

In the High Court of Judicature at Madras

Reserved on: 09.10.2015

Dated : 14.10.2015

Coram

The Honourable Mr.JUSTICE M.M.SUNDRESH

Writ Petition Nos.5685 to 5689, 5792 to 5795, 5906 to 5912 and
26102 of 2015

M/s.Vishnu Electricals,
No.20/8A2, Kundrathur Main Road,
Near Parimalam Theater,
Kundrathur,
Chennai - 600 069,
rep.by Manager
Mr.Balasubramanian

..... Petitioner in
W.P.5685 of 2015

EMMESS Control Private Limited
Rep by its Director Mr.Srinivasan
D.P.90 91 and 92 Sidcco Industrial Estate
Thirumazhisai Chennai 24

..... Petitioner in
W.P.5686 of 2015
and W.P.Nos.5794/2015,
5908/2015

Sri Venkateswara Engineering
Works No.1/160 Sankaralingam Street
Gerugambakkam Chennai 128 Rep by its
Manager Mr.Selvam

...Petitioner in
W.P.NO.5687/2015, and 5909/2015

M/s.EVR Electricals Pvt. Ltd.
No.64 Ponni Amman Nagar Ayanambakkam
Chennai 95 Rep by its Director Mr.Elumalai

...Petitioner in W.P.5688/2015
and in W.P.No.5907/2015, &
26102 of 2015

Arunachala Transformers
No.262/1 Mettukuppam Road
(Via. Alapakkam Road)
Maduravoyal Chennai 95

Rep by its Partner Mr.Ravishankar ...Petitioner in W.P.5689,
5911/2015

M/s. EVR Electricals Pvt. Ltd.
No.64 Ponni Amman Nagar Ayanambakkam
Chennai-95.

...Petitioner in w.p.5792/2015
& 5907/2015

M/s. Vishnu Electricals

<https://hcservices.ecourts.gov.in/hcservices/>

Rep by its Manager Mr.Balasubramanian

No.20/8A2 Kundrathur Main Road Near Parimalam
Theatre Kundrathur Chennai-69....Petitioner in W.P.5793, 5910

of 2015

Mathi Electrical Company
No.3/104 Bharathi Street Gerugambakkam
Chennai-122 Rep. by Managing Partner
Mr.Rajalingam.

...PETITIONER IN W.P.5795,
5906/2015

Mega Power Electricals
DP: 43 Electrical Industrial Estate
Kakkalur Thiruvallur-602003.

...PETITIONER IN W.P.5912/2015

Vs.

1 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD. REP BY ITS
CHAIRMAN 10TH FLOOR NPKRR MAALIGAI NO.144
ANNA SALAI CHENNAI 2

2 THE CHIEF ENGINEER/MATERIAL
MANAGEMENT TAMIL NADU ELECTRICITY BOARD
10TH FLOOR NPKRR MAALIGAI NO.144 ANNA
SALAI CHENNAI 2 ...RESPONDENTS 1 & 2 IN W.Ps.5685
TO 5689/15 IN W.P.NOS.5792 TO
5795/2015 IN W.P.NOS.5906 TO 5912
AND 26102 OF 2015

