



W.P. No. 1080 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1080 of 2019

M/s. ATC Tyres Private Limited,
Plot A2, SIPCOT Industrial Growth Center,
Gangaikondan,
Tamil Nadu – 627352.

... Petitioner

-VS-

1. The Principal Secretary to Government,
Industries Deapartment,
Government of Tamil Nadu,
The Secretariat Building, Fort St. George,
Chennai – 600009.
2. The Chairman cum Managing Director,
SIPCOT,
Rukmani Lakshmipathi Road,
Egmore – 600008.
3. The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
10th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai – 600002.
4. The General Manager (P & D)
Tamil Nadu Generation and
Distribution Corporation Limited,
Tirunelveli Electricity Distribution Circle,
Tirunelveli – 11.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Letter No. P & SP /SEZ-GKN/ATC/2/2007 dated 24.05.2018 of the Second Respondent, State Industries Promotion Corporation, quash the same and consequently direct the Second Respondent, State Industries Promotion Corporation to refund the amount of Rs. 165.60 Lakhs paid by the Petitioner consequent to the said letter together with interest at a rate as may appear appropriate and just to the Hon'ble Court.

For Petitioner : Mr. A.P.Ravi
for Mr. J.V.Niranjan

For Respondents : Mr. B.Vijay
Additional Government Pleader
(for R1)

Ms. Sudharsana Sundar
(for R2)

Mr. L.Jai Venkatesh
(for R3 & R4)

ORDER

Heard Mr. A.P.Ravi, Learned Counsel for Mr. J.V.Niranjan, Learned Counsel for the Petitioner, Mr. B.Vijay, Learned Additional Government



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Pleader appearing for the First Respondent, Ms. Sudharsana Sundar, Learned

Counsel appearing for the Second Respondent and Mr. L.Jai Venkatesh,

Learned Counsel appearing for the Third and Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the Proceedings in Letter No. P & SP /SEZ-GKN/ATC/2/2007 dated 24.05.2018 of the Second Respondent and to consequently direct the Second Respondent to refund the amount of Rs. 1,65,60,000/- paid by the Petitioner pursuant to the said letter together with interest at that rate that may be fixed by the Court.

3. It is borne out from the materials placed on record that the matter in dispute relates to grant of No Objection to TANGEDCO for extension/augmentation of power supply to the Company of the Petitioner situated within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated by the Petitioner for approaching the Principal Seat of this Court instead of Madurai Bench is that the offices of the First to Third Respondents are located in Chennai. There cannot be any doubt that the First to Third Respondents exercise powers for the whole of the State of Tamil Nadu, but it cannot mean as if the cause of action has arisen within the



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territorial limits of jurisdiction of the Principal Seat of this Court at Chennai.

Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this Court, the principle of *forum conveniens* would come into play as held by the Division Bench of this Court in **C.Ramesh -vs- Director General of Police** (Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), as follows:-

“7. *Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTHERS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].*

8. *It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].*



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9. Referring to *KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA* (2004 (3) CTC 365), a Full Bench of this Court in *SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE AND OTHERS* (2007 (5) CTC 305), held as under:-

"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See *BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY*, AIR 1941 CAL 670 : ILR (1941) 1 CAL 490; *MADANLAL JALAN Vs. MADANLAL*, 1945 (49) CWN 357: AIR 1949 CAL 495; *BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD.*, 1997 CWN 122; *S.S.JAIN & CO. Vs. UNION OF INDIA*, 1994 (1) CHN 445, and *NEW HORIZONS LTD. Vs. UNION OF INDIA*, AIR 1994 DEL 126]."



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10. *Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)].*

11. *A Court cannot arrogate/assume/confer upon itself a jurisdiction-territorial jurisdiction, when it has no such jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time. Courts are barred from indulging in hypothetical and academic exercises.”*

Having regard to the aforesaid legal position viz-a-viz factual matrix of this case, the cause of action for the Writ Petition, would have to be necessarily



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construed as having arisen wholly outside the territorial limits of jurisdiction of the Principal Bench of this Court, notwithstanding that the offices of the First to Third Respondents are located in Chennai.

4. When it is pointed out that the Writ Petition cannot be entertained in the Principal Seat of this Court in that backdrop, Learned Counsel for the Petitioner seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition before the Madurai Bench of this Court and he has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 06.02.2024.

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To

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P.D. AUDIKESAVALU, J.

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