



W.P.No.28970 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28970 of 2018

and

W.M.P.Nos.33863, 33865 & 38760 of 2018

M/s.Cura Healthcare Private Ltd.,
Rep. by its Authorized Signatory Mr.R.Vasudevan,
DP 56, 3rd Main Road, SIDCO Industrial Estate,
Thirumudivakkam Village,
Sriperumbudur Taluk,
Kancheepuram District – 600 044.

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai – 600 002.

2.The Assistant Executive Engineer,
Operation and Maintenance,
Thirumudivakkam,
Chennai Electricity Distribution Circle South-1,
Chennai – 600 132.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 2nd respondent in Letter No.உ.செ.பொ/இ & ப/திருமுடிவாக்கம் கோப்பு : மின் திருட்டு /முகாம் /அனுப்புகை levying penal charge of Rs.1198798/-



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for the Service No.307-001-249/IIIB and Rs.893790/- for the Service No.307-001-250/IIIB dated 24.10.2018 and consequential order also passed by the 2nd respondent in Letter No.உ.செ.பொ/இ & ப/திருமுடிவாக்கம் கோப்பு : மின் திருட்டு/முகாம் /அனுப்புகை dated 24.10.2018 levying compounding charges of Rs.1,20,000/- for the Service No.307-001-249/IIIB and Rs.1,20,000/- for the Service No.307-001-250/IIIB, quash the same.

For Petitioner : Mr.R.Saravanakumar
For Respondents : Mr.L.Jai Venkatesh
Standing Counsel

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records relating to the impugned order of the second respondent in Letter No.உ.செ.பொ/இ & ப/திருமுடிவாக்கம் கோப்பு : மின் திருட்டு / முகாம் /அனுப்புகை levying penal charge of Rs.1198798/- for the Service No.307-001-249/IIIB and Rs.893790/- for the Service No.307-001-250/IIIB dated 24.10.2018 and consequential order also passed by the second respondent in Letter No.உ.செ.பொ/இ & ப/திருமுடிவாக்கம் கோப்பு : மின் திருட்டு / முகாம் /அனுப்புகை dated 24.10.2018 levying compounding charges of Rs.1,20,000/- for the Service No.307-001-249/IIIB and Rs.1,20,000/- for the Service No.307-001-250/IIIB and quash the same.



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2. The case of the petitioner is that it is a Private Limited Company having unit at DP 56, 3rd Main Road, SIDCO Industrial Estate, Thirumudivakkam, Chennai – 600 044 and the petitioner is engaged in manufacture, sales and service of medical equipments in India. The petitioner took the premises on lease from the owner, namely S.Dellibabu. After taking the premises on lease, the petitioner has been paying the consumption charges under industrial Tariff-IIIB with regard to connection Nos.307-001-249 & 307-001-250 and the other connection No.307-001-715 continued as commercial connection (Tariff-V). While so, the respondent-Electricity Board inspected the petitioner's premises on 24.10.2018 along with the Assistant Executive Engineer, Enforcement, Chennai and Assistant Engineer, Thirumudivakkam. After the inspection, the respondent informed that the petitioner is having Assembly facility for scan and x-ray equipments and the Research and Development Centre, which is a violation of Section 135(1)(c) of the Indian Electricity Act, 2003, for which, the impugned demand order is passed. Challenging the same, the petitioner has filed the above writ petition before this Court for appropriate directions.



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3. The learned counsel for the petitioner submits that the present impugned order is passed without providing any opportunity to the petitioner and the petitioner has got the factory license from the Directorate of Industrial Safety and Health and the petitioner has also obtained consent from the Pollution Control Board specifically for carrying out the manufacturing activity at the above said premises. He also submits that there is no violation under Section 135(1)(c) of the Indian Electricity Act. Hence, the impugned demand is bad in law.

4. Per contra, the learned Standing Counsel appearing for the respondents submits that, as against the order passed by the second respondent, there is an effective appeal remedy available before the Superintending Engineer of the concerned jurisdiction. Without exhausting the appeal remedy available, filing this writ petition is not sustainable. Hence, he prays for dismissal of this writ petition.

5. Heard Mr.R.Saravanakumar, learned counsel for the petitioner and Mr.L.Jai Venkatesh, learned Standing Counsel appearing for the respondents and perused the materials available on record.



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6. It is a settled position of law that, when there is a statutory appeal remedy available, without exhausting the appeal remedy, writ petition would not be entertained by the High Courts except the circumstances, where if there is a glaring violation of principles of natural justice or for want of jurisdiction.

7. In the absence of the above situations, no writ petition can be entertained by this Court as there has been a proper alternative effective appeal remedy available.

8. In that view of the matter, this Writ Petition is disposed of granting liberty to the petitioner to workout the remedy available before the concerned Superintending Engineer in the manner known to law and the period pending before this Court is excluded for the purpose of limitation. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/ No
Speaking Order/ Non-Speaking Order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.,

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To

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