3 M/S.QUALITY TRANSFORMERS
NO.3/288 THANDALAM ROAD
KOVOOR CHENNAI- 600 128.

4 M/S.HINDUSTAN POWER CONTROLS
LTD. NO.5-A JANATHA NAGAR
SARAVANAMPATTI
COIMBATORE-641 035.

5 M/S.BALAJI ELECTRICAL WORKS
NO.5 WALLAJAHBAD ROAD
MANNIVAKKAM
CHENNAI-600 048.

6 M/S.KANCHANA ELECTRICALS
NO.5 WALLAJAHBAD ROAD
MANNIVAKKAM
CHENNAI-600 048.

7 M/S.INFOTECH TRANSFORMERS LTD.
DP 36 SIDCO INDUSTRIAL
THIRUMALAISAI
CHENNAI-600 124.

8 M/S.SI ELECTRICALS
OLD NO.113 NEW NO.84 G.N.T. ROAD
ERUKKANCHERI CHENNAI-600 118.

- 9 M/S.ASIAN POWER LINES
3/156 1ST FLOOR THIRU NAGAR
THELICHATHANALLUR PARAMAKUDI- 623 707.
- 10 M/S.SARAYU ENGINEERING
S4 R.M.NAGAR DINDIGUL TAMILNADU.
- 11 M/S.ASSOCIATE TRANSFORMERS
PVT. LTD. PADIYUR ROAD KULATHUR
DINDIGUL-624 005.
- 12 M/S.IPL PRODUCTS
PLOT NO.48 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 13 M/S.SAP INDUSTRIES
PLOT NO.51 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 14 M/S.ASCOT ELECTRICALS PVT. LTD
207/208 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 15 M/S.BALA INDUSTRIES
NO.53 MULTI INDUSTRIAL ESTATE
GERUGAMBAKKAM CHENNAI-600 122.
- 16 M/S.DANYA ELECTRICT COMPANY
174 SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 17 M/S.SUPREME POWER EQUIPMENTS
55 SIDCO INDUSTRIAL ESTATE THIRUMAZHISAI
CHENNAI-600 124.
- 18 M/S.SRI THIRUMALA FABRICATORS
27/28 SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 19 M/S.HINDUSTAN TRANSFORMERS
NO.37B SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 20 M/S.WILLSON POWER &
DISTRIBUTION TECHNOLOGIES PVT. LTD.
ORAKKADU VILLAGE CHOLAVARAM CHENNAI-600
067
- 21 M/S.ELECTROMECH INDUSTRIES
K.R.PURAM GANAPATHI COIMBATORE-641 006.
- 22 M/S.INDUSTRIAL HEATERS &
TRANSFORMERS 66 AVARAMPALAYAM ROAD
K.R. PURAM COIMBATORE-641 006.

- 23 M/S.VICTOR TRANSFORMERS
AVARAMPALAYAM ROAD K.R.PURAM
COIMBATORE-641 006.
- 24 M/S.HINDUSTAN HEAVY ELECTRICA
66 AVARAMPALAYAM ROAD K.R.PURAM
COIMBATORE-641 006.
- 25 M/S.SENTHILENGG COMPANY
74 KUNDRATHUR ROAD PORUR CHENNAI-600
116.
- 26 M/S.VENKATESWARA ELECTRICALS
74 KUNDRATHUR ROAD PORUR CHENNAI-600
116.
- 27 M/S.SR PERFECT ENNG. WORKS
3/288 THANDALAM ROAD KOVOOR CHENNAI-602
101.
- 28 M/S.LAVANYA INDUSTRIES
SIVABOODHAMEDU VANAGARAM CHENNAI-600 095.
- 29 M/S.SRI VINAYAGA STAR ELECT
PLOT NO.9 RAJAS GARDEN MAIN ROAD CHETTIAR
AGARAM CHENNAI-600 077.
- 30 M/S.SAKTHI TRANSFORMERS
NO.10 & 11 SHARMA NAGAR KUNDRATHUR-
THIRUNEERMLAI MAIN ROAD KUNDRATHUR
CHENNAI-600 069.
- 31 M/S.MAMTHA TRANSFORMERS
NO.1-A SECTOR-E SANWAR ROAD INDORE-452
010 MADHYA PRADESH.
- 32 M/S.FAIRDEAL TRANSFORMERS
PLOT NO.D-37 MIDC INDUSTRIAL AREA AMBAD
NASIK-422 010.
- 33 M/S.MOHINI TRANSFORMERS
204 PREM ASHRAM BUILDING TUKOGANJ INDORE
MADHYA PRADESH-452 001.
- 34 M/S.SUNTECH TRANSFORMERS
SIDCO INDUSTRIAL ESTATE RANPET VELLORE
DIST.-632 403.
- 35 M/S.TAMILNADU TRANSFORMERS
SIDCO INDUSTRIESL ESTATE RANIPET
VELLORE-632 403.
- 36 M/S.BAMA KRISHNA TRANSFORMERS
CUDDALORE ROAD VILLUPURAM.

