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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM:

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.25104 of 2017

and

W.M.P.Nos.26546 & 26547 of 2017

The Deputy Financial Controller,
TANGEDCO,
Coimbatore Electricity Distribution Circle/Metro,
Tatabad, Coimbatore - 641 012. ...Petitioner

Vs.

1. Consumer Grievance Redressal Forum,
Coimbatore Electricity Distribution Circle/Metro,
Coimbatore - 641 012.
2. M/s.Sri Karthikeya Spinning and Weaving Mills Pvt Ltd.,
HTSC No.141,
P.B.No.3301, Uppilipalayam,
Coimbatore - 641 015. ...Respondents

Prayer:

Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st respondent in its order dated 04.04.2016 in CGRF Petition No.03 of 2015 and to quash the same as being illegal and unsustainable in law.

For Petitioner : Mr.Abul Kalam
Standing Counsel

For R1 : Court

For R2 : Ms.Tanushree Arvind
for Mr.Rahul Balaji

O R D E R

This Writ Petition has been filed, challenging the order passed by the first respondent/Consumer Grievance Redressal Forum (CGRF), dated 04.04.2016, in CGRF Petition No.03 of 2015 and to quash the same as being illegal and unsustainable in law.

2.The learned Standing Counsel for the petitioner-TANGEDCO



submits that, the petitioner-TANGEDCO issued a notice to the second respondent, dated 29.05.2015, to show cause, as to why, a sum of Rs.11,89,722 should not be levied on the second respondent. The second respondent, without giving any reply to the said show cause notice, dated 29.05.2015, filed a Petition before the CGRF, and the said Forum allowed the Petition vide order, dated 04.04.2016, and set aside the demand raised by the petitioner-TANGEDCO. The grievance of the petitioner is that, while allowing the Petition, the TANGEDCO has given an option to the second respondent to file Appeal before the Ombudsman, No.19A, Rukmini Lakshmipathy Salai, (TIDCO Complex), Egmore, Chennai-8 within 30 days from receipt of that order. The learned Standing Counsel contended that, by virtue of the impugned order, Appeal provision was given to the second respondent herein, and therefore, the petitioner cannot file any appeal before the Ombudsman, Hence, the petitioner/TANGEDCO has approached this Court challenging the said order.

3. Per contra, the learned counsel for the second respondent submits that there was a typographical error crept in the impugned order, instead of mentioning that the petitioner-TANGEDCO has option to file appeal before Ombudsman, it has been wrongly mentioned, as if, the second respondent has option to file appeal before Ombudsman. Further, the learned counsel submits that, in terms of Section 8 of Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman 2004, not only second respondent, against the order passed by the CGRF, any aggrieved person is entitled to file appeal before the Ombudsman.

4. Heard the learned Standing Counsel for the petitioner as well as learned counsel for the second respondent and perused the materials available on record.

5. The CGRF, vide order, dated 04.04.2016, set aside the demand raised by the petitioner-TANGEDCO, and the operative portion of the order is extracted herein below:-

"As per TNERC regulation 7 sub regulation 8 for Consumer Grievance Redressal Forum and Electricity Ombudsman that all the decision shall be taken by a Majority of votes by the members present. Here, the Majority of Votes i.e member I and member II are in favour of petitioner and hence this forum has passed an order that the demand of Rs.11,89,722/- raised by the Licensee vide letter No;SE/CEDC/M/CBE/DFC/AO/R/HTSC 141/D.No:46/15 DT 29.05.2015 is set aside.

The petitioner has the option to file



appeal to the OMBUDSMAN, No.19A, Rukmini Lakshmipathy Salai, (TIDCO Complex), Egmore, Chennai-8 within 30 days from receipt of this order."

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6. Thus, by virtue of the said order, second respondent was given an option to file appeal before the Ombudsman. Therefore, according to the learned counsel for the petitioner-TANGEDCO, since the second respondent has been given such option, the petitioner-TANGEDCO has been deprived opportunity of exhausting the alternative remedy.

6.1 However, as rightly pointed out by the learned counsel for the second respondent, in terms of Section 8 of Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman 2004, any consumer aggrieved by an order made by the Forum may prefer an appeal against such order to the Electricity Ombudsman within a period of 30 days from the date of receipt of a copy of the order. In this context, it would be beneficial to refer to the said Section 8, which reads as follows:-

"Any consumer aggrieved by an order made by the Forum may prefer an appeal against such order to the Electricity Ombudsman within a period of 30 days from the date of the order, in the form as prescribed in Annexure III.]1 Appeal Provided that the Electricity Ombudsman may entertain an appeal after the expiry of the said period of 30 days if the Electricity Ombudsman is satisfied that there was sufficient cause for not filing it within that period. "

6.2. In this connection, it would be apposite to refer to the term "'Consumer'" as defined under class (g) of Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman 2004, which is as follows:-

"'Consumer'" means,

- (1) Any person, who is supplied with electricity; or
- (2) Government; or
- (3) By any other person engaged in the business of supply of electricity to the public under this Act; or
- (4) Any person, whose premises are for the time being connected for the purpose of received electricity with the works of a licensee.

6.3 In the present case, the petitioner herein is involved in the business of supply of electricity, and as per definition of the term "'Consumer'", under class (g) of Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman



2004, the petitioner has every right to file appeal before the Electricity Ombudsman within the period of 30 days from the date of receipt of a copy of the order of the Forum.

6.4 Therefore, this Court has no hesitation to hold that the petitioner-TANGEDCO has every right to file appeal before the Ombudsman against the order impugned herein. Since in the impugned order of the CGRF, it has been wrongly stated that the petitioner (viz., second respondent herein) has an option to file appeal to the Ombudsman, that by itself, would not take away the right of the petitioner-TANGEDCO to file appeal before the Ombudsman. Therefore, the apprehension of the petitioner is baseless.

7. Accordingly, this Writ Petition is disposed of, granting liberty to the petitioner to prefer appeal in terms of Section 8 of the Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman 2004, within a period of four weeks from the date of receipt of a copy of this order. As and when such an Appeal is filed, the Electricity Ombudsman shall entertain the Appeal, without rejecting it on the ground of limitation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Consumer Grievance Redressal Forum,
Coimbatore Electricity Distribution Circle/Metro,
Coimbatore - 641 012.

W.P.No.25104 of 2017

and

W.M.P.Nos.26546 & 26547 of 2017

PA(CO)

RGA(10/01/2022)