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W.P.No.31893 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.31893 of 2012

M/s.SAK Industries Private Limited,
rep. By its Vice President R.Raghu,
No.B-49/W, SIPCOT Industrial Complex,
Gummidipoondi-601 201.

.. Petitioner

[Cause-title amended as per the order
in M.P.Nos.1&1 of 2014 in W.P.Nos.31892 and
31893 of 2012 dated 11.6.2014]

Vs

- 1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Energy Department,
Fort St. George,
Chennai-600 009.
- 2.The Tamil Nadu Electricity Regulatory
Commission (TNERC),
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai – 600 008.



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- 3.The Tamil Nadu Electricity Board (TNEB),
rep. by its Chairman,
800, Anna Salai, Chennai-600 002.
- 4.The Tamil Nadu Electricity General and
Distribution Corporation Limited (TANGEDCO),
rep. by its Assistant Executive Engineer,
O&M/Gummidipoondi, CEDC/North,
Gummidipoondi-601 201.
- 5.Indian Bank,
rep. by its Authorized Officer,
Asset Recovery Management Branch-II,
IV Floor, No.55, Ethiraj Salai,
Chennai-600 008.
- 6.Madras Electro Castings Private Limited,
No.C-703, Commander-in-Chief Road,
Sivalaya C Block,
Ethiraj Salai,
Chennai – 600 105.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the fourth respondent culminating in the Demand Notice dated 20.06.2012 bearing reference No.Lr. No.AEE/O&M/GPD/AE/Sip-II/F.SAK Abrasives/D613/12 and quash the same and consequently direct the fourth respondent to provide a Low Tension service connection and supply electricity to the petitioner without insisting on the payment of Rs.1,59,49,255/- by the petitioner, being the unpaid electricity consumption arrears of sixth respondent, the



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erstwhile occupiers of the property.

For the Petitioner	: Mr.N.L.Rajah Senior Counsel for M/s.K.R.Arun Shabari, D.Pazhani
For the Respondents	: Mr.P.Muthukumar State Government Pleader for respondent No.1
	: Mr.L.Jaivenkatesh Standing Counsel for respondent Nos.2 to 4
	: Mrs.Rita Chandrasekaran for M/s.Aiyar & Dolia for respondent No.5
	: No Appearance for respondent No.6

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner challenging the impugned demand notice bearing No.Lr.No.AEE/O&M/GPD/AE/Sip/F.SAK Abrasives/D613/12 issued by the fourth respondent



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and to quash the same and consequently, direct the fourth respondent to provide low tension service connection and supply of electricity to the petitioner without insisting payment of Rs.1,59,49,255/- being unpaid electricity consumption arrears of the 6th respondent.

2. The short facts leading to the filing of the writ petition are that the petitioner is a company registered under the Indian Companies Act, 1956 having its head office at SP Infocity, No.40, MGR Salai, Perungudi, Kandanchavadi, Chennai-96. The petitioner company is manufacturing bonded, coated and super abrasive products under the brand name of TOPLINE since 1997. The 6th respondent - M/s. Madras Electro Castings Private Limited, was an allottee of the property situated at Plot No.B-54(b) in SIPCOT Industrial Complex at Gummidipoondi with a 99 year lease from SIPCOT and the said property was brought to public auction by the 5th respondent after issuing notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short, "*the Act of*



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2002”], followed by a notice under Section 13(4) of the Act of 2002.

The petitioner had purchased the leasehold right of the said property belonging to the 6th respondent in the auction sale conducted by the 5th respondent pursuant to the sale notice dated 21.7.2011. Since the said property was brought to public auction and the petitioner became successful bidder on payment total sale consideration of Rs.1.94 crore to the 5th respondent, the sale was confirmed in favour of the petitioner and the 5th respondent has also issued sale certificate in favour of the petitioner in exercise of powers conferred under Section 13(12) of the Act of 2002 read with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002 framed under the Act of 2002. Thereafter, the petitioner company applied for a new electricity connection on 12.3.2012 and after scrutiny, though having found the application to be in order in all respects, the 4th respondent issued the impugned demand notice dated 20.6.2012 calling upon the petitioner to pay arrears of Rs.1,59,49,255/- being unpaid electricity dues of the 6th respondent. Challenging the said notice, the petitioner has filed the present writ petition.



