



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.25264 & 25265 of 2012

and

M.P.Nos.1, 1, 2 & 2 of 2012

M/s.Sonata Information Technology Limited,
193, R V Road,
Basavangudi,
Bangalore - 560 004.

... Petitioner in both W.Ps

Vs.

1. Tamil Nadu Generation & Distribution Corporation Limited,
Represented by its Chairman,
5th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

2. The Assistant Engineer,
Tamil Nadu Generation & Distribution Corporation Limited,
Chennai Electricity Distribution Centre,
T Nagar, Chennai - 600 017.

... Respondents in both WPs.

Prayer in WP.No.25264 of 2012: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in passing of the order / demand dated 26.04.2012 and quash the same and consequentially issue a direction to the respondent to refund the amount of Rs.2,56,115/- paid by the petitioner and the differential amount demanded for the subsequent months at between residential and commercial rate in respect of the service connection No.235-023-420 installed at Flat No.8, Trishul Apartment, No.34, North Boag Road, T.Nagar, Chennai - 600 017.

Prayer in WP.No.25265 of 2012: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in passing of the order / demand dated 17.04.2012 and quash the same and consequentially issue a direction to the respondent to refund the amount of Rs.2,40,658/- paid by the petitioner and the differential amount demanded for the subsequent months at between residential and commercial rate in



respect of the service connection No.129-024-243 installed at Old No.151, New No. 24, Regent Place, Habibullah Road, T.Nagar, Chennai - 600 017.

WEB COPY

For Petitioner : M/s.S.R.Rajagopal
For Respondents : M/s.P.R.Dhilip Kumar
Standing Counsel
..in both Wps.

COMMON ORDER

The petitioner is M/s.Sonata Information Technology Limited Company having its registered office in Bangalore. The petitioner entered into a lease agreement with one Mr.Eduthodu Mohammed Koya on 08.08.2010 and leased out a residential premises for the use of its employees and officers. The lease agreement states that the lessee / petitioner shall use premises for residence of its employees. Inspection was conducted by the second respondent in the property on 26.04.2012 pursuant to which, a demand has been issued, which is impugned in W.P.No.25264 of 2012. In the other writ petition, viz., W.P.No.25265 of 2012, which pertains to another property, identical provisional assessment has been made. The petitioner has paid the entire amount demanded, including compounding fee as well as penal charges. According to the petitioner, the same was compelled to be paid.

2.The learned counsel for the petitioner relied upon the decision of Hon'ble Supreme Court of India in the case of R.Muthulakshmi vs. Authorised Officer-cum-Assistant Executive Engineer reported in 2012 SCC Online Mad 3670, wherein it has been held that renting the premises for stay of employees would not make the premises a commercial establishment. In any event, the impugned orders cannot be interfered at this stage, as they are only provisional assessments. However, provisional assessments need to be finalised and final assessment orders have to be passed after affording opportunity to the petitioner.

3.Therefore, this Court is inclined to grant permission to the petitioner for filing their objections. Accordingly, the petitioner is directed to submit their objections to the provisional assessments to the second respondent, who shall consider the objections after affording opportunity of personal hearing to the petitioner or their authorized representative and permit them to produce documents to establish that the properties which were leased out were exclusively meant for their employees and after considering petitioner's representations, final orders be passed. The petitioner is directed to submit their reply / objections within a period of three weeks from the date of receipt of copy of this order and upon completion of the enquiry the second respondent shall pass



final orders within a period of four weeks from the date on which the enquiry is completed.

4. Accordingly, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The Chairman,
Tamil Nadu Generation & Distribution Corporation Limited,
5th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

2.The Assistant Engineer,
Tamil Nadu Generation & Distribution Corporation Limited,
Chennai Electricity Distribution Centre,
T Nagar, Chennai - 600 017.

+1 CC to Mr.Rajagopal, Advocate sr 24462
+1 CC to Mr. Dhilip Kumar, Advocate sr 24249.

W.P.Nos.25264 & 25265 of 2012

MG(CO)
SP(14/07/2020)