

In the High Court of Judicature at Madras

Dated : 02.3.2020

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15142 of 2012 & MP.No.2 of 2012

M/s.Sunbright Designers Pvt.Ltd.,  
rep.by its Managing Director  
R.Shanmugavelu

...Petitioner

Vs

1.The Chairman & Managing Director,  
TANGEDCO, NPKRR Maligai,  
TNEB Complex, 144,  
Anna Salai,  
Chennai-2.

2.The Superintending Engineer,  
TANGEDCO, Guindy,  
CEDC/South/  
TANGEDCO,  
Chennai-78.

3.The Assistant Executive Engineer,  
TANGEDCO, O & M/Guindy,  
CEDC/South/TANGEDCO,  
Chennai-32.

...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorari to call for the records on the file of the 3rd respondent in the impugned proceedings in(1)impugned provisional assessment order dated 21.3.2012;(2)impugned demand notice passed in Letter No.Assistant Executive Engineer/O&M/Guindy/Division Energy Theft/Squad/12 dated 22.3.2012; and(3)order in Letter No.AEE/O&M/GUINDY/F.DOC/D043/2012 dated 24.5.2012 and quash the same.

For Petitioner : Mr.M.Vijayakumar

For Respondents: Mr.P.Gunaraj, Standing Counsel

## ORDER

I have heard the learned counsel on either side.

2. This writ petition has been filed challenging the proceedings of the third respondent dated 24.5.2012, by which, the petitioner was directed to pay the balance amount of extra levy charges of Rs.1,32,525/-, Rs.62,659/- and Rs.1,38,763/- in respect of three electricity service connections totaling to a sum of Rs.3,33,947/-.

3. Earlier, the petitioner approached this Court by filing W.P.No.10642 of 2012 challenging the provisional assessment order dated 21.3.2012 and the consequential demand raised by the second respondent dated 22.3.2012. The said writ petition was disposed of by order dated 18.4.2012 granting liberty to the petitioner to give their objections in writing to the provisional assessment order within a period of 15 days from the date of receipt of a copy of that order. Further, the Authority concerned was directed to finalize the provisional assessment after affording an opportunity of personal hearing to the petitioner and pending finalization of the provisional assessment, the electricity supply was directed to be restored subject to payment of (i) the entire compounding fee plus Rs.50,000/- towards extra levy for the first service connection; (ii) the entire compounding fee plus Rs.20,000/- towards extra levy for the second service connection; and (iii) the entire compounding fee plus Rs.25,000/- towards extra levy for the third service connection.

4. The petitioner, probably, did not understand the scope of the directions issued by this Court in the said writ petition, but chose to address to the third respondent by letter dated 20.4.2012 complying with the conditions imposed by this Court in its order dated 18.4.2012. Along with the said letter dated 20.4.2012, the petitioner enclosed a copy of the order passed by this Court in the earlier writ petition. Subsequently, an enquiry was fixed, in which, one Mr.Sethuraman was authorized to attend the enquiry, pursuant to which, the impugned order has been passed. In the enquiry, the said Mr.Sethuraman appears to have raised certain contentions. However, the third respondent, while passing the impugned order, does not specifically state as to how the contentions raised by the petitioner were not acceptable.

5. The specific contention raised by the petitioner before this Court is that they had given an intimation to the third respondent on 11.1.2012 informing that they shifted their unit from the existing premises and that they were using the premises only for administrative purposes. This letter is shown to have

been served in the office of the third respondent on 12.1.2012 as could be seen from the date seal.

6. Thus, in the considered view of this Court, a more full-fledged enquiry requires to be conducted, before which, the petitioner should have raised their objections, which they failed to do. However, in the enquiry, the said Mr.Sethuraman raised certain contentions, which are not very clear and lucid. Furthermore, in the counter filed by the third respondent, nothing has been stated as to what is the effect of the petitioner's representation dated 11.1.2012 informing the third respondent that they shifted their unit from the existing premises. Therefore, this Court is of the view that one more opportunity can be granted to the petitioner so that a reasoned order is passed by the third respondent.