- 37 M/S.VOLTECH MANUFACTURING CO.
LTD. S.NO.212/1 2 & 213/3 PILLAIPAKKAM
VILLAGE SRIPERUMBUDUR TAMILNADU INDIA-
602 105.
- 38 M/S.SK TRANSFORMERS CO.
NO.138-1 KADABAGERE CROSS MACHOHALLI
VILLAGE MAGADI MAIN ROAD BENGALURU - 562
130
- 39 M/S.SHREE ABIRAMI ENGG. WORKS
56 ARUNACHALAM MAIN ROAD AMBAL NAGAR
PORUR CHENNAI- 600 116.
- 40 M/S.CUIRRENT POWER EQUIPMENT
DP-69 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 41 M/S. CURRENT POWER EQUIPMENT
DP-69 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI- 600 044.
- 42 M/S.CYLUX EQUIPEMENT
NO.48 PERUMAL NAGAR THIRUNIRMALAI MAIN
ROAD THIRUMUDIVAKKAM CHENNAI- 600 044.
- 43 M/S.PARAMOUNT INDUSTRIES
2/1 POONAMALLEE-AVADI ROAD
SENNEERKUPPAM CHENNAI-600 056.
- 44 M/S.SURYA ELECTRICAL
ENTERPRISES 24 CHINNA KULATHUR NEAR
COFFEE POWDER COMPANY IYYAPPANTHANGAL ROAD
BHARANIPUTHUR CHENNAI-600 122.
- 45 M/S.VINAY ELECTRIC COMPANY
4/123 BALAJI NAGAR 1ST STREET (NEAR
RAMACHANDRA MEDICAL COLLEGE)
KULUTHUVANCHERRY AYYAPPANTHANGAL CHENNAI-
56.
- 46 M/S.TELAWNE POWER EQUIPMENTS
PVT. LTD. R-457 MIDC REBALE BEHIND
PIPELINE ROAD THANE BELAPUR ROAD NAVI
MUMBAI- 400 701.
- 47 M/S.SL POWER SYSTEM
45/99 ANNA STREET KAMARAJ NAGAR NEW
PERUNGALATHUR CHENNAI-600 063.
- 48 M/S.ARUL JOTHY TRANSFORMERS
DHARMAURI

RESPONDENTS IN W/P.NOS.5792 TO 5795/2015

- 3 M/S.MANGAL ELECTRICALS
F-260 ROAD NO.13 V.K.I. AREA
JAIPUR- 302 013.
- 4 M/S.HINDUSTAN TRANSFORMERS
PVT. LTD. CBE 66 AVARAMPALAYAM ROAD
K.R.PURAM COIMBATORE- 641 006.
- 5 M/S.VIJAY POWER TRANSFORMERS
BGL. 137/3 DASANPURA HOBLI
MAGADI MAIN
ROAD KABAGERE CROSS BANGALORE-562 130.
- 6 M/S.ABIRAMI ENNGG WORKS
CHENNAI 56 AVARAMPALAYAM ROAD
K.R.PURAM
COIMBATORE-641 006.
- 7 M/S.TELAWNE POWER EQUIPMENTS
PVT. LTD. R-457 MIDC RABALE
THANE BELAPUR ROAD NAVI MUMBAI-400 701.
- 8 M/S.SRI VINAYAGA STAR ELECTRICALS
PLOT NO9 RAJAS GARDEN MAIN ROAD
CHETTIAR AGARAM CHENNAI- 600 077.
- 9 M/S.LAVANYA INDUSTRIES
SIVABOODHAMEDU VANAGARAM
CHENNI-600 095.
- 10 M/S.VENKATESWARA ELECTRICALS
74 KUNDRATHUR ROAD PORUR
CHENNAI-600 116.
- 11 SENTHIL ENGG.COMPANY
74 KUNDRATHUR ROAD PORUR
CHENNAI-600 116.
- 12 M/S.SRI PERFECT ENGG WORKS
3/288 THANDALAM ROAD KOVOOR
CHENNAI-602 101.
- 13 M/S.SURYA ELECTRICAL ENTERPRISES
24 CHINNA KULATHUR NEAR IYYAPPANTHANGAL ROAD
BHARANIPUTHUR CHENNAI-600 122.
- 14 M/S.PARAMOUNT INDUSTRIES
2/1 POONAMALLEE AVADI ROAD
SENNEERKUPPAM CHENNAI-600 056.
- 15 M/S.BALA INDUSTRIES
53 MULTI INDUSTRIAL ESTATE
GERUGAMBAKKAM CHENNAI-600 122.

