IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2024

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.8855 of 2015
and M.P. No.1 of 2015

Alstom Transport India Limited
(Formerly known as Alstom Projects India Limited)
Registered Office at 65/2, Level 03 (II Floor),
Block C, Bagmane Laurel Building Tech Park,
CV Raman Nagar, Bengaluru – 560 093,
Rep. by its Director, Salil Goyal. … Petitioner

Vs.

1. The Sub Registrar
(District Registrar Cadre)
Kodambakkam,
37/6, Alagiri Nagar, V Street,
Vadapalani, Chennai – 600 026.

2. District Registrar (Admn)
Central Chennai
Chennai – 600 014. … Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first Respondent, Sub Registrar (District Registrar Cadre), Kodambakkam, Chennai – 600 026 ending in the Impugned Order dated

18.02.2015 of the said Authority, and to quash the same.

For Petitioner	:	Mr. Masilamani Senior Counsel For M/s. King and Partridge
For Respondents	:	Mr.T.Chezhiyan, AGP

O R D E R

Assailing the order dated 18.02.2015 passed by the first Respondent, Sub Registrar (District Registrar Cadre), Kodambakkam, Chennai – 600 026, the present writ petition has been filed.

2. It is the case of the petitioner that the petitioner company along with Alstom Transport SA, which is incorporated under the Laws of France and Larsen and Turbo Limited was the successful tenderer for the Design, Manufacture, Supply, Testing and Commissioning of Electric Multiple Units and Training of Personnel for the Chennai Metro Rail Project- Phase I. For the purpose of participating with each other, for negotiating and, if successful, for entering into and performing the contract, the petitioner's company, the Alstom Transport SA and Larsen and Toubro had entered into a Consortium

Agreement on 16.02.2011 for the said project and the said Consortium Agreement was presented for registration before the first respondent and the same was registered as document No.227 of 2011 and a fee of Rs.1,600/- was levied under Rule 1(g) of the Table of Fees prepared under Section 78 of the Registration Act, 1908. Thereafter, the petitioner company received a notice dated 30.09.2011 from the first respondent intimating that the Accountant General Audit Report for the year 2010 – 2011 pointed out that a loss of Rs.4.49 Crores was caused to the Government Ex-Chequer because of the alleged deficit registration fees paid for the Consortium Agreement. The Larsen and Toubro replied to the Notice on behalf of the parties, which has set down the detailed objections and also requested the first respondent to afford an opportunity of personal hearing and to conduct an enquiry prior to any demand being made. However, without considering the same, the first respondent has passed the impugned order stating that the Consortium Agreement has attracted deficit registration fee of Rs.4,49,21,500 by AG-Audit report. Challenging the same, the present writ petition has been filed.

3. Learned Senior counsel appearing on behalf of the petitioner submitted that the first respondent has to necessarily give an opportunity to the petitioner under Section 80(A) of the Registration Act and without following due process, the first respondent had issued the certificates as against the petitioner company. Further, the issue has also not been properly considered by the appellate authority and mechanically, the impugned order was passed, which is not sustainable and it is a clear case of violation of principles of natural justice. Therefore, the learned Senior counsel seeks to quash the impugned order and to remand the matter back to the first respondent for fresh enquiry.

4. Per contra, learned Additional Government Pleader appearing for the respondents, on instructions, submitted that based on the audit objection made by the Accountant General of Tamil Nadu, the show cause notice has been issued to the petitioner company for the payment of the deficit stamp duty. As per Section 80-A of the Registration Act, the certificate has to be issued either by the original authority or by the appellate authority only after giving

sufficient opportunity of personal hearing. Further, based on written objection made by the petitioner company, the original authority can very well issue a certificate to the petitioner and the same is not in violation of principles of natural justice. Accordingly, he prays to dismiss the writ petition.

5. Heard Mr. G.Masilamani, learned Senior Counsel for the Petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

6. It is not disputed that the petitioner company is an Indian Company. The petitioner company, M/s.Alstom Transport SA (France Company) and Larsen and Toubro had entered into a Consortium Agreement on 16.02.2011 for the Design, Manufacture, Supply, Testing and Commissioning of Electric Multiple units and Training of Personnel for the Chennai Metro Rail Project-Phase I. The said agreement was registered before the first respondent, for which, the said companies paid a sum of Rs.1,600/- towards stamp duty.

Based on the audit objection raised by the Accountant General of Tamil Nadu, the first respondent issued show cause notice to the petitioner's company asking to pay the deficit stamp duty of Rs.44,49,21,500/-, for which, the petitioner company filed the written objection and requested to give a personal hearing. However, without considering the written objection properly and without giving an opportunity of hearing, the first respondent confirmed the show cause notice and issued the certificate under Section 80A of the Act to the petitioner company. These facts are not disputed by the learned Additional Government Pleader.

7. Though it is the contention of the learned Additional Government Pleader that there is no violation of principles of natural justice and that adequate opportunity as mandated under Section 80(A) of the Act has been provided to the petitioner, however, a perusal of the materials available on record show that no opportunity of personal hearing was granted to the petitioner before the certificates were issued calling upon for payment of deficit stamp duty. The first respondent has not placed any iota of material

before this Court from which it could be safely inferred that the petitioner was provided with an opportunity of personal hearing to defend its case. Further, as per Section 80 of the Registration Act, it is incumbent on the part of the authorities to conduct an enquiry, by affording an opportunity of personal hearing to the petitioner and, thereafter, decide the issue. However, in the case on hand, the first respondent, on the basis of the written objection, concluded the enquiry and passed the impugned order. The above act of the first respondent in not providing the opportunity, as available to the petitioner under a statute, is nothing but violation of principles of natural justice. In such a scenario, this Court, in exercise of its inherent jurisdiction under Article 226 of the Constitution of India has to interfere with the said order.

8. In fine, the impugned order dated 18.02.2015 passed by the first respondent is hereby set-aside and the matter is remanded back to the first respondent for fresh consideration and for passing appropriate orders, after providing an opportunity of personal hearing to the petitioner, on merits and in accordance with law within a period of twelve weeks from the date of receipt

of a copy of this order. The period of pendency before this Court shall be excluded for the purpose of limitation.

9. With the above observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

23.09.2024

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Internet:Yes/No
Index:yes/No
Speaking order/Non-speaking order

To

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2. District Registrar (Admn)
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M.DHANDAPANI,J.

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