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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29046 of 2016

and

W.M.P.Nos.25095 to 25097 of 2016

Amma Alloy India P Ltd, HT SC No.312
S.F.No.369/3, Appanaickanpatty Pudur,
Pappampatti (via), Coimbatore,
Repd., by its Authorised Signatory A.Gomathinayagam .. Petitioner

Vs

1. The Chairman (TANGEDCO),
Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO),
144, Anna Salai,
Chennai - 600 002.
2. Chief Financial Controller/Revenue,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TANGEDCO,
Tirupur Electricity Distribution Circle,
Tirupur.
4. Tamil Nadu Electricity Regulatory Commission,
Through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.115/13 dated 29.07.2013 and the consequential impugned demand notice Lr.No.SE/TEDC/TPR/DFC/AO/AAO/HT/AS/F.SCN/D.106/16 dated 22.07.2016 issued by the 3rd Respondent, quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.



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For Petitioner :Mr.S.P.Parthasarathy

For Respondents:Mr.M.Abdul kalam,
For TANGEDCO, For R1 to R3.
R4 - No appearance.

O R D E R

The Show Cause Notice issued by the Superintending Engineer calling for an objection, if any, from the petitioner, within a period of 15 days is under challenge in the present writ petition.

2. No writ against the show cause notice needs to be entertained in a routine manner. A writ against the show cause notice may be entertained, if such notice is issued by an incompetent Authority having no jurisdiction or on allegation of malafides or rights. Even in case of raising an allegation of malafides, the authority against whom such an allegation is raised must be impleaded as party respondent in the writ proceedings in his personal capacity. In all other circumstances, the show cause notice issued by the competent authorities, must be responded by the addressee by submitting their objections and documents, if any, and resolve the issues. Contrarily, High Court cannot adjudicate the disputed facts in a writ proceedings instituted challenging the show cause notice. In the present case, the petitioner raises several grounds on merits. The merits relating to the case are to be adjudicated by the Competent Authority in the present case as the respondent Superintending Engineer issued a Show Cause Notice calling upon the petitioner to submit their objections if any, within a period of fifteen days. The petitioner instead of defending their case has chosen to approach the High Court by filing the writ petition which cannot be considered.

3. In view of the facts and circumstances, the petitioner is at liberty to submit his objections/explanations along with the documents, if any, within a period of fifteen days from the date of receipt of a copy of this order and on receipt of any such objections or explanations the respondent Competent Authority shall conduct an adjudication and decide the issue on merits and in accordance with the law as expeditiously as possible.



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4. With these directions, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

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Tamil Nadu Generation and Distribution Corporation Limited
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Chennai - 600 002.
2. The Chief Financial Controller/Revenue,
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3. The Superintending Engineer,
TANGEDCO,
Tirupur Electricity Distribution Circle,
Tirupur.
4. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
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SSI (CO)
GMY (21/02/2022)