- 16 M/S.HINDUSTAN HEAVY ELECTRICAL
66 AVARAMPALAYAM ROAD K.R.PURAM
COIMBATORE-641 006.
- 17 M/S.INDUSTRIAL HEATERS &
TRANSFORMERS 66 AVARAMPALAYAM ROAD
K.R. PURAM COIMBATORE-641 006.
- 18 M/S.ELECTROMECH INDUSTRIES
K.R.PURAM GANAPATHI COIMBATORE
T.N.-641 006.
- 19 M/S.BALAJI ELECTRICAL WORKS
NO.5 WALLAJABAD ROAD MANNIVAKKAM
CHENNAI-600 048.
- 20 M/S.VIVIN INDUSTRIES
69/1 H E M ROAD K.R.PURAM
AVARAMPALAYAM COIMBATORE-641 006.
- 21 M/S.DURGA TRANSFORMERS PVT
LTD. 70-A&B H E M ROAD K.R.PURAM
AVARAMPALAYAM COIMBATORE-641 006.
- 22 M/S.SL ELECTRICALS
OLD NO.113 NEW NO.84 GNT ROAD
ERUKANCHERI CHENNAI-600 118.
- 23 M/S.SRI THIRUMALA FABRICATORS
NO.27/28 SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 24 M/S.HINDUSTAN TRANSFORMERS
37B SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 25 M/S.DANYA ELECTRIC COMPANY
GANESH NAGAR ALAPAKKAM PORUR
SRIPERUMBUDUR-600 116.
- 26 M/S.SUPREME POWER EQUIPEMENTS
55 SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 27 M/S.SARAYU ENGINEERINGS
S4 R.M.NAGAR DINDIGUL.
- 28 M/S.ASSOCIATE TRANSFORMERS
PVT. LTD. PADIYUR ROAD KULATHUR
DINDIGUL-624 005.
- 29 M/S.SAP INDUSTRIES CHENNAI
PLOT NO.51 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.

- 30 M/S.IPL PRODUCTS
CHENNAI PLOT NO.48 SIDCO INDUSTRIAL
ESTATE THIRUMUDIVAKKAM CHENNAI-600 044.
- 31 M/S.MODERN TRANSFORMERS PVT
LTD. GAZIABAD C-137 BULANDSHAHR ROAD
INDUSTRIAL AREA GHAZIABAD UP 201001.
- 32 M/S.RAM AKRISHNA TRANSFORMERS
CUDDALORE ROAD VILLUPURAM.
- 33 M/S.SUNTECH TRANSFORMERS
SIDCO INDUSTRIAL ESTATE RANIPET VELORE-
632 403.
- 34 M/S.TAMILNADU TRANSFORMERS
SIDCO INDUSTRIAL ESTATE RANIPET VELLORE
DIST.-632 403.
- 35 M/S.VOLTECH MANUFACTURING CO.
LTD. S.NO.212/1 2 & 213/3 PILLAIPAKKAM
VILLAGE SRIPERUMBUDUR TAMIL NADU -602 105.
- 36 M/S.VINAY ELECTRIC COMPANY
4/123 BALAJI NAGAR 1ST STREET
KULUTHUVANCHERRY AYYAPPANTHANGAL
CHENNAI- 56.
- 37 M/S.TRINITY TRANSFORMERS PVT
. LTD. 386 SAVLI G.I.D.C. INDUSTRIAL
ESTATE NR. MANJUSAR GUJARAT.
- 38 M/S.VK TRANSFORMERS
4/123 BALAJI NAGAR 1ST STREET
KUUTHUVANCHERRY AYYAPPANTHANGAL
CHENNAI- 600 56.
- 39 M/S.MOHINI TRANSFORMERS
204 PREM ASHRAM BUILDING TUKOGANJ
INDOR MADHYA PRADESH-452 001.
- 40 M/S.FAIRDEAL TRANSFORMERS
PLOT NO.D-37 MIDC INDUSTRIAL AREA
AMBAD NASIK-422 010.
- 41 M/S.SAKTHI TRANSFORMERS
10 & 11 SHARMA NAGAR KUNDRATHUR-
THIRUNEERMALAI MAIN ROAD KUNDRATHUR
CHENNAI-600 069.
- 42 M/S.CURRENT POWER EQUIPMENT
DP.69 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 43 M/S.ASCOT ELECTRICALS PVT.
LTD. 207/208 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.

