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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.1696 AND 1697 OF 2015

M/s. Harini Colours,
rep. by its Partner S.Karthikeyan
Old No.29, New No.43,
Lakshmi Nagar Main Road,
Tirupur- 641602.

... Petitioner
(in both W.Ps)

Vs.

TANGEDCO,
Rep. by The Superintending Engineer,
Tirupur Electricity Distribution Circle,
Tirupur - 641602.

... Respondent
(in both W.Ps)

Prayer in W.P.No.1696 of 2015 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the impugned order of the respondent bearing Letter No.SE/TEDC/TPR/AAO/DFC/F.HT/BOAB/D5734/14 dated 17.12.2014, demanding repayment of the sum of Rs.17,70,615/- and quash the same.

Prayer in W.P.No.1697 of 2015 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the impugned order of the respondent bearing Letter No.SE/TEDC/TPR/AAO/DFC/F.HT/BOAB/D/14 dated 23.12.2014, demanding repayment of the sum of Rs.19,38,174/- and quash the same.

For Petitioner : Mr.S.Umapathy
(in both W.Ps)

For Respondent : Mr.M.Abdul Kalam
Standing Counsel for TANGEDCO
(in both W.Ps)



COMMON ORDER

The demand notices dated 17.12.2014 and 23.12.2014, asking the petitioner to pay a sum of Rs.17,70,615/- and Rs.19,38,174/- are under challenge in the present writ petitions.

2. The petitioner is running a business in colouring and dyeing unit, established in Tirupur. The petitioner firm has commenced their own Wind Energy Generators in the year 2009, for consumption of Electricity for running colouring and dyeing unit, and have obtained statutory license.

3. The learned counsel for the petitioner states that during certain period, the factory was non-functional and there was a short levy. The audit party raised an objection regarding short levy and asked the petitioner to pay a sum of Rs.17,70,615/- and Rs.19,38,174/-. The petitioner in those circumstances, has chosen to file the present writ petitions.

4. This Court is of the considered opinion that the period, in which, the petitioner is claiming the benefit or otherwise are to be adjudicated by the competent authorities. If at all, the petitioner is of an opinion that the short levy of a sum of Rs.17,70,615/- and Rs.19,38,174/- are based on certain incorrect facts, then the petitioner has to approach the redressal Forum under the Tamil Nadu Electricity Supply Code 2004, for effective adjudication and to redress the grievances. When the Forum is constituted for adjudication of the issues in original with reference to the documents and evidences, High Court in a writ proceedings, cannot conduct such an elaborate adjudication, which is to be done based on the documents and evidences. Merely based on the affidavit filed, the determination of the quantum of short levy to be paid cannot be interfered with and for any such inference, an elaborate adjudication is imminent.

5. Thus, the petitioner is at liberty to approach the Grievances Redressal Forum under Regulation 18 of the Tamil Nadu Electricity Supply Code 2004, and place all the documents and evidences to establish their case.

6. Even there is a electricity Ombudsman is functioning for adjudication of issues. Exhausting the Statutory remedies are of paramount importance and the findings to be given by such statutory authorities are vital for the purpose of exercising the power of judicial review by the High Court under Article 226 of the Constitution of India. Thus, in all circumstances, such disputes and issues are to be adjudicated by the competent authority or the Forum constituted for the purpose of such adjudication. Only thereafter, the parties may approach the High



Court by filing the writ proceedings. The scope of judicial review under Article 226 is undoubtedly limited, and it cannot be extended for the purpose of adjudication of original issues with reference to the documents and evidences.

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7. The power of judicial review shall be exercised to find out the correctness or otherwise of the process, through which, a decision is taken by the competent authorities in consonance with the provisions of law but not the decision itself. Thus, the petitioner has to exhaust the remedies provided under the Statutes and Rules for the purpose of redressal their grievances.

8. With these observations, both the Writ Petitions stand disposed of. No Costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Jeni/Kak

To

The Superintending Engineer,
TANGEDCO,
Tirupur Electricity Distribution Circle,
Tirupur - 641602.

+2ccs to M/s.T.Raja Mohan, Advocate, S.R.No.59505 & 59506

W.P.Nos.1696 and 1697 of 2015

GPL (CO)

RLP (02/12/2021)