



WEB COPY



W.P.No.9823 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.9823 of 2023

and

WMP.No.9904 of 2023

Southern Power Equipment Company Pvt. Ltd.,
Rep. by its Director,
Adrian Joseph D'souza,
Having its Office at:
No.79, 40th Main (MEI) Road,
2nd Stage, Industrial Suburb,
Yeshwanthpur, Bangalore - 560 022.

...Petitioner

Vs.

1. Tamil Nadu Transmission Corporation Ltd.
Rep. by its Chairman and Managing Director,
6th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.
2. The Chief Engineer-Transmission,
Tamil Nadu Transmission Corporation Ltd.
5th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.
3. The Bank of India,
Rep. by its Branch Manager,
49, St.Marks Road,
Bangalore - 560 001.

...Respondents



W.P.No.9823 of 2023

WEB COPY

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of the impugned Letter dated 25.11.2022 bearing No.12050/CE/TR/SE/TR.II/ET/A1/F.PO.TR.2668/C.12050-2/22 issued by the 2nd Respondent and quash the same and consequently to direct the Respondents 1 and 2 to return the sum of Rs. 40,42,783/- (Forty Lakhs Forty Two Thousand Seven Hundred and Eighty Three Rupees Only) issued by the 3rd Respondent Bank By Invocation of Bank Guarantee of the Petitioner bearing No.8404IPEBG150032, as extended vide Extension Letter dated 13.01.2023 other than by following due process of law.

For Petitioner : Mr.B.Arvind Srevatsa

For Respondents : Dr.Arunkumar, SC, for R1 & R2

ORDER

This Writ petition has been filed seeking quashment of the letter of the 2nd respondent dated 25.11.2022 bearing No.12050/CE/TR/SE/TR.II/ET/A1/F.PO.TR.2668/C.12050-2/22 and to consequently direct the 1st and 2nd respondents to return the sum of Rs. 40,42,783/- issued by the 3rd respondent bank by Invocation of Bank Guarantee of the Petitioner bearing No.8404IPEBG150032, as extended vide Letter dated 13.01.2023.

2. Dr.Arunkumar, learned Standing Counsel takes notice for the 1st and 2nd respondents. In view of the consent expressed by the Learned

2/7



W.P.No.9823 of 2023

counsel on either side, this petition is taken up for final disposal.

WEB COPY

3. Since no adverse order is being passed against the 3rd respondent, notice to the 3rd respondent is dispensed with.

4. The case of the petitioner is that the petitioner company was originally incorporated on 06.04.1988 under the name and style of “Decor Transformers Private Limited” and thereafter changed its name to “Southern Power Equipment Company Private Limited” on 19.12.2001. The petitioner company is engaged in manufacture of Power & Distribution Transformers from 16KVA upto 20 MVA/110KV and the petitioners have supplied transformers across India to State Electricity Boards. While so, the petitioner entered into contract with the respondent Corporation for supply and erection of 8 Nos. of 16MVA, 110KV class Power Transformers. At the time of entering into contract with the respondent corporation, the petitioner company had furnished a Bank Guarantee of worth about Rs.40,42,783/- on 23.04.2015. However, alleging that the petitioner/company has to extend the Bank Guarantee upto 11/07/2024, which was not done by the petitioner/company, the present impugned letter dated 25.11.2022 has been

3/7



W.P.No.9823 of 2023

issued by the 2nd respondent, deciding for Invocation of Bank Guarantee of the Petitioner. Challenging the same, the petitioner has come up with this Writ petition.

5. Learned counsel for the petitioner submitted that, subsequent to the issuance of the present impugned letter by the 2nd respondent, the petitioner/company has taken effective steps to extend the Bank Guarantee and the same was extended upto 31.08.2024. Hence, the impugned letter of the 2nd respondent does not subsist and accordingly, prayed for allowing this Writ petition.

6. Learned Standing Counsel appearing for the 1st and 2nd respondents submitted that, if the petitioner/company had subsequently extended the Bank Guarantee upto 31.08.2024, then in that scenario, this Court may grant permission to the respondent corporation to pursue the matter in accordance with law as against the petitioner/company insofar as non-compliance of the Contractual obligations.

7. Heard learned counsel on either side and perused the materials available on record.



W.P.No.9823 of 2023

8. It is fairly submitted by the learned counsel for the petitioner that, subsequent to the issuance of the present impugned letter of the 2nd respondent dated 25.11.2022, the petitioner/company had extended the Bank Guarantee upto 31.08.2024. In view of the above, the impugned letter dated 25.11.2022 does not survive. The petitioner/company is directed to keep the Bank Guarantee alive till 31.08.2024. Further, the respondent corporation is at liberty to proceed with the matter in the manner known to law with regard to contractual obligations.

9. With the above observations and directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous petition is closed.

30.03.2023
(1/2)

skt

NCC : Yes / No

Speaking Order : Yes / No

Index : Yes / No

To

1. Tamil Nadu Transmission Corporation Ltd.
Rep. by its Chairman and Managing Director,
6th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.

5/7



W.P.No.9823 of 2023

WEB COPY

2. The Chief Engineer-Transmission,
Tamil Nadu Transmission Corporation Ltd.
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3. The Bank of India,
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M.DHANDAPANI., J.

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and
WMP.No.9904 of 2023
(1/2)



WEB COPY



W.P.No.9823 of 2023

30.03.2023

WMP.No.9899 of 2023

in

W.P.No.9823 of 2023

M.DHANDAPANI., J.

Dispense with ordered for the
present.

30.03.2023

(2/2)

skt