



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.11.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.NO.19117 OF 2014

M/s.Indus Towers Ltd.,
(Formerly known as M/s.Vodafone Essar South Ltd.),
Rep. by its Manager - Legal,
NPS, Jawaharlal Nehru Road,
ESPEE IT Park, 5th floor, Ekkattuthangal,
Chennai - 600 032.

.. Petitioner

..Vs..

1. The Superintendent Engineer (Central),
SE/CEDC/Central,
Tamil Nadu Generation and Distribution,
Corporation Ltd. (TANGEDCO),
Valluvarkottam, Nungambakkam,
Chennai - 600 034.

2. The Assistant Executive Engineer,
(Operation and Maintenance), CEDC/South,
Tamil Nadu Generation and Distribution,
Corporation Ltd. (TANGEDCO),
Valasaravakkam, Chennai.

.. Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in respect of impugned letter Lr.No.AEE/O & M/ VVKM/F.CCom/D.233/14, dated 28.02.2014 and quash the same as illegal, unconstitutional and contra to the provisions of the Tamil Nadu Electricity Supply Code, 2004, in terms of the Act and directing the respondents herein to forthwith refund the amount in excess of Rs.26,306/- paid by the petitioner.

For Petitioner : Mr.R.Imayavaramban
for M/s.Ramalingam & Associates

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel for TANGEDCO



O R D E R

The order impugned dated 28.02.2014 is an assessment notice. The petitioner is a company registered under the Companies Act. The petitioner offers services to the operators in the Wireless Loop mobile telephone and is engaged in the business of providing infrastructure for Telecom Services.

2.The Electricity Board authorities during inspection identified theft of energy in the premises of the petitioner and accordingly, initiated actions under the provisions of the Regulations. At the request of the petitioner, the offence was compounded under the provisions of the Electricity Act and accordingly, the petitioner was directed to pay the consumption charges. Under those circumstances, the assessment notice was issued stating that the petitioner had committed themselves the direct connection of one phase, which has been given by the vendor of the petitioner and the theft of energy was established. Thus, the Electricity Board authorities has stated that the assessment is to be made.

3.When the petitioner themselves agreed for compounding of offence and actions are initiated they are bound to adjudicate the issues before the competent authorities. If at all they have agreed from and out of the assessment or consumption charges made, they are at liberty to approach the Consumer Grievance Redressal Forum constituted under Regulation-18 of the Tamil Nadu Electricity Supply Code.

4.However, such disputed facts and circumstances regarding theft of energy cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. As such, adjudication requires examination of witnesses and consideration of documents and other aspects of the matter. Thus, the petitioner has to exhaust the remedies under the Tamil Nadu Electricity Supply Code and the writ petition need not be entertained for the purpose of adjudicating the merits of the case.

5.With these liberty, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vs



To

1. The Superintendent Engineer (Central),
SE/CEDC/Central,
Tamil Nadu Generation and Distribution,
Corporation Ltd. (TANGEDCO),
Valluvarkottam, Nungambakkam,
Chennai - 600 034.
2. The Assistant Executive Engineer,
(Operation and Maintenance), CEDC/South,
Tamil Nadu Generation and Distribution,
Corporation Ltd. (TANGEDCO),
Valasaravakkam, Chennai.

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.61650

W.P.No.19117 of 2014

NK (CO)
PM/09/12/2021