IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 3699 of 2015
and M.P. No.1 of 2015

Alstom Transport India Limited
(Formerly known as Alstom Projects India Limited)
Registered Office at 65/2, Level 03 (II Floor),
Block C, Bagmane Laurel Building Tech Park,
CV Raman Nagar, Bengaluru – 560 093,
Rep. by its Director, Salil Goyal. … Petitioner

Vs.

1. The Sub Registrar
SRO Mylapore
Chennai – 600 028.

2. The District Registrar (Admn) Chennai Central
In the cadre of Assistant Inspector General
of Registration
Chennai – 600 014. … Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the Second Respondent, District Registrar (Admn.) Chennai Central, in the cadre of Assistant Inspector General of Registration, Chennai – 600 014 ending in the order No. 8293/A1/2013 dated 23.10.2014.

For Petitioner	:	Mr. Masilamani Senior Counsel For M/s. King and Partridge
For Respondents	:	Mr. R.Neelakandan Additional Advocate General Assisted by Mr. Yogesh Kannadasan Special Government Pleader

O R D E R

The Writ Petition has been filed challenging the order No. 8293/A1/2013 dated 23.10.2014 of the Second Respondent, District Registrar (Admn.) Chennai Central, in the cadre of Assistant Inspector General of Registration, Chennai – 600 014.

2. It is the case of the petitioner that the petitioner company along with Alstom Transport SA, which is incorporated under the Laws of France, was the successful tenderer for the Design, Manufacture, Supply, Testing and Commissioning of Electric Multiple Units and Training of Personnel for the Chennai Metro Rail Project- Phase I. For the purpose of participating with each other, for negotiating and, if successful, for entering into and performing

the contract, the petitioner's company and the Alstom Transport SA had entered into a Consortium Agreement on 26.08.2010 for the said project and the said Consortium Agreement was presented for registration before the first respondent and the same was registered as document No.821 of 2010 and a fee of Rs.100/- was levied under Rule 1(g) of the Table of Fees prepared under Section 78 of the Registration Act, 1908. Thereafter, the petitioner company received a show cause notice dated 24.01.2013 from the first respondent requesting the petitioner company to send its explanation as to why certificate under Section 80 A of the Registration Act, 1908 should not be issued for recovery of alleged deficit registration fees of Rs.14,71,38,900/- in respect of document No.821 of 2010 for which, the petitioner company submitted a detailed written explanation on 28.02.2013 and requested the first respondent to give a personal hearing. However, the first respondent has rejected the explanation and confirmed the show cause notice dated 28.01.2013. Challenging the same, the petitioner company preferred an appeal before the second respondent on 21.08.2013. The second respondent, by an order dated 23.10.2014, confirmed the certificates issued by the Sub

Registrar/first respondent stating that the petitioner company has to pay a sum of Rs.14,71,38,900/- as deficit fees for document No.821/2010. Challenging the said impugned order dated 23.10.2014, the petitioner has filed the present writ petition before this Court.

3. Learned Senior counsel appearing on behalf of the petitioner submitted that the first respondent has to necessarily give an opportunity to the petitioner under Section 80(A) of the Registration Act and without following due process, the first respondent had issued the certificates as against the petitioner company. Further, the issue has also not been properly considered by the appellate authority and mechanically, the impugned order was passed, which is not sustainable and it is a clear case of violation of principles of natural justice. Therefore, the learned Senior counsel seeks to quash the impugned order and to remand the matter back to the first respondent for fresh enquiry.

4. Per contra, learned Additional Advocate General appearing for the

respondents, on instructions, submitted that based on the audit objection made by the Accountant General of Tamil Nadu, the show cause notice has been issued to the petitioner company for the payment of the deficit stamp duty. As per Section 80-A of the Registration Act, the certificate has to be issued either by the original authority or by the appellate authority only after giving sufficient opportunity of personal hearing. Further, based on written objection made by the petitioner company, the original authority can very well issue a certificate to the petitioner and the same is not in violation of principles of natural justice. Hence, the learned Additional Advocate General prays to dismiss the writ petition.

5. Heard Mr. G.Masilamani, learned Senior Counsel for the Petitioner and Mr. R.Neelakandan, learned Additional Advocate General appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

6. It is not disputed that the petitioner company is an Indian Company.

The petitioner company and M/s.Alstom Transport SA (France Company) had entered into a Consortium Agreement on 26.08.2010 for the Design, Manufacture, Supply, Testing and Commissioning of Electric Multiple units and Training of Personnel for the Chennai Metro Rail Project- Phase I. The said agreement was registered before the first respondent, for which, the said companies paid a sum of Rs.100/- towards stamp duty. Based on the audit objection raised by the Accountant General of Tamil Nadu, the first respondent issued show cause notice to the petitioner's company asking to pay the deficit stamp duty of Rs.14,71,38,900/-, for which, the petitioner company filed the written objection and requested to give a personal hearing. However, without considering the written objection properly and without giving an opportunity of hearing, the first respondent confirmed the show cause notice and issued the certificate under Section 80A of the Act to the petitioner company. The appellate authority also confirmed the order of the first respondent. These facts are not disputed by the learned Additional Advocate General.

7. Though it is the contention of the learned Additional Advocate General that there is no violation of principles of natural justice and that adequate opportunity as mandated under Section 80(A) of the Act has been provided to the petitioner, however, a perusal of the materials available on record show that no opportunity of personal hearing was granted to the petitioner before the certificates were issued calling upon for payment of deficit stamp duty. The respondents have not placed before this Court any iota of material from which it could be safely inferred that the petitioner was provided with an opportunity of personal hearing to defend its case. Further, as per Section 80 of the Registration Act, it is incumbent on the part of the authorities to conduct an enquiry, by affording an opportunity of personal hearing to the petitioner and, thereafter, decide the issue. However, in the case on hand, the respondents have, on the basis of the written objection, concluded the enquiry and passed the impugned order, which has also been confirmed in appeal. The above act of the respondents in not providing the opportunity, as available to the petitioner under a statute, is nothing but violation of principles of natural justice and the aforesaid fact having not been

taken into consideration property in the appeal as well, necessarily, in such a scenario, this Court, in exercise of its inherent jurisdiction under Article 226 of the Constitution of India has to interfere with the said order.

8. In fine, the impugned order dated 23.10.2014 passed by the second respondent is hereby set-aside and the matter is remanded back to the first respondent for fresh consideration and for passing appropriate orders, after providing an opportunity of personal hearing to the petitioner, on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. The period of pendency before this Court shall be excluded for the purpose of limitation.

9. With the above observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

05.07.2022

rli
Internet:Yes/No
Index:yes/No
Speaking order/Non-speaking order

To

1. Sub Registrar
   SRO Mylapore
   Chennai – 600 028.

2. District Registrar (Admn) Chennai Central
   In the cadre of Assistant Inspector General
   of Registration
   Chennai – 600 014.

M.DHANDAPANI,J.

rli

W.P. No. 3699 of 2015

05.07.2022