



W.P.(MD) No.9313 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.9313 of 2016
and
W.M.P.(MD) No.7385 of 2016**

S.A.Seayid

... Petitioner

/vs./

1.The Superintending Engineer,
TANGEDCO, Metro
Tiruchirappalli.

2.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO, Mannarpuram,
Tiruchirappalli-20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records of the order of the 2nd respondent in No.AEE/O&M/Mannarpuram/E.Theft/D.No.53/2016 dt. 13.5.2016 and quash the same and pleased to direct the 2nd respondent to make fresh assessment after affording opportunity to the petitioner to submit oral and documentary evidence.



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W.P.(MD) No.9313 of 2016

For Petitioner : Mr.R.S.Sivaram

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

The challenge in the writ petition is to the final assessment order dated 13.05.2016. The same had been issued pursuant to the provisional assessment order issued on 09.05.2016.

2. It is the case of the petitioner that even though the provisional assessment order indicates enclosure of the report, the statement recorded, if any, and the Mahazar, he would submit that the inspection report and the Mahazar nor the statements have been furnished to the petitioner. However, the petitioner had submitted a reply on 10.05.2016, which has also been acknowledged by the second respondent. However, while passing the impugned order, the second respondent had neither considered the reply given by the petitioner in detail and in a single line, he had stated that the petitioner had committed the act of theft of energy and had therefore issued an assessment order directing payment of Rs. 2,12,325/-. Since the petitioner was not even served with the copy of the



W.P.(MD) No.9313 of 2016

inspection report and other documents and that in spite of giving a detailed reply to the second respondent, the second respondent had passed the order impugned herein. Therefore, he seeks indulgence of this Court to interfere with the same.

3. Countering his arguments, Mr.S.Deenadhayalan, learned standing counsel for the respondents would submit that after the order of provisional assessment was issued, the petitioner accepting the commission had also compounded the offence pursuant to the notice dated 09.05.2016. Hence, he would submit that when having accepted, the petitioner is liable to pay the assessed amount as per the working sheet given to him and therefore, he would pray this Court to dismiss this writ petition.

4. I have considered the submissions made by the learned counsel appearing on either side.

5. It is an admitted case that the petitioner had given a reply to the provisional assessment order and the same has also been acknowledged by the second respondent. As rightly pointed out by the learned counsel for the



W.P.(MD) No.9313 of 2016

petitioner, the second respondent had not analyzed or had not given any reasons as to why the reply of the petitioner is not satisfactory.

6. In such view of the matter, the final assessment order suffers from the vices of unreasonableness and therefore, the same is set aside. The second respondent shall re-do the exercise based upon the provisional assessment order dated 09.05.2016 after supplying the inspection report and other relevant records to the petitioner, provide an opportunity of hearing to the petitioner and thereafter pass appropriate orders in accordance with law and on merits. The deposit made by the petitioner pursuant to the conditional order shall be subject to the orders to be passed by the second respondent.

7. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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20.11.2024



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W.P.(MD) No.9313 of 2016

K.KUMARESH BABU, J.

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W.P.(MD) No.9313 of 2016

20.11.2024