



W.P(MD)No.12691 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.08.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.12691 of 2012

and

M.P(MD)Nos.2 of 2012 and 1 of 2013

Sri.Thirumalai Industries,
Represented by its Proprietor,
T.Srinivasan.

... Petitioner

Vs.

1.The Chief Engineer/Distribution,
TANGEDCO Ltd., (TNEB)
Chennai South Region,
802, Anna Salai,
Chennai-600 002.

2.The Superintending Engineer,
CEDC,
Chengalpattu.

3.Sr.Resident Audit Officer,
Tamil Nadu Electricity Board,
802, Anna Salai,
Chennai-600 002.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the



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records relating to the order made in Lr.No:CED/CSR/EEP/AEEP
1/F.P.O.No:09/09-10/D 140/2012 dated 09-07-2012 passed by the first
respondent and quash the same.

For Petitioner : Mr.Pala Ramasamy
for M/s.Profexs Associates

For Respondents : Mr.S.Dheenadhayalan
Standing Counsel

ORDER

The Present Writ Petition has been filed challenging an order passed by the first respondent herein, under which the request of the petitioner for setting aside the penalty was rejected.

2. According to the petitioner, he was granted a purchase order by the first respondent herein for supply of 455 numbers of 9.14 meters RTS Grills by way of an order, dated 10.06.2009. The petitioner had successfully completed the supply of the said material with some delay and the said fact was also acknowledged and accepted by the respondent authorities by proceedings, dated 19.03.2010. In the said order, the first respondent has proceeded to recover a sum of Rs.16,344/-(Rupees Sixteen Thousand Three Hundred and Forty Four only) for the said delay



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as per Clause No.13.0 towards liquidated damages. The said order has not been challenged by the writ petitioner. However, on 23.02.2011, the first respondent has passed another order, in which he has directed the writ petitioner to deposit a sum of Rs.3,39,612/-(Rupees Three Lakhs Thirty Nine Thousand Six Hundred and Twelve only) on the basis of Resident Audit Officer's report. Thereafter, the petitioner had made a request to the first respondent herein to set aside the penalty. This was rejected by the order of the first respondent, dated 25.07.2011.

3. The said order was challenged by the petitioner in W.P(MD)No. 9368 of 2011. By an order, dated 22.08.2011, this Court has permitted the writ petitioner to give detail representation to the respondents and the respondents were directed to dispose of the representation on merits and in accordance with law. Thereafter, the present impugned order has been passed on 09.07.2012. A perusal of the present impugned order indicates that it is nothing but a replica of the order, dated 25.07.2011, which is impugned in W.P(MD)No.9368 of 2011. The explanation submitted by the writ petitioner was not considered and the present impugned order has been passed. That apart, no reasons have been assigned why a sum of Rs.3,39,612/-(Rupees Three Lakhs Thirty Nine Thousand Six Hundred



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and Twelve only) is sought to be recovered from the writ petitioner. The order is cryptic in nature and it does not refer to any of the clauses of the purchase order, under which the recovery proceedings have been initiated.

4. In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent herein. The first respondent is directed to pass a detailed order after considering the explanations submitted by the writ petitioner and after giving due opportunity of personal hearing to the writ petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.08.2022

Index : Yes / No
Internet : Yes / No

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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.12691 of 2012

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