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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32783 of 2023

and

W.M.P.Nos.32410 & 32412 of 2023

M/s.Rollatainers Limited,
Represented by its Authorized Signatory,
Mr.Manbar Singh Rawat,
Having its registered office at:
Plot No.84, SIPCOT Phase – I,
Hosur – 635 126, Tamil Nadu.

... Petitioner

Vs.

- 1.Tamil Nadu Generation and Distribution Corporation Limited,
Rep. By its Chairman,
NPKRR Maaligai, 144, Anna Salai,
Chennai – 600 002.
- 2.Electricity Ombudsman,
Tamil Nadu Electricity Ombudsman,
4th Floor, SIDCO Corporate Office Building,
Thiru-Vi-Ka Industrial Estate, Guindy,
Chennai – 600 32.
- 3.The Chairman,
Consumer Grievance Redressal Forum,
Krishnagiri EDC,
TANGEDCO,
110 KV SS Campus,
Krishnagiri – 635 002.



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4.The Superintending Engineer,
TANGEDCO, Tuticorin Electricity Distribution Circle,
Tuticorin.

5.The Superintending Engineer,
TANGEDCO, Krishnagiri Electricity Distribution Circle,
Krishnagiri – 635 002.

6.Rajkumar Impex Private Limited,
Represented by its Managing Director,
New No. B-603, Keshav Dugar Apartments,
1, East Avenue, Keshava Perumalpuram,
R.A.Puram, Chennai – 600 028.

7.E.Saravanan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the 5th respondent pertaining to the impugned demand notice in Lr.No.SEK/DFC/RCS/HT/F.Audit/HT. Sc.No.247/D. No./16, dated 29.08.2016, and quash the same as being arbitrary and illegal.

For Petitioner : Mr.N.R.Sai Gautham

For R1, R3 to 5 : Mr.S.Madhusudanan
Standing Counsel
[For TANGEDCO]



ORDER

The show cause notice issued by the Superintending Engineer on 29.08.2016 is under challenge in the present writ petition.

2. Writ against a show cause notice is not entertainable unless it is issued by an incompetent authority with no jurisdiction or tainted with allegation of *mala fides*.

3. However, during the pendency of the writ petition, the petitioner approached the Tamil Nadu Electricity Ombudsman and the Ombudsman passed an order on 04.05.2023 stating that the appeal filed by the petitioner is regarding the dispute in the quantum of purchase at the generation end and therefore, the Electricity Ombudsman cannot entertain the appeal. Further, the Ombudsman advised the petitioner to file a petition before the Tamil Nadu Electricity Regulatory Commission (TNERC).

4. Mr.N.R.Sai Goutham, learned counsel for the petitioner would submit that the petitioner has already paid the consumption charges in entirety and therefore, there is no dispute as such. In response to the show



cause notice, they have submitted their explanations. However, without considering the explanations, the respondent / Board confirmed the demand raised by them. Therefore, the petitioner has to adjudicate the issues on merits.

5. Merely based on the statement or affidavit filed before the Writ Court, such liability cannot be determined, which requires an adjudication with reference to the documents and evidences available on record. Since the Electricity Ombudsman already advised the petitioner to approach the Tamil Nadu Electricity Regulatory Commission (TNERC).

6. In view of the facts and circumstances, the petitioner is at liberty to resolve the issues by approaching the Tamil Nadu Electricity Regulatory Commission (TNERC). In the event of any such approach, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay, if any arises.



7. With this liberty, this Writ Petition stands disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

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Chennai – 600 002.

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