

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26049 of 2010 &
M.P.No.1 of 2010

Integra Automation Private Ltd., HTSC No.610
S.F.No.238, Kurunalli Palayam Village
Near kothavadi, Vadachittur Via
Pollachi Taluk, Coimbatore 642 120 repd.
By its Managing Director S.Sokkalingam

...Petitioner

.Vs.

1.Tamil Nadu Electricity Regulatory
Commission repd. By its Secretary
19-A, Rukmini Lakshmpathy Salai
(Marshall's Road)
Egmore, Chennai 600 008

2.The Chairman,
Tamil Nadu Electricity Board
144, Anna Salai, Chennai 600 002

3.The Superintending Engineer
Coimbatore Elec. Distribution Circle (S)
Tamil Nadu Electricity Board
Coimbatore

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records of the 3rd respondent in his Notice No.SE/CEDC/S/CBE/AO/REV/HT/F.238/10 dated 11.10.2010 and quash the same as illegal, arbitrary, without authority of law.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents: Mr.S.K.Rameshwar

ORDER

The petitioner has filed this writ petition, seeking the following relief:-

"To issue a writ of Certiorari, to call for the records of the 3rd respondent in his Notice No.SE/CEDC/S/CBE/AO/REV/HT/F.238/10 dated 11.10.2010 and quash the same as illegal, arbitrary, without authority of law."

2.The case of the petitioner is that the petitioner Industry is continuous process industry involved in the manufacture of casting having High Tension Electricity Supply in H.T.SC.No.610 (CEDC[South].(formerly HTSC No.310 under UEDC). The second and third respondent have sanctioned the said H.T. supply with a maximum demand of 2090 K.V.A. to run the said industry. The petitioner Industry has been providing employment to about 250 persons. The second respondent Board is unable to supply sufficient quantity of power as early from April, 2007 and had been imposing unscheduled power cuts and load shut downs to the extent of 10 hours a day and that the petitioner Industry was facing frequent fluctuations in supply and interruptions in power. Due to power shortage prevailing in the State, the Electricity Board imposed condition to all the users of the electricity and accordingly, revised the demand quota. Insofar as the petitioner is concerned, the Electricity Board fixed energy as 2045 KVA and if the petitioner exceeds 2045 KVA, the petitioner has to pay the penal charges. In the present case, the October Bill was processed based on the above said quota and accordingly, the petitioner has paid the entire consumption charges. Thereafter, without issuing any notice, the fixed quota was reduced to 1896 KVA and charged excess bill amount with penalty which is unsustainable, illegal and impermissible in law, against which, the present writ petition has been filed.

3.The learned counsel for the petitioner would submit that though initially 2090 KVA has been sanctioned, the Electricity Board was unable to supply sufficient quantity of power as early from April, 2007 and the authority reduced the supply to 2045 KVA from September, 2010, for which, the petitioner was regularly availing the said quota. He would submit that all of a sudden, the third respondent Board unilaterally reduced the quota to 1896 KVA in respect of the petitioner Industry. In fact, in the month of October, 2010, unilaterally the third respondent reduced the quota to 1896 KVA which is illegal and unsustainable one and is in violation of principles of natural justice. Therefore, he prays for allowing the writ petition.

4.The learned counsel for the respondent Board, referring the counter affidavit in paragraph-9 submitted that the demand quota fixed insofar as the petitioner is concerned, is only 1896 KVA, however, the bill in September, 2010, it is inadvertently fixed as 2045 KVA. However, no notice was served on the petitioner. The only dispute before this Court is whether the

petitioner was granted demand quota as 2090 KVA while granting service connection. However, during peak hours, the respondent Board fixed the demand only as 1896 KVA. In the counter, wherein it is further stated that 2045 KVA has been fixed inadvertently in the month of September and the said mistake was rectified in November, 2010 onwards.

5. Though the quota in the month of September has been fixed as 2045 KVA, thereafter, they fixed the quota 1896 KVA is unsustainable and that the revision of demand quota is without notice. Hence, this Court is of the view of that the action of the respondents cannot be justified.

6. It is seen that while entertaining this writ petition, this Court on 18.11.2010, directed the petitioner to pay 50% of the amount demanded in the impugned proceedings within a period of four weeks. It is seen that the petitioner has also complied the said condition.

7. In view of the compliance of the conditional order passed by this Court dated 18.11.2010, this writ petition is allowed. It appears that the petitioner paid 50% of the amount as against different KVA demanded by the respondent Board and if any excess amount, the same will be adjusted in the future bills. No costs. Connected Miscellaneous Petition is closed.

Kal

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

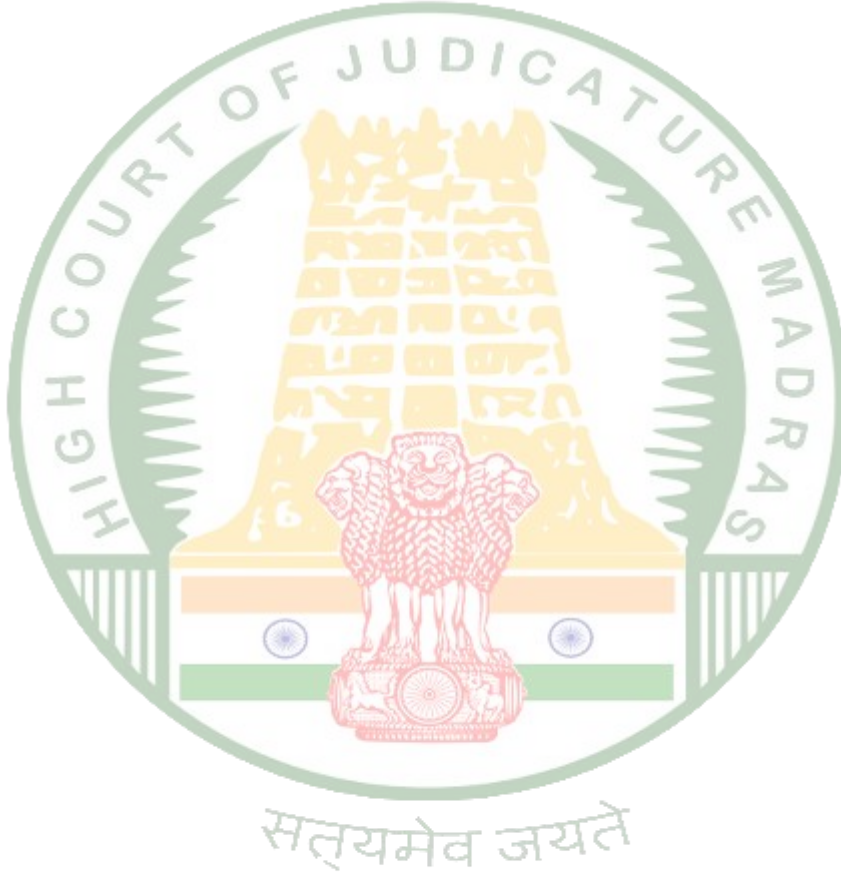
To

1. The Secretary, Tamil Nadu Electricity Regulatory Commission, 19-A, Rukmini Lakshmpathy Salai (Marshall's Road) Egmore, Chennai 600 008
2. The Chairman Tamil Nadu Electricity Board 144, Anna Salai, Chennai 600 002
3. The Superintending Engineer Coimbatore Elec. Distribution Circle (S) Tamil Nadu Electricity Board Coimbatore.

+lcc to Mr.R.S.Pandiyaraj, Advocate, SR.No.65275
+lcc to Mr.S.K.Raameshuwar, Advocate, SR.No.64742

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Kak(18/09/2019)



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