7. Accordingly, the writ petition is disposed of by directing the petitioner to treat the impugned proceedings dated 24.5.2012 and the annexure to it as a show cause notice and the petitioner is directed to give their objections within 15 days from the date of receipt of a copy of this order along with all annexures, which they propose to rely upon. On receipt of the objections, the third respondent shall consider the same and pass fresh orders on merits and in accordance with law after affording an opportunity of personal hearing to the authorized representative of the petitioner. Since the petitioner had the benefit of interim order from 14.6.2012, no coercive action shall be initiated against the petitioner by way of recovery proceedings till fresh orders are passed. No costs. Consequently, the connected MP is closed.

Sd/-  
Assistant Registrar

//True Copy//

सत्यमेव जयते  
Sub Assistant Registrar

RS

To

1.The Chairman & Managing Director,  
TANGEDCO,  
NPKRR Maligai,  
TNEB Complex,  
144, Anna Salai,  
Chennai-2.

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2.The Superintending Engineer,  
TANGEDCO,  
Guindy,  
CEDC/South/TANGEDCO,  
Chennai-78.

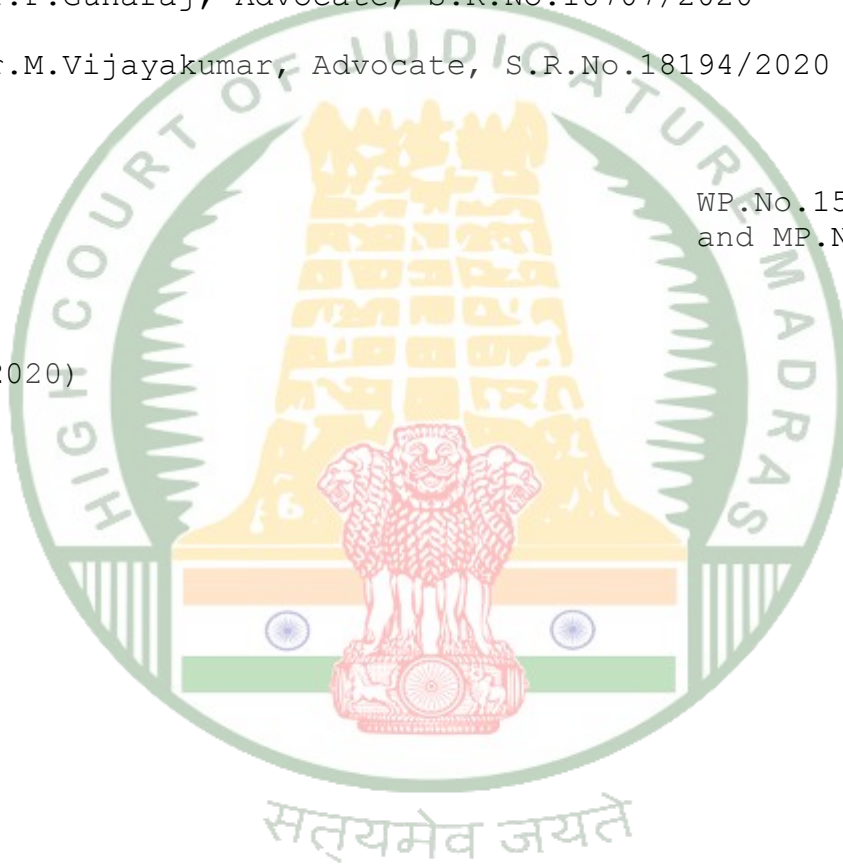
3.The Assistant Executive Engineer,  
TANGEDCO,  
O & M/Guindy,  
CEDC/South/TANGEDCO,  
Chennai-32.

+1cc to Mr.P.Gunaraj, Advocate, S.R.No.18707/2020

+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.18194/2020

WP.No.15142 of 2012  
and MP.No.2 of 2012

SSV(CO)  
RN(02/06/2020)



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