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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.27415 of 2017
and W.M.P.No.29314 of 2017

M/s.Abi Showatech (India) Limited,
HTSC No.1159
Rep. by its Director,
S.Ravindran

...Petitioner

Versus

The Superintending Engineer,
TANGEDCO,
Vellore Electricity Distribution Circle,
Vellore-6.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent culminating in his impugned order No.Lr.No./SEV/DFC/AAO-HT/A2/F.Audit/2017 dated 22.09.2017, Vellore 6 and quash the same and direct the respondent not to proceed on the basis of the said demand notice without supplying the petitioner the details requested by them and giving them an opportunity of being heard.

For Petitioner : Mr.E.Jayasankar
For Respondent : Mr.L.Jai Venkatesh
Standing Counsel

O R D E R

This Writ Petition has been filed, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent culminating in his impugned order No.Lr.No./SEV/DFC/AAO-HT/A2/F.Audit/2017 dated 22.09.2017, Vellore 6 and quash the same and direct the respondent not to proceed on the basis of the said demand notice without supplying the petitioner



the details requested by them and giving them an opportunity of being heard

2. When the matter is taken up for hearing today, the learned counsel for the petitioner would submit that in an identical issue, this Court vide order dated 14.09.2018, in W.P.No.5916 of 2014 etc., batch, has quashed the impugned demand notice issued by the respondent-TANGEDCO.

3. The relevant portion of the order passed by this Court dated 14.09.2018, in W.P.No.5916 of 2014 etc., batch, is extracted hereunder:

"18. In view of the discussions made in the afore mentioned paragraphs, this Court is of the opinion that the Regulatory Commission has to under take the process of revision either suo-motu or through an application if any filed before the commission and conduct the adjudicative process by issuing notice to all the stakeholders and after hearing the parties aggrieved, decision shall be taken on merits and in accordance with law. The compliance of principles of natural justice has been contemplated in the business regulations, as stated supra. Thus Electricity Regulatory Commission is bound by that and they have to follow the procedures and thereafter take a decision and pass orders on merits and in accordance with law in respect of the withdrawal of the concession of the Deemed Demand Charges in respect of the writ petitioners. However, it is made clear that the observations made in this judgment will not affect the independent adjudication if any undertaken by the Electricity Regulatory Commission in accordance with the procedures contemplated. The Electricity Regulatory Commission is at liberty to decide the merits and demerits independently and pass orders without causing undue delay in view of the fact that the concession has been already cancelled in respect of other categories. Accordingly the impugned order passed by the second respondent in letter No. CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.115/13



dated 29.07.2013 is quashed and these writ petitions are allowed. No costs. Consequently connected miscellaneous petitions are closed."

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4.A perusal of the above would show that the issue in the present Writ Petition is covered by the order referred to above. That apart, before issuing the demand notice on the basis of the audit slip, it is incumbent to the respondent to provide opportunity of personal hearing to the petitioner to explain his case. It is very much clear that, in the present case, no such opportunity was provided. Therefore, the impugned demand notice is liable to be quashed.

5.In view of the above and following the principle laid down by the order this Court dated 14.09.2018, in W.P.No.5916 of 2014 etc., batch, the impugned demand raised by the respondent vide No.Lr.No. /SEV/DFC/AAO-HT/A2/F.Audit/2017 dated 22.09.2017, is hereby quashed and the Writ Petition is allowed.

6.If the petitioner has paid any amount towards demand made by the respondent dated 22.09.2017, the same shall be adjusted by the respondent in the petitioner's future electricity consumption charges. No costs. Connected miscellaneous petition is closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

rst
To:

The Superintending Engineer,
TANGEDCO,
Vellore Electricity Distribution Circle,
Vellore-6.

+1 CC to Mr.E.Jayasankar, Advocate sr 63639.

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PL(CO)
SP(21/12/2021)