- 44 M/S.CYLUX EQUIPMENT
NO.48 PERUMAL NAGAR SIDCO INDUSTRIAL
ESTATE THIRUMUDIVAKKAM CHENNAI-600 044.
- 45 M/S.CURRENT ELECTRICALS LTD.
NO.69 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044

R-3 TO R-45 IMPLEADED
IMPL. AS PER ORD.DATED 10/03/15
in M.P.2/15 in w.p.5792 to 5795/15

RESPONDENTS IN W.P.NOS.5906 TO 5915 OF 2015

- 3 M/S.HINDUSTAN POWER CONTROLS
LTD. NO.5-A JANATHA NAGAR
SARAVANAMPATTI COIMBATORE-641 035.
- 4 M/S.BALAJI ELECTRICAL WORKS
NO.5 WALLAJAHBAD ROAD MANNIVAKKAM
CHENNAI-600 048.
- 5 M/S.KANCHANA ELECTRICALS
NO.5 WALLAJAHBAD ROAD MANNIVAKKAM
CHENNAI-600 048.
- 6 M/S.INFOTECH TRANSFORMERS LTD
. DP 36 SIDCO INDUSTRIAL THIRUMALAISAI
CHENNAI-600 124.
- 7 M/S.SL ELECTRICALS
OLD NO.113 NEW NO.84 G.N.T. ROAD
ERUKKANCHERI CHENNAI-600 118.
- 8 M/S.ASIAN POWER LINES
3/156 1ST FLOOR THIRU NAGAR
THELICHATHANALLUR PARAMAKUDI- 623 707.
- 9 M/S.SARAYU ENGINEERING
S4 R.M.NAGAR DINDIGUL TAMILNADU.
- 10 M/S.ASSOCIATE TRANSFORMERS PV
. LTD. PADIYUR ROAD KULATHUR DINDIGUL-
624 005.
- 11 M/S.IPL PRODUCTS
PLOT NO.48 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 12 M/S.SAP INDUSTRIES
PLOT NO.51 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 13 M/S.ASCOT ELECTRICALS PVT.
LTD. 207/208 SIDCO INDUSTRIAL ESTATE
CHROMPET THIRUMUDIVAKKAM CHENNAI-600 044.

- 14 M/S.BALA INDUSTRIES
NO.53 MULTI INDUSTRIAL ESTATE
GERUGAMBAKKAM CHENNAI-600 122.
- 15 M/S.SUPREME POWER EQUIPMENTS
55 SIDCO INDUSTRIAL ESTATE THIRUMAZHISAI
CHENNAI-600 124.
- 16 M/S.DANYA ELECTRICT COMPANY
174 SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 17 M/S.SRI THIRUMALA FABRICATORS
27/28 SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 18 M/S.HINDUSTAN TRANSFORMERS
NO.37B SIDCO INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI-600 124.
- 19 M/S.WILLSON POWER &
DISTRIBUTION TECHNOLOGIES PVT. LTD.
ORAKKADU VILLAGE CHOLAVARAM CHENNAI-600
067.
- 20 M/S.ELECTROMECH INDUSTRIES
K.R.PURAM GANAPATHI COIMBATORE-641 006
- 21 M/S.INDUSTRIAL HEATERS &
TRANSFORMERS 66 AVARAMPALAYAM ROAD K.R.
PURAM COIMBATORE-641 006.
- 22 M/S.VIVIN INDUSTRIES
69/1 H.E.M.ROAD K.R.PURAM
AVARAMPALAYAM ROAD K.R.PURAM COIMBATORE-
641 006.
- 23 M/S.HINDUSTAN HEAVY
ELECTRICALS 66 AVARAMPALAYAM ROAD K.R.
PURAM COIMBATORE-641 006.
- 24 M/S.SENTHIL ENGG COMPANY
74 KUNDRATHUR ROAD PORUR CHENNAI-600
116.
- 25 M/S.VENKATESWARA ELECTRICALS
74 KUNDRATHUR ROAD PORUR CHENNAI-600
116.
- 26 M/S.SR PERFECT ENGG. WORKS
3/288 THANDALAM ROAD KOVOOR CHENNAI-602
101.
- 27 M/S.LAVANYA INDUSTRIES
SIVABOODHAMEDU VANAGARAM CHENNAI-600
095.