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3. Mr.N.L.Rajah, learned senior counsel, appearing for the petitioner submitted that the sale certificate issued in favour of the petitioner declares that the property was sold free of all encumbrances known to the secured creditor and thereafter, the petitioner and the SIPCOT executed a modified lease deed dated 27.7.2012 for a period of 75 years, registered as Document No.4127 of 2012 at the Sub-Registrar's Office, Gummidipoondi. After some time, the petitioner was issued with the impugned demand notice calling upon to pay arrears of electricity charges due by the previous occupier. Since the previous occupier of the property, namely the 6th respondent had committed default in repaying the loan amount due to the 5th respondent, the property was sold in public auction and the petitioner is the successful bidder in the auction.

4. Learned senior counsel would submit that earlier on 28.6.2013, the 4th respondent issued a letter to the 6th respondent calling upon them to pay a sum of Rs.97,17,223/- in one lumpsum. Subsequently, on 28.6.2016, the Superintending Engineer issued a letter to the 6th respondent calling upon them to execute an



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undertaking in favour of the Superintending Engineer agreeing to make payment of Rs.97,17,223/- in one lumpsum on approval of waiver of BPS and the letter dated 28.6.2016 reads thus:

"The Hon'ble TNERC has admitted the petition filed by the TANGEDCO to waive the BPSC as one time measure in order to collect the old arrears amount due from the T & LT consumers with certain conditions.

Your H.T. supply of M/s.Madras Electro Castings, H.T.SC.No.1507 was disconnected on 30.8.98 and accounts finalized and the following amount has to be payable.

C.C. arrears after adjusting Security Deposit	9664563
DC & dismantling	52660
BPSC from 7/2004 to 6/16	31893058
Total Amount payable	41610281

In order to avail the BPSC waiver, it is requested to execute an undertaking with undersigned agree to make payment of Rs.9717223/- in one lumpsum on approval of waiver of Belated Payment Surcharge by our Headquarters."



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5. Learned senior counsel further submitted that pursuant to the letter dated 28.6.2016, the Vice President of the petitioner company has given an undertaking on 19.7.2016 undertaking to pay the entire CC arrears and DC/Dismantling charges of Rs.97,17,223/- immediately in one lumpsum after getting an approval letter for waiver of BPSC and all other charges from TANGEDCO and in the undertaking dated 19.7.2016, it has been stated as under:

"I, R.Raghu, aged 48 years, Vice President of Sak Industries Pvt. Ltd. undertake on behalf of my company that we will pay the entire CC arrears and DC/Dismantling charges of Rs.97,17,223/- (Rupees Ninety Seven Lakhs Seventeen Thousand Two Hundred and Twenty Three only) immediately in one instalment after getting an approval letter for waiver of BPSC and all other charges from you."

Thus, learned senior counsel prayed for disposal of present writ petition in the light of the undertaking given by the petitioner dated



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6. Drawing our attention to the letter dated 28.6.2016 and the undertaking dated 19.7.2019, learned counsel for the TANGEDCO submitted that the petitioner may be directed to execute an undertaking to pay the payment of Rs.97,17,223/- in one lumpsum within a time frame.

7. Learned senior counsel for the petitioner has also agreed to execute the undertaking, for which, he seeks eight weeks' time.

8. In the light of the submission made by learned senior counsel for the petitioner and the undertaking dated 19.7.2016 given by the petitioner, the writ petition stands disposed of. The petitioner is directed to execute an undertaking agreeing to make payment of Rs.97,17,223/- in one lumpsum within a period of six weeks from the date of receipt of a copy of this order. Immediately, on payment of the aforesaid amount, the 4th respondent is directed to effect service connection to the petitioner. There will be no order



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as to costs.
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Index : Yes/No
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(T.R., ACJ.) (D.K.K., J.)
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To

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