director,
Venkittapathy.P.

..... Appellant / Petitioner in
W.A.No.1812 of 2009 in both matters

-vs-

1. The Tamilnadu Electricity Regulatory Commission,
No.17, III Main Road,
Seethammal Colony,
Alwarpet, Chennai-600 018,
Rep. by its Secretary.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-600 002.
3. The Executive Engineer/O&M/West
Salem Electricity Distribution Circle,
Tamil Nadu Electricity Board, Salem-5.
4. The Union of India,
Rep. by Secretary to Government,
Ministry of Law and Justice,
Nirman Bhavan, New Delhi.
5. The Secretary to Govt. of India,
Ministry of Power,
Shram Shakti Bhavan, Rafi Marg,
New Delhi.
6. Official Liquidator,
No.29, Rajaji Salai,
II Floor, Chennai-1.

... Respondents/Respondents
in both matters

(R6 suo motu impleaded by this Court on 25.02.2019)

Prayer in W.A.1812/2009: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 11.11.2009 in W.P.No.6968 of 2008 and allow the present Writ Appeal as prayed for and thus render justice.

Prayer in W.A.1813/2009: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 11.11.2009 in W.P.No.6969 of 2008 and allow the present Writ Appeal as prayed for and thus render justice.

WP.NO. 6968 & 6969 OF 2008: Petitions praying to issue a Writ of declaring section 135(1A) of the Electricity Act 2003 introduced vide Electricity (Amendment) Act 2007 Regulation 1 (C) of Regulation under which Regulation 19 and 23 were amended on 13.6.2007 and 12.9.2007 vide Tamil Nadu Electricity Supply (Amendment) Code 2007 and Tamil Nadu Electricity Supply (Second Amendment) Code 2007 and the proceedings of the third respondent herein in Letter No. EE/O &M/W/Slm/TA2/F.Theft HT SC No. 128/D No. 023/08 dated 10.3.2008 and Letter No. EE/O &M/W/Slm/TA2/F.Theft HT SC No. 248/D No. 022/08 dated 10.3.2008 respectively purported to have been issued thereunder as arbitrary, illegal, ultravires and unconstitutional.

For Appellant : Mr.D.Shivakumaran
For R2 & R3 : Mr.S.K.Rameshwar
For R4 & R5 : Mr.K.Srinivasa Murthy
For R6 : Mr.Sridhar Bavisetty
Deputy Official Liquidator

C O M M O N J U D G M E N T

When these matters were taken up for hearing on 25.02.2019, this Court had passed the following interim order:

Learned counsel for the Appellant is directed to serve notice privately on Mr.G.Rajagopal, learned Assistant Solicitor General of India, appearing for R4 and R5, returnable by 04.03.2019.

2. It is seen from the records that this Court had appointed a Provisional Liquidator on 23.03.2015 in C.P.No.385 of 2014 and C.A.No.1141 of 2014. It is also seen from the records that on 15.11.2018, this Court, in which one of us was party, had permitted the learned Official Liquidator to utilize the services of ITCOT Consultancy and Services Limited for the purpose of conducting an inspection and thereafter auction.

3. In view of the recent development and also

considering the fact that the company in question vests with the learned Official Liquidator, this Court suo motu impleads the learned Official Liquidator as party to the proceedings and permits the TNEB / TANGEDCO to serve notice on the learned Official Liquidator. Upon receipt notice, the learned Official Liquidator is expected to appear before this Court on 04.03.2019 at 02:15pm.

List this matter on 04.03.2019 at 02:15pm."

2. Pursuant to the said order dated 25.02.2019, the learned Deputy Official Liquidator has entered appearance before this Court on 06.03.2019 and has sought time to get instructions regarding continuance of the present Writ Appeals before this Court.

3. Today, it is represented by the learned Deputy Official Liquidator that these Writ Appeals may be disposed of, granting liberty to the Petitioner-Company to re-agitate the issue in future, in case it comes out of liquidation.

4. In view of the above submission and taking into account the present outcome / status of the Petitioner Company, these Writ Appeals are disposed of and it is open to the Petitioner-Company / Official Liquidator to re-agitate the issue, if so warranted.

5. It is needless to mention here that the Official Liquidator can take effective steps to disburse the amount after adjudication on the application filed in Form-66 and other proceedings in accordance with law. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

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Sub Assistant Registrar

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To:

1. The Secretary,
Tamilnadu Electricity Regulatory Commission,
No.17, III Main Road,
Seethammal Colony,
Alwarpet, Chennai-600 018,

2. The Chairman,

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Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai-600 002.

3. The Executive Engineer/O&M/West
Salem Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Salem-5.
4. The Secretary to Government,
Union of India,
Ministry of Law and Justice,
Nirman Bhavan, New Delhi.
5. The Secretary to Govt. of India,
Ministry of Power,
Shram Shakti Bhavan, Rafi Marg,
New Delhi.
6. Official Liquidator,
No.29, Rajaji Salai,
II Floor, Chennai-1.

+1cc to Mr.K.Srinivasamurthy, Advocate, S.R.No. 25465
+1cc to Mr.D.Shivakumaran, Advocate, S.R.No. 25780
+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No. 26331

GN(23/04/2019)

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