- 28 M/S.SRI VINAYAGA STAR
ELECTRICALS PLOT NO.9 RAJAS GARDEN MAIN
ROAD CHETTIAR AGARAM CHENNAI-600 077.
- 29 M/S.SAKTHI TRANSFORMERS
NO.10 & 11 SHARMA NAGAR KUNDRATHUR-
THIRUNEERMLAI MAIN ROAD KUNDRATHUR
CHENNAI-600 069.
- 30 M/S.MAMTHA TRANSFORMERS
NO.1-A SECTOR-E SANWAR ROAD INDORE-452
010 MADHYA PRADESH.
- 31 M/S.FAIRDEAL TRANSFORMERS
PLOT NO.D-37 MIDC INDUSTRIAL AREA AMBAD
NASIK-422 010.
- 32 M/S.MOHINI TRANSFORMERS
204 PREM ASHRAM BUILDING TUKOGANJ
INDORE MADHYA PRADESH-452 001.
- 33 M/S.SUNTECH TRANSFORMERS
SIDCO INDUSTRIAL ESTATE RANPET VELLORE
DIST.-632 403.
- 34 M/S.TAMILNADU TRANSFORMERS
SIDCO INDUSTRIESL ESTATE RANIPET VELLORE-
632 403.
- 35 M/S.RAMAKRISHNA TRANSFORMERS
CUDDALORE ROAD VILLUPURAM.
- 36 M/S.VOLTECH MANUFACTURING CO.
LTD. S.NO.212/1 2 & 213/3 PILLAIPAKKAM
VILLAGE SRIPERUMBUDUR TAMILNADU INDIA-
602 105.
- 37 M/S.VIJAY POWER TRANSFORMERS
137/3 DASANPURA HOBLI MAGADI MAIN ROAD
KADABAGERE CROSS BANGALORE-562 130.
- 38 M/S.SHREE ABIRAMI ENGG. WORKS
56 ARUNACHALAM MAIN ROAD AMBAL NAGAR
PORUR CHENNAI-600 116.
- 39 M/S.CUIRRENT POWER EQUIPMENT
DP-69 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 40 M/S. CURRENT ELECTRICALS LIMITED
DP-69 SIDCO INDUSTRIAL ESTATE
THIRUMUDIVAKKAM CHENNAI-600 044.
- 41 M/S.CYLUX EQUIPEMENT
NO.48 PERUMAL NAGAR
THIRUNIRMALAI MAIN ROAD
THIRUMUDIVAKKAM CHENNAI-600 044.

- 42 M/S.PARAMOUNT INDUSTRIES
2/1 POONAMALLEE-AVADI ROAD
SENNEERKUPPAM CHENNAI-600 056.
- 43 M/S.SURYA ELECTRICAL
ENTERPRISES 24 CHINNA KULATHUR NEAR
COFFEE POWDER COMPANY IYYAPPANTHANGAL
ROAD BHARANIPUTHUR CHENNAI-122.
- 44 M/S.VINAY ELECTRIC COMPANY
4/123 BALAJI NAGAR 1ST STREET (NEAR
RAMACHANDRA MEDICAL COLLEGE)
KULUTHUVANCHERRY AYYAPPANTHANGAL
CHENNAI- 56.
- 45 M/S.TELAWNE POWER EQUIPMENTS
PVT. LTD. R-457 MIDC REBALE BEHIND
PIPELINE ROAD THANE BELAPUR ROAD NAVI
MUMBAI-400 701.
- 46 M/S.SOUTHERN POWER EQUIPMENT
69/2 42 5TH MILE TUMKUR ROAD
YESHWATHPUR YESHWANTHPUR BENGALURU-560
022.
- 47 M/S.ARUL JOTHY TRANSFORMERS
DHARMAURI.
- 48 M/S.EVERGREEN TRANSFORMERