



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.19254 of 2015

And

MP No.1 of 2015

ITC Limited, Represented by its Divisional
Chief Executive Mr.Sanjay K.Singh,
Paperboards and Speciality Papers Division,
Unit : Kovai,
Vivekanandapuram (PO),
Thekkampatty (Village),
Coimbatore - 641 113,
Tamil Nadu, India.

.. Petitioner

vs.

1. Tamil Nadu Generation and Distribution
Corporation Ltd.,
TANGEDCO (earlier TNEB),
Represented by its Chairman,
No.800, Anna Salai,
Chennai - 600 002.

2. Superintending Engineer,
TANGEDCO,
Coimbatore EDC/North,
Coimbatore - 12.

3. Additional Chief Engineer,
TANGEDCO,
Coimbatore EDC/North,
Coimbatore - 12.

4. Bilt Industrial Packaging Company Ltd.,
No.1, B.R.Layout,
Rajiv Gandhi Nagar,
Uppilipalayam,
Coimbatore - 641 015.
Also at : First India Place,
Tower C, Mahruali Gurgaon Road,
Gurgaon - 122 002,
Haryana.

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent relating to the impugned letter dated 15.06.2015 bearing reference SE/CEDC/N/CBE/DFC/ /AO/REV/AAO/HT /F TF.Concession/D96 /14 and quash the same as illegal.

For Petitioner : M/s.S.Ramasubramaniam Associates

For Respondents-1 to 3 : Mr.M.Abdul Kalam for TANGEDCO

For Respondent-4 : Not Ready in Notice

O R D E R

The order dated 15.06.2015 issued by the second respondent regarding Tariff Concession, is under challenge in the present writ petition.

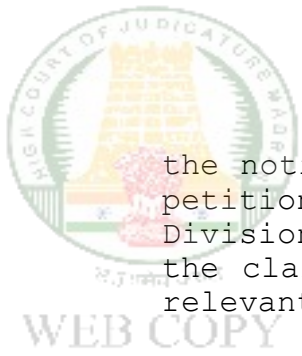
2. The petitioner is a Company registered under the Companies Act and inter-alia engaged in the business of manufacture of paperboards and speciality papers at its Unit at Kovai.

3. The fourth respondent is Bilt Industrial Packaging Company Limited, which is a Company incorporated under the Laws of India and which was the owner of the aforesaid Unit at Kovai until 2003 when the petitioner-Company purchased the Unit at Kovai as an operating business in terms of a Slump Sale Agreement dated 07.11.2003.

4. The grievance of the petitioner is that they have taken over the Company in the year 2003 and submitted applications regarding tariff concessions to be extended. The second respondent-Superintending Engineer declined the request of the petitioner, merely on the ground that the petitioner was one of the respondents in W.A.No.653 of 2010, on which this Court had delivered the judgment on 29.11.2013. Based on the Court direction, the petitioner has been called for a personal hearing on 05.05.2014 and extension of time was permitted upto 20.05.2014 on the request of the petitioner.

5. In view of the fact that the petitioner had not produced any documents or evidences to substantiate their eligibility for Tariff Concession, such concession was rejected in respect of the petitioner.

6. The learned counsel for the petitioner brought to



the notice of this Court that the petitioner in the present writ petition was the respondent in the Writ Appeal and the Hon'ble Division Bench of this Court had decided the issue in respect of the claims set out by the petitioner in the Writ Appeal and the relevant portion of the order is extracted as under:-

"In the light of the said submission, such individual orders are set aside and we direct the concerned authority of the appellant-Board to call the individual Industries who had litigated before the Hon'ble Supreme Court and who are litigating before this Court to consider the individual claims for tariff concession, and after affording opportunity to the individual Industries to adduce documentary proof to sustain their claim, pass appropriate orders strictly in accordance with the directions issued by the Hon'ble Supreme Court in the judgment referred to above, within a period of three months from the date of receipt of a copy of this order. If any rejection orders are to be passed by the concerned authority of the Board affecting the rights of the Industry/Industries, we are of the view that opportunity of hearing should be extended to the individual Industries by the concerned authority to substantiate their claim. It is also made clear that neither the stand taken in the counter affidavit nor in these writ appeals shall be relied on by the concerned authority of the Board while taking a decision as directed above and the concerned authority is directed to follow strictly the directions issued by the Hon'ble Supreme Court. It is also needless to state that if the order of the learned single Judge is complied with and implemented in any of the matters, the said order will stand good. The writ appeals are disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. No costs."

7. Relying on the abovesaid order of the Hon'ble Division Bench of this Court, the learned counsel for the petitioner reiterated that the claim of the petitioner is to be considered independently with reference to the application submitted by the petitioner was disposed of in the writ appeal.

8. This Court is of the considered opinion that no



doubt the implications in respect of the directions or otherwise issued by the Hon'ble Division Bench of this Court is to be followed by the Authorities Competent. However, the case of the petitioner is to be considered with reference to the facts and circumstances pleaded before the Competent Authorities.

9. The application of the judgment is to be made with reference to the facts established, as the petitioner was the respondent in the writ appeal and it is needless to state that the findings made by the Hon'ble Division Bench of this Court are binding on all the parties concerned. Under these circumstances, the grievance of the petitioner is that no opportunity was given to the petitioner and the order impugned was passed without considering the facts and circumstances of the case of the petitioner.

10. This being the factum established, this Court is of the opinion that the matter is to be remanded back for the purpose of fresh adjudication. Accordingly, the order impugned passed by the second respondent-Superintending Engineer in proceedings dated 15.06.2015 is set aside and the second respondent-Superintending is directed to conduct a fresh enquiry by providing an opportunity to the petitioner and take a decision. In this regard, the second respondent-Superintending is directed to issue notice to all the parties concerned, including the petitioner and the fourth respondent, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the notice, the petitioner is directed to submit their explanations/documents, if any, within a period of two weeks from the date of receipt of the notice to be issued by the second respondent-Superintending Engineer. Thereafter, the second respondent-Superintending Engineer is directed to consider the case of the petitioner on merits and based on the documents available and pass orders, within a period of six weeks thereafter.

11. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Svn



To

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
TANGEDCO (earlier TNEB),
No.800, Anna Salai,
Chennai - 600 002.
2. Superintending Engineer,
TANGEDCO,
Coimbatore EDC/North,
Coimbatore - 12.
3. Additional Chief Engineer,
TANGEDCO,
Coimbatore EDC/North,
Coimbatore - 12.

+1cc to Mr.S.Ramasubramanian, Advocate, S.R.No.66356

WP 19254 of 2015

PL (CO)
SU (23/12/2021)