

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.8872 & 7798 of 2020

and

W.M.P.Nos.10779 & 9203 of 2020

M.Basul Ashaf
S/o.Mohamed Rabi
The Proprietor
Basul Ashaf Construction and Suppliers
No.65/11, Pallavan Nagar Main Road,
P.P.Savadi, Madurai ... Petitioner in W.P.No.8872/2020

Mohamed Rabi
S/o.Muthumaraikayar
The Proprietor, Al-Ameen Traders
No.6, New No.7, Quaide Millath Nagar,
Yanaikkal, Madurai. ... Petitioner in W.P.No.7798/2020

Vs

1. The Chairman, TANGEDCO
N.P.K.R.R.Maalgai, 3rd Floor
144, Annasalai,
Chennai-600 002. ... 1st respondent in both W.P.s
2. The Chief Engineer/Distribution
TANGEDCO
Chennai North Region
144, Anna Salai
Chennai-600 002.
3. The Superintending Engineer
TANGEDCO
Chennai Electricity Distribution Circle (CEDC)/Central
Nungambakkam,
Chennai-94. ... 2nd & 3rd respondents
in W.P.No.8872 of 2020
4. The Chief Engineer/Distribution
TANGEDCO
Coimbatore Region
Tatabad - GCC No.2940
Coimbatore - 641 012.

5. The Superintending Engineer
CPC/TANTRANSCO
Tatabad - GCC No.2940
Coimbatore - 641 012.

... 2nd & 3rd respondent
in W.P.No.7798/2020

Prayer:

Writ Petition No.8872 of 2020 filed under Article 226 of the Constitution of India praying Writ of Mandamus directing the respondents 1 to 3 to grant an extension of 60 days time (after resolved lockdown) for remit the scrap tender bidding balance amount in specification No.T.S.139/2019-20 for Lot No.2 and Lot No.4 without any penal interest or forfeiting earnest money deposit (EMD) amount in the pandemic situation of Covid-19 by considering the petitioner's representations dated 24.03.2020 and 09.04.2020.

Writ Petition No.7798 of 2020 filed under Article 226 of the Constitution of India praying Writ of Mandamus directing the respondents 1 to 3 to grant an extension of 60 days time (after resolved lockdown) for remit the scrap tender bidding balance amount in sale order No.1 (Lot No.1), sale order No.3 (Lot No.3) and sale order No.5 (Lot No.5) without any penal interest or forfeiting earnest money deposit (EMD) amount in the pandemic situation of Covid-19 by considering the petitioner's representation dated 24.03.2020.

For Petitioner in both W.P.s : Mr.D.S.Haroon Rasheed

For Respondents in both W.P.s : Mr.V.Anil Kumar

C O M M O N O R D E R

This matter is taken up for hearing through Video-Conferencing mode.

2. In both these writ petitions, the grievance of the petitioners is against imposing penalty interest for making delayed payment of bid amount.

3. It is an admitted fact that in both cases, the bid amount was not paid within 21 days, as stipulated in the terms and conditions of the tender notification. According to the petitioners, due to the pandemic situation and lock down announced by the Government, they were not in a position to shift the materials from the site and therefore, they will be put to loss, if the petitioners are directed to pay penal interest also.

4. However, the learned counsel for the respondents submitted that on 01.05.2020, the Government relaxed the conditions of lock down by permitting the movement of commercial vehicle and therefore, nothing prevented the petitioners from shifting the materials. Therefore, he submitted that from 01.05.2020, till the date of payment of the bid amount, the petitioners are liable to pay interest.

5. At this juncture, the learned counsel for the petitioners submitted that if the petitioners pay the penal interest, it would cause heavy loss to them and therefore, they may be permitted to quit the contract and the bid amount paid by them may be refunded after forfeiting the EMD. He further submitted to that effect that the petitioners would make representation before the respondents.

6. Considering the above stated facts and circumstances, it is open to the petitioners to make such representation before the respondents and if any such representation is made, the same shall be considered and appropriate orders shall be passed within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi/mk

To

1. The Chairman, TANGEDCO
N.P.K.R.R.Maalgai, 3rd Floor
144, Annasalai,
Chennai-600 002.
2. The Chief Engineer/Distribution
TANGEDCO
Chennai North Region
144, Anna Salai, Chennai-600 002.
3. The Superintending Engineer
TANGEDCO
Chennai Electricity Distribution Circle (CEDC)/Central
Nungambakkam, Chennai-94.

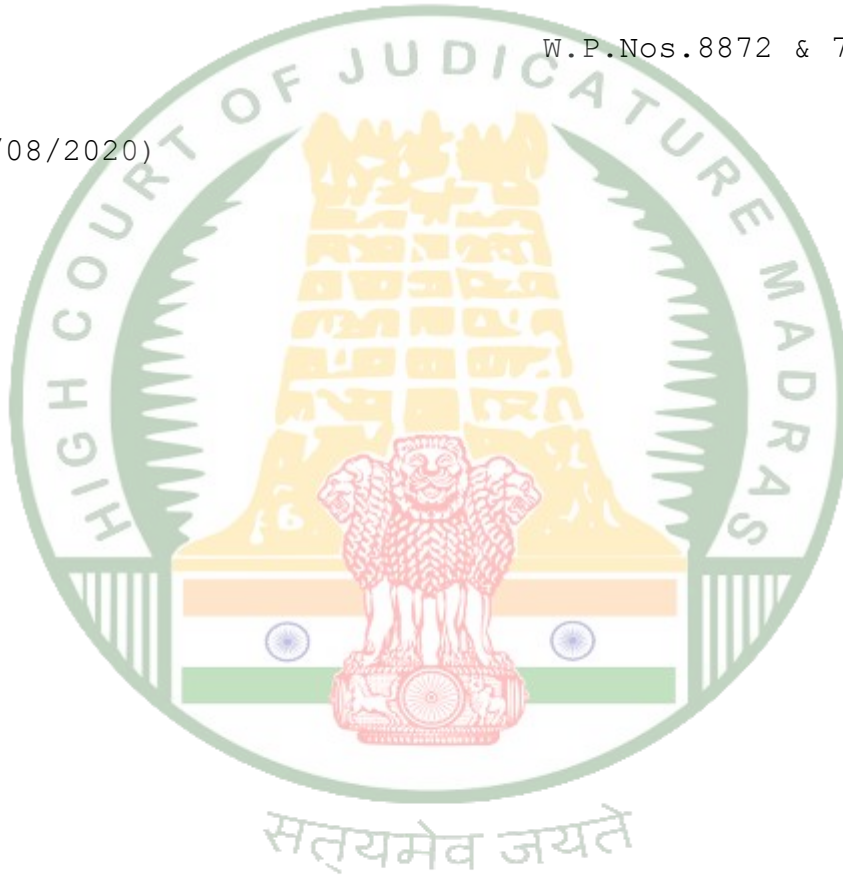
4. The Chief Engineer/Distribution
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Coimbatore - 641 012.

5. The Superintending Engineer
CPC/TANTRANSCO
Tatabad - GCC No.2940
Coimbatore - 641 012.

+ +1 cc to Mr.V.Anil Kumar, Advocate, in SR.No.27044

W.P.Nos.8872 & 7798 of 2020

sks (co)
rr ii (26/08/2020)



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