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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2022

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.2513 of 2015

and

W.M.P.Nos.1 to 3 of 2015

Seshasayee Paper and Boards Limited
Represented by the Manager (Electrical)
Cauvery, R.S.(Post),
Pallipalayam - 638 007.

...Petitioner

Vs.

1. The TANGECO,
Represented by its Chairman,
No.800, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 646 401.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in issuing the impugned demand bearing Ref.No.SEM/DFC/AAO HT/F.HT SC 17/R.147/15 dated 22.01.2015 and quash the same as being arbitrary and illegal and consequently direct the respondents to carry out an inspection of the petitioner's HT Service Connection to ascertain the levels of harmonic dumping and impose any charges in respect of Harmonic dumping strictly in accordance with law and only in the event of the petitioner failing to achieve the necessary limits on or after the date available to it to achieve such harmonics control, i.e., 23.04.2015.

For Petitioner : Mr.Rahul Balaji

For Respondents: Mr.M.Abul Kalam
Standing counsel for the respondents

ORDER



This writ petition is filed challenging the impugned demand bearing Lr.No.SEM/DFC/AAO HT/F.HT SC 17/R.147/15 dated 22.01.2015.

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2. The petitioner is the consumer of High-Tension electricity under the respondents. In terms of the tariff order passed by the Tamil Nadu Electricity Regulatory Commission (TNERC), the Industries/ Companies, which are connected to the power supply of 33kv and above, the consumers are required to install "Harmonic Filters", for which purpose, the respondent-TANGEDCO conducted an inspection in the petitioner's firm on 10.12.2014. A report was submitted finding that the current harmonic distortion during the relevant period is more than the limit prescribed by CEA. Thereafter, by letter dated 22.01.2015, without issuing a three months notice as required to install harmonic filter and without conducting second test to verify compliance, the petitioner was directed to pay 15% compensation charges of Rs.18,10,497/- for the period from 10.12.2014 until 26.12.2014, within 15 days from the receipt of the demand notice. It was evident that the time period for compliance was calculated from the general letter dated 11.09.2013 regarding maintenance of harmonic levels. The general letter cannot be construed as a notice since no measurement was taken at that time and penalty cannot be imposed without waiting for completion of three months and doing the second measurement.

3. The learned counsel for the petitioner would submit that the petitioner firm has taken action and fixed the harmonic filter within the permissible limit and it was tested by R&D wherein, they also given a report that the petitioner has complied with the requirement as per the rules even before three months granted for fixing the harmonic filter. Though the petitioner has complied with the requirements within three months, the respondent by impugned notice dated 22.01.2015 and imposed the penalty of Rs.18,10,497/-. The said impugned notice is under challenge in the present writ petition.

4. According to the learned counsel for the petitioner, the demand made by the respondents even before the expiry of three months as contemplated by respondents is illegal and violation of statutory provisions. In the similar circumstances, this Court in W.P.No.23736 of 2018 dated 06.12.2021 and in W.P.No.22318 of 2014 dated 10.02.2022 quashed the demand made by the respondents within a period of three months. The present writ petition is squarely covered with the issue relating to the said writ petitions, as the respondents have issued the impugned notice without waiting for the three months period as contemplated in the rules. As per the notice issued on 22.01.2015 for fixing the harmonic filters, three months period



expires on 23.04.2015. The petitioner has rectified the deficiency and fixed the harmonic filter even within the three months period.

5. In such circumstances the notice issued by the respondents is premature and violate the Electricity rules. Hence, this Court is inclined to set aside the impugned notice. Accordingly, this writ petition is allowed and the impugned notice is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman
TANGECO,
No.800, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 646 401.

W.P.No.2513 of 2015
and
W.M.P.Nos.1 to 3 of 2015

GPL (CO)
GMY (10/05/2022)