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W.P.No.14555 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14555 of 2020

M/s.Anoushka Commodities Pvt Ltd

Rep by its Director

Mrs.Mamta Daga,

281/4, 16th K.M.Milestone, Kaveraipettai,

Thannaipoondi Village

Gummudipoondi-601 202,

Registered Office & Factory.

. . . Petitioner

Vs.

1. The Chairman

Tamil Nadu Generation and Distribution Corporation Ltd.,

10th Floor, NPKRR Maaligai

144, Anna Salai,

Chennai-600 006.

2. The Superintending Engineer

Tamil Nadu Generation and Distribution Corporation Ltd.,

Chennai EDC/North

Chennai-600 002.

3. The Electrical Inspector

Ponneri Division,

No.1/108, 1st Floor,

Bajanai Koil Street,

Ponneri-601 204.

. . . Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the proceedings in Lr.No.SE/CEDC/N/EE/GL/AEE/Dev/F.Doc/D495/2019 dated 09.07.2019 quash the same and consequently direct the respondents to consider the various representations of the Petitioners dated 18.06.2019, 24.06.2019 and 20.07.2019 afresh and further direct the 2nd respondent to refund the Monthly Minimum Charges to the tune of Rs.7,42,156/- along with interest.

For Petitioner : M/s.Ami V Kataria

For Respondents : Mr.L.Jaivenkatesh,
Standing Counsel

ORDER

Aggrieved by the impugned order of the 2nd respondent, the petitioner is before this Court.

2. The Petitioner herein is a Company registered under the Companies Act, 1956, having intended to start an industry in S.No.281/4 Sathyavedu Road, Vaniyamalli Village, Gummiddipoondi, Tamilnadu, had approached various authorities for obtaining necessary approvals. Pending grant of approvals, the petitioner had applied for new HT service connection with maximum supply of 250 KVA which was sanctioned on condition that the petitioner shall produce the certificate of fitness from Chief Electrical Inspector of Government (in short 'CEIG') for availing HT service



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connection on or before the completion of the HT installation work. Failing which, first three months notice will be issued and accordingly, the petitioner would be liable to pay the monthly minimum charges from the date of issuance of notice till the date of availing HT connection.

3. Since, the petitioner could not produce the CEIG certificate on time, the petitioner sought for extension of the notice period to avail HT connection. Accordingly, the notice period was extended upon payment of arrears of monthly minimum charges to the tune of Rs.2,17,156/-. However, subsequently, the petitioner had sought for refund of exorbitant amount of monthly minimum charges which was so far collected from the petitioner to the tune of Rs.7,42,156/-. The said request has been rejected by way of the order impugned in this Writ Petition. Challenging the same, the petitioner has come up with this Writ Petition.

4. Learned counsel for the petitioner submitted that the procedures contemplated under Sections 31(2)(3) & 31(5) of the Tamilnadu Distribution Code has not been followed by the respondents in causing the



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first three month notice and levying monthly minimum charges resultantly, the petitioner had to pay exorbitant amounts towards the monthly minimum charges totalling to the tune of Rs.7,42,156/-. As per Section 31(2)(3) of the Act, the petitioner is entitled for refund of the monthly minimum charges.

5. Per Contra, learned standing counsel appearing for the respondents submitted that the petitioner has failed to produce the CEIG certificate on time which resulted in issuance of first three months notice under Section 31(4) of the Tamil Nadu Electricity Distribution Code calling upon the petitioner to pay the monthly minimum charges in order to avail the service connection. Though, it is the claim of the petitioner that exorbitant amounts have been collected by the respondents towards the monthly minimum charges, however, the said charges have been collected from the petitioner only as per the Tamil Nadu Electricity Supply Code and therefore, the petitioner is not entitled for refund of monthly minimum charges. Hence, the order under challenge rejecting the aforesaid claim of the petitioner cannot be found fault with. Accordingly, he prays for dismissal of this Writ Petition.



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6. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials placed in support of their contentions.

7. It is not in dispute that the petitioner has belatedly produced the CEIG certificate for availing HT service connection to his industry for which, the respondents have issued the first three month notice under Section 31(4) of the Tamil Nadu Electricity Distribution Code. It is the claim of the petitioner that the respondents have not followed the procedures contemplated under Section 31(2)(3) and 31(5) of the Act in issuing first three months notice and that the petitioner has paid exorbitant amounts towards the monthly minimum charges. However, it is evident from the materials available on record that pursuant to the notice issued under Section 31(4) of the Act, the petitioner had paid the monthly minimum charges and had produced the CEIG certificate belatedly, on the basis of which, the HT service connection was effected. Therefore, at a distant point of time, it is not open to the petitioner to claim refund moreso when he has consciously entered into the agreement.



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8. In such a backdrop, this Court is of the view that the petitioner having failed to produce the certificate required for availing the service connection on time, is not entitled to seek protection under Section 31(2)(3) under which, the first three months notice was issued. Further, the monthly minimum charges have been collected only as per the Tamil Nadu Electricity Supply Code and the rules made thereunder which is evident from the elaborate counter filed by the respondents. Thus, in the present case, the question of refund of monthly minimum charges will not arise and this Writ Petition deserves to be dismissed.

9. For the reasons aforesaid, this Writ Petition is devoid on merits and the same is dismissed accordingly. There shall be no order no order as to costs. Consequently, the connected Miscellaneous Petition stands closed.

16.06.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To



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