

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24541 of 2011
And
M.P.Nos.1 and 2 of 2011

M/s.High Data Software India Private Limited
Rep by its Director

... Petitioner

Vs.

The Executive Engineer (O and M)
CEDE/Central
Tamilnadu Electricity Board, Chennai.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling proceedings of the respondent in its Letter No.EE.AAO/ASIII/BOAB/Audit shortfall/D./10 dated 15.9.2011 and quash the same and consequently direct the respondent to continue charge the writ petitioner company tariff under III B/C instead of under tariff V and consequently refund/ adjust the sum of Rs.1,58,673 and Rs.1,58,848 and refrain the respondent from collecting any further amounts towards alleged shortfall on account of concessional tariff.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.P.R.Dilip Kumar

सत्यमेव जयते
O R D E R

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the proceedings of the respondent in its Letter No.EE.AAO/ASIII/BOAB/Audit shortfall/D./10 dated 15.9.2011 and to quash the same and consequently to direct the respondent to continue charge the writ petitioner company tariff under III B/C instead of under tariff V and to consequently refund/ adjust the sum of Rs.1,58,673/- and Rs.1,58,848/- and to refrain the respondent from collecting any further amounts towards alleged shortfall on account of concessional tariff.

2.The petitioner herein is having LT service connection from

the respondent. The issue involved in the present case is the shortfall demand made by the Respondent Board towards tariff difference between HT 1A & III and LT IIIB & V, which have been challenged by the petitioner in the writ petition.

3.The case of the respondent is that the shortfall arrears are raised as per the TNERC Tariff Order No.1/2002 dated 15.03.2003 (with effect from 16.03.2003) and that IT/ITES are not included in the said Tariff Order No.1/ 2002. The petitioner has filed the writ petition against the shortfall demand notice objecting to the same stating that IT/ITES comes under HT 1A and LT IIIB, as the case may be, as per the Government of Tamil Nadu IT Policy, no retrospective tariff revision can be made, etc. However, according to the respondent, the shortfall demand is raised as per the TNERC order in T.P.No.1 of 2002 dated 15.03.2003 (with effect from 16.03.2003) since the provision to include IT/ITES industries are prescribed in the TNERC Tariff Order with effect from 01.04.2012.

4.Since the petitioner has filed the writ petition challenging the respective impugned order issued by the respondent, the learned counsel appearing on behalf of the respondent would submit that there is an effective remedy before the Tamil Nadu Electricity Regulatory Commission (TNERC) and that in order to resolve the issue inbetween the consumer and the respondent Board, the respondent Board may be directed to file appropriate petition before the TNERC whether the petitioner is eligible for HT 1A/ LT IIIB tariff concession, as the case may be. To enable the TNERC to decide whether the petitioner is eligible for HT 1A and LT IIIB tariff concession, as the case may be, this Court may issue direction to the TNERC to pass appropriate orders within a period of twelve weeks from the date of the petition to be filed by the respondent Board before TNERC.

5.In view of the above, it is necessary to resolve the issue by Tamil Nadu Electricity Regulatory Commission. Hence, without expressing any opinion on the merits of the case, I am inclined to issue direction to the respondent Board to file appropriate petition before the Tamil Nadu Electricity Regulatory Commission within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Tamil Nadu Electricity Regulatory Commission is directed to pass appropriate orders within a period of twelve weeks from the date of filing of the petition by the respondent Board and after issuing notice to and hearing the petitioners herein on merits. The respondent is directed to maintain status-quo till the disposal of the petition to be filed before the Tamil Nadu Electricity Regulatory Commission.

6.With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

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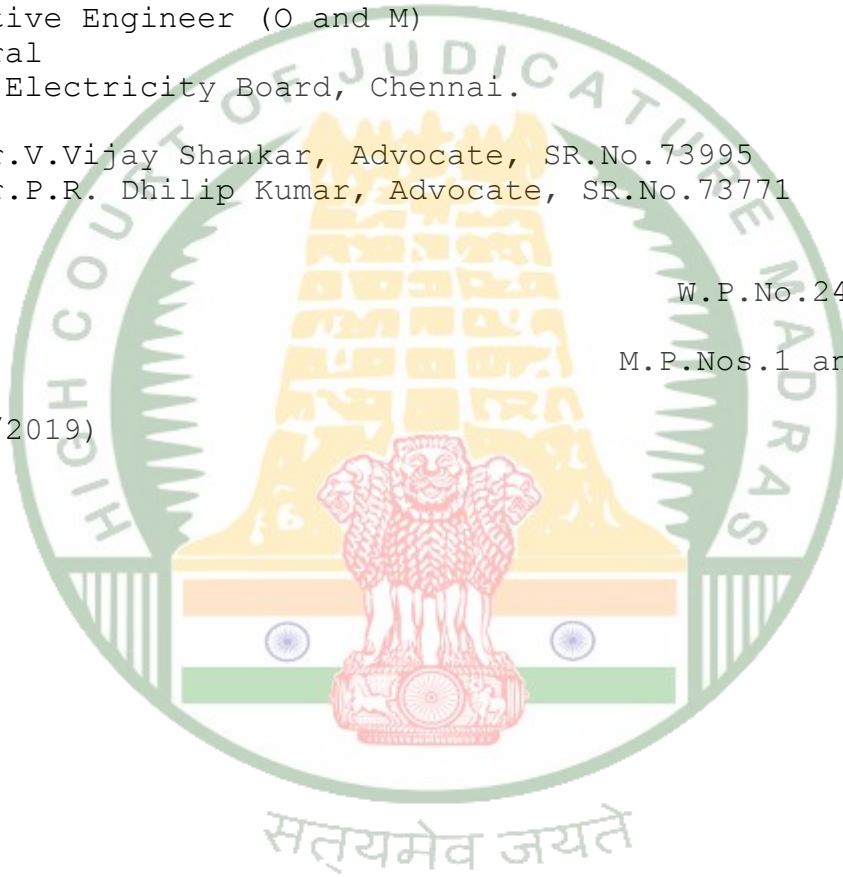
Sub Assistant Registrar

To
The Executive Engineer (O and M)
CEDE/Central
Tamilnadu Electricity Board, Chennai.

+1cc to Mr.V.Vijay Shankar, Advocate, SR.No.73995
+1cc to Mr.P.R. Dhilip Kumar, Advocate, SR.No.73771

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Kak (27/09/2019)



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