

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10697 of 2011

and

M.P.No.1 of 2011

Kongarar Cotton & Synthetics (P) Ltd.,
HTSC No.94, 172-A, Dhally Road,
Rep., by its Manager, N.Shanmugasundaram,
Udumallpet-642 126, Tirupur District. .. Petitioner

-vs-

1.The Director/Operation,
Tamil Nadu Transmission Corporation Ltd.,
144, Anna Salai, Chennai-600 002.
2.The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet-642 126. .. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari to call for the
records of the 2nd respondent in his letters
Nos.SE/UEDC/UDT/AO/R/AS/AS2/F.HTSC.94/D.No.120/2011 dated
12.04.2011 insofar as it relates to levy of penalty of
Rs.35,28,964/- alone and quash the same as unsustainable in law.

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.M.Vijayameghnath &
Mr.S.K.Rameshwar

ORDER

The petitioner has filed this writ petition challenging the
proceedings of the second respondent dated 12.04.2011, in and by
which, penalty has been imposed on the ground that fake
documents were submitted by third party generator, that is,
M/s.TCP Limited and benefit has been availed.

2.It may not be necessary for this Court to adjudicate the
correctness of the impugned order on account of subsequent
developments, which have been set out in the counter affidavit
filed by the second respondent.

3.It is stated that the petitioner-company has been
liquidated and the new entity M/s.Parshavanath Spinners India

Private Limited has taken over the business on 27.06.2014, and the entire demand has been paid. However, the learned counsel for the petitioner submitted that the petitioner had paid the entire money for the transfer of electricity generated to M/s.TCP Limited and it is the Superintending Engineer, Sivagangai Electricity Distribution Circle, who had directed adjustment of the power, which was wheeled out from Sivagangai Distribution Circle by directing all Superintending Engineers to adjust it in their respective circles HT Services. Therefore, it is submitted that the petitioner has not committed any mistake for penalty being charged on the petitioner.

4.It is to be noted that M/s.TCP Limited and other persons including an employee of M/s.Sakthi Sugars Limited have been proceeded criminally and the matter is now pending in C.C.No.06 of 2016 on the file of Judicial Magistrate-II, Sivagangai. In any event, it is well open to the petitioner to cooperate in the criminal trial and place all the facts, so that the correct factual position can be placed before the criminal court.

5.Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1.The Director/Operation,
Tamil Nadu Transmission Corporation Ltd.,
144, Anna Salai,Chennai-600 002.

2.The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet-642 126.

+lcc to Mr.N.Damodaran, Advocate, Sr.No.19211.

+lcc to Mr.R.S.Pandiyaraj, Advocate, Sr.No.18937.

W.P.No.10697 of 2011

RSK(CO)

klt(21/05/2020)