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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.19431 OF 2010

AND

M.P.NO.2 OF 2010

M/s.Surya Dev Alloys & Power Pvt. Ltd.,
H.T.Sc.No.1848
S.No.298/2, New Gummidipoondi 601 201
Gummidipoondi Taluk,
Thiruvallur District,
Rep. By its Managing Director,
Mukesh Agarwal

...Petitioner

Vs

- 1.Tamil Nadu Electricity Regulatory Commission
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road)
Egmore, Chennai - 600 008.
Rep. By its Secretary.
- 2.The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
Chennai Electricity Distribution Circle/North,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.
- 4.The Chief Engineer,
Distribution/North,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai - 600 002.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of the 4th respondent in Letter No.CED/CNR/AO/AS/HT.Sc.No.1848/D417/2010 dated 21.08.2010 and consequential demand notice issued by the 3rd respondent in No.SE/CEDC/N/AAO/HT1848/A1/D805/10 dated 21.08.2010 and quash the same as illegal, arbitrary and against Section 56 of the Electricity Act, 2003.



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For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
For Mr.K.Seshadri
For 1st Respondent : No appearance
For Respondents 2 to 4 : Mr.L.Jai Venkatesh
for TANGEDCO

O R D E R

The demand notice dated 21.08.2010 and the consequential order are under challenge in the present writ petition. The petitioner industry is a continuous process industry involved in the manufacture of Steel ingots and Steel rods having High Tension Electricity Supply in H.T.Sc.No.1848.

2. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that the petitioner submitted an application for additional power supply of 15,00,000 units and 22920 KVA demand per month during Peak Hours. However, the respondents allotted an additional demand of 13158 KVA. The petitioner immediately sent a reply by stating that the additional demand allotted by the respondent is insufficient and therefore, they are not preferring to opt the additional demand allotted and accordingly, they have cancelled the original request made for allotment of additional demand of power supply.

3. Further, the learned Senior Counsel reiterated by stating that when the petitioner had immediately cancelled the request made by them, there is no reason whatsoever to demand reliability charges which is uncalled for. Thus, the impugned demand notice and bill are liable to be set aside.

4. The learned counsel appearing on behalf of the respondents 2 to 4 objected the said contention by stating that based on the request made by various HT consumers throughout the State, the additional power was purchased from outsiders by TANGEDCO in a programmed manner and therefore, the requirement cannot be cancelled in the middle of the period. Moreover, the petitioner has also entered into an agreement in this regard with the Board which also prohibits cancellation in the middle of the month. Further, the petitioner has consumed 19,410 KVA (i.e. more than the demand quota 15679 KVA fixed for peak hour) and also consumed 1,52,400 energy units during the peak hour period from 18.01.2010 to 26.01.2010. Finally, the Chief Engineer cancelled his order dated 21.08.2010 that the reliability charges already levied is in order and directed the respondent to pay Rs.31,77,554/- along with BPSC. Accordingly, the petitioner is asked for reliability charges.



5. This Court is of the considered opinion that though the petitioner states that the terms and conditions of the agreement is not applicable in respect of the additional request made by the petitioner. The same requires an adjudication as it is a request in continuation of the existing power supply provided to the petitioner premises. No doubt, the petitioner is an existing customer and made a request for additional allotment. The Board granted an additional allotment which was not satisfactory to the petitioner and they have submitted a letter for cancellation. These disputed facts require an adjudication, in view of the terms and conditions of the agreement between the parties. The respondent Board says that several such requests are made by various HT consumers throughout the State and the additional power was purchased from the outsiders by TANGEDCO in a programmed manner and therefore, the requirement cannot be cancelled in the middle of the period and further, it is contended that the petitioner has consumed more than the demand quota and moreover, the petitioner has also entered into an agreement in this regard with the Board which also prohibits cancellation in the middle of the month. All these disputed obligation between the parties require an elaborate adjudication with reference to the documents, agreements and the evidences made available. The petitioner has filed the writ petition challenging the demand notice. Therefore, the petitioner has to approach the Consumer Grievances Redressal Forum constituted under Clause 18 of the Electricity Supply Code.

6. In view of the facts and circumstances, the petitioner is permitted to submit a bill before the Consumer Redressal Grievances Forum constituted under the Electricity Supply Code within a period of four weeks from the date of receipt of a copy of this order. In the event of receiving any such bill, the Forum shall consider the period during which the writ petition is pending for the purpose of condoning the delay and entertain the bill and decide the issues on merits and in accordance with law as expeditiously as possible. The deposit already made by the petitioner, pursuant to the interim orders granted in the present writ petition, shall be adjusted after the disposal of the bill to be filed by the petitioners.

7. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

Sgl



To

- 1.The Secretary,
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144, Anna Salai,
Chennai - 600 002.

+1cc to Mr.L.Jai Venkatesh, Advocate Sr.No.4841

+1cc to Mr.K.Seshadri, Advocate Sr.No.4822

W.P.No.19431 of 2010

GPL(CO)
RVM(08/02/2022)