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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI, J.

W.P.No.21491 of 2005

Bhuwalka Steel Industries Limited
"Sindu Plaza", 3rd Floor,
42, Montieth Road,
Chennai-600 008
Rep. By its General Manager M.H.Sait

...Petitioner

vs

1. The Tamil Nadu Electricity Board
Repd. By its Chairman,
800, Anna Salai, Chennai-600 002.
2. Chief Engineer(Distribution)
Vellore Region, T.N.E.B., Gandhi Nagar,
Vellore.
3. The Superintending Engineer,
Kancheepuram Electricity Distribution Circle,
Tamil Nadu Electricity Board
Kancheepuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in letter No.CE/D/VLR/AEE.S/F.Bhuwalka/D.267/05 dated 31.05.2005, quash the same and consequently direct the 2nd respondent to follow the provisions of The Electricity Act, 2003.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.S.K.Rameshwar

O R D E R

The petitioner has filed the present Writ Petition for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in letter No.CE/D/VLR/AEE.S/F.Bhuwalka/D.267/05 dated 31.05.2005, quash



the same and consequently direct the 2nd respondent to follow the provisions of The Electricity Act, 2003.

2. The case of the petitioner is that the petitioner is a Public Limited Company registered under the Companies Act 1956, having its registered office at "Bhuwalka Centre", 71, 3rd Cross, Residency Road, Bangalore-560 025 and Factory at Melambi Village, Krishnapuram Post, Kachipuram Taluk PIN:631 551. The petitioner Mill is manufacturing steel rolled products from ingots, billets, etc. employing directly about 500 people coming from villages in and around the petitioner's industry. The petitioner submitted that the writ petition is filed challenging the validity of the proceedings of the 2nd respondent vide his letter No.CE/D/AEE.S/F.Bhuwalka/D.267/05 dated 31.05.2005 alleging theft of energy which is passed without jurisdiction. The petitioner earlier filed a writ petition before this Court in W.P.No.12852 of 2002. This Court by its order dated 25.08.2003, directed the writ petitioner to deposit two installments of Rs.20,43,310/- each within three months and further directed to prefer an appeal before the 2nd respondent.

3. The petitioner's representative has submitted a written submission before the 2nd respondent/Appellate Authority and prayed for, to follow the provisions of the Electricity Act, 2003. On the other hand, the 2nd respondent/Appellate Authority in his impugned proceedings dated 31.05.2005, informed that the appeal will be disposed of as per the provisions of the Terms and Conditions of Supply of Electricity framed under Section 49 of The Electricity (Supply) Act, 1948 which was already repealed. Challenging the same, the present writ petition is filed.

4. The learned counsel for the petitioner would submit that during the pendency of this writ petition, the petitioner company suffered huge loss thereby facing the Insolvency and Bankruptcy proceedings, and the matter was adjudicated before the National Company Law Tribunal. The Tribunal, by exercising powers conferred under Section 9(5)(i) and other extant provisions of the IBC, 2016, passed the following order:

"2) We hereby appointed Mr.Shivadutt Bannanje, with Registration No.IBBI/IPA-002/IP-N00266/2017-18/10779 is hereby appointed as Interim Resolution Professional, in respect of the Corporate Debtor to carry on the functions as per provisions of Code and various rules issued by IBBI from time to time."



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5. The learned counsel for the respondents stated that the respondent is creditor, then liberty may be granted to them to approach the competent authority Interim resolution Professional of their claim.

6. Considering the request made by the petitioner, taking into consideration the facts and circumstances of the case, since the respondent Board demand civil liability, subsequently the petitioner company is facing insolvency and bankruptcy proceedings, thereafter company Law Tribunal appointed Interim Resolution Professional for dealing with the assets and liability of the Company, this Court is inclined to grant liberty to the respondent to file appropriate application before the Interim Resolution Professional within a period of four weeks, thereafter the Interim Resolution Professional is directed to consider the said application and pass appropriate orders, in accordance with law.

7. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssb

To

1. The Chairman,
Tamil Nadu Electricity Board
800, Anna Salai, Chennai-600 002.
2. Chief Engineer(Distribution)
Vellore Region, T.N.E.B., Gandhi Nagar,
Vellore.



3. The Superintending Engineer,
Kancheepuram Electricity Distribution Circle,
Tamil Nadu Electricity Board
Kancheepuram.

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+1cc to Mr.S.K.Rameshuwar, Advocate Sr.52733
+1cc to Mr.R.S.Pandiyaraj, Advocate Sr.52798

W.P.No.21491 of 2005

vd[co]
srg 05/08/2019