



WEB COPY



W.P. No.7020 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.7020 of 2018

and

W.M.P. Nos.8665 to 8667 of 2018 and 25475 of 2018

M/s.TCP Limited,
Rep. by its Executive Director

...Petitioner

VS.

1. State of Tamil Nadu,
Rep. by the Secretary to Government,
Energy Department,
Secretariat,
Fort. St. George,
Chennai – 600 009.

2. The Chief Electrical Inspector to
Government (A/c.)
Thiru-vi-ka-Industrial Estate,
Guindy,
Chennai – 600 032.

3. The Tahsildar,
Taluk Office,
Gummidipoondi,
Thiruvallur District – 601 201.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the impugned demand notice issued by the 2nd and 3rd respondents



W.P. No.7020 of 2018

culminating in the final demand notice issued by the 2nd respondent bearing Lr. No.538/A1/2017, dated 26.02.2018 and demand notice issued by the 3rd respondent dated 09.03.2018 and quash the same as being violative of the provisions of Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003.

For petitioner : Mr.Rahul Balaji
For respondents : Mr. E. Veda Bagath Singh,
Spl. Govt. Pleader

ORDER

This writ petition has been filed challenging the impugned demand notice issued by the 2nd and 3rd respondents culminating in the final demand notice issued by the 2nd respondent bearing Lr. No.538/A1/2017, dated 26.02.2018 and demand notice issued by the 3rd respondent dated 09.03.2018 and to quash the same.

2. It is the case of the petitioner that they have been generating electricity since 1999 and supplied more than 95% of the electricity to TANGEDCO through Power Purchase Agreements for a period of 15 years. It is averred that notices were issued by the respondents to pay the electricity tax as well as interest, for which, they have sent a reply on 05.02.2018 to the 2nd respondent, pointing out that no tax is due from them. It is their contention that though their claim was accepted



W.P. No.7020 of 2018

partially, the respondents have issued the impugned orders thereby directing them to pay an amount of Rs.32,99,405/- along with interest, and the auction notice. Aggrieved by the said impugned orders, this writ petition has been filed.

3. Mr.Rahul Balaji, learned counsel for the petitioner submits that despite there being a specific bar contained in Section 9 of the Tamil Nadu Tax on Sale or Consumption of Electricity Act, 2003, but without considering the same, the respondents have demanded electricity tax and interest from the petitioner, which is wholly arbitrary and illegal. Hence, he prays for an appropriate directions to the respondents in the above regard, within a time frame as stipulated by this Court.

4. Learned Special Government Pleader appearing for the respondents submits that only after considering the explanations submitted by the petitioner, the impugned orders were passed by the respondents. Accordingly, he prays for dismissal of this writ petition.

5. The facts in the case are not in dispute. It is the contention of the petitioner that though their claim was accepted in part by the respondents, bar under Section 9 of the Act has not been considered to which there is no pointed reply from the respondents as to whether such consideration has been made. Though a larger relief has been claimed,



W.P. No.7020 of 2018

however, considering the facts and circumstances of the case, this Court, without going into the merits of the case, directs the petitioner to submit a fresh representation ventilating their grievance/objections to the 2nd respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said representation, the respondents are directed to consider the same and pass orders on merits and in accordance with law, within a period of four weeks thereafter. This Court further directs that till such time the aforesaid representation is considered and orders passed in accordance with law, the respondents shall not take any coercive action against the petitioner on the basis of the impugned demand.

6. This writ petition is disposed of with the aforesaid directions. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.03.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral citation case : Yes / No
vsi2

M.DHANDAPANI, J.



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To

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