



W.P.(MD) No.13795 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.13795 of 2016

and

W.M.P.(MD) Nos.10282 and 10283 of 2016 and 12250 and 12251 of 2023

M/S.Vedanta Limited,
Formerly Known as Sesa Sterlite Limited,
having its 2x80MW Coal based Thermal Power Plant,
aat Meelavittan Village,
SIPCOT Industrial Complex,
Thoothukudi,
Tamil Nadu 628 002.
rep by its Associate General Manager – Legal

... Petitioner

/vs./

1.The V.O.Chidambaranar Port Trust,
rep by its Chairman,
Thoothukudi,
Tamil Nadu 628 004.

2.The Traffic Manager,
The V.O. Chidambaranar Port Trust,
Traffic Department,
Thoothukudi,
Tamil Nadu 628 004.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the Show Cause Notice No.TRA-OFTMK-CRG-COAL - V1-13(40722)/D 196 dated 03.02.2017, Show Cause Notice No.TRA-OFTMK-CRG-COAL - VI-13(40722)/D. 1919 dated 04.08.2017, Show Cause Notice No. TRA-OFTMK-CRG-COAL-VI-13(40722)/D.867 dated 03.05.2020 along with Show Cause Notice No. TRA-OFTMK-CRG-COAL-V3-17(40722)D/1273 dated 11.01.2022 of the 2nd respondent and the letter No.TRA-OFTMK-CRGCOAL-VI-13/D 1374 dated 28.08.2013 and in letters No.TRA-OFTMKCRG-COAL-VI-13/D 1380 dated 30.08.2013 and the proceedings of the 2nd respondent herein in Ref.No.TRA-oftmk-crg-coal-vi-13(40722)D1634 dated 19.07.2016 and quash the same and consequently forbear the respondents, their men agents, servants, subordinates or any other persons or persons claiming through them or authorized by them from in any manner demanding or collecting the wharfage charges in excess of Rs.27/- per MT which is payable under Chapter III (3b) of the sclae of rates as per the Gazette Notification No.222 dated 11.11.2011 of the first respondent herein for the steaming (non-coking) coal imported by the petitioner through the first respondent port and direct the respondents erein to forthwith refund the wharfage charges collected in excess of Rs.27/- per MT along with interest from the petitioner and quash and set aside.

(prayer has been amended vide order dated 06.11.2024)

For Petitioner : Mrs.AL.Ganthimathi Senior Counsel for
Mr.C.Mahadevan



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For Respondents : Mr.B.Saravanan Senior Counsel for
Mr.A.Arivuchandran

ORDER

The challenge in this writ petition is to the demands made by the respondents claiming short levy of wharfage dues.

2. The said demand had been raised on the premise that the petitioner had imported thermal coal, for which wharfage charge is at Rs.38/- per metric ton and the petitioner had paid the wharfage charge at the rate of Rs.27/- for 1 metric ton, which falls under steaming (non coking) coal.

3. The learned counsel for the petitioner relying upon a judgment of the Division Bench of this Court made in W.A.(MD) No.1315 of 2014 had contended that the said demand had been made in violation of principles of natural justice and had prayed this Court to set aside the same and to direct the first respondent to issue the show cause notice and thereafter adjudicate on the same.



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4. On the contrary, Mr.B.Saravanan, learned Senior Counsel for Mr.A.Arivuchandran, learned counsel for the respondents/port trust would submit that the contentions of the learned counsel for the petitioner cannot be countenanced without the petitioner challenging the order passed by the Tariff Authority for Major Ports Trust dated 11.11.2011, which is sought to be implemented by the respondents.

5. A perusal of the proceedings impugned herein would show that the demand had been made by the respondents without affording an opportunity of hearing to the petitioner. In such event, I am inclined to hold that such demands had been made in violation of principles of natural justice. However, considering the length of time, at which the writ petition is being disposed of, I am of the view that the impugned demand notices can be treated as show cause notice and the petitioner can be directed to file their reply to such demands, as the said demand itself indicates the reasons for making such demands and thereafter, the respondents shall after affording an opportunity to the petitioner pass orders on merits and in accordance with law.



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6. In view of the aforesaid conclusion, I am inclined to dispose of this writ petition by directing the petitioner to submit a reply by treating the impugned demands as a show cause notice and such reply shall be made by the petitioner within a period of four weeks from the date of receipt of a copy of this order and on receipt of such reply, the respondents shall after affording an opportunity of hearing to the petitioner pass appropriate orders on merits and in accordance with law within a period of 8 weeks thereafter.

7. With the aforesaid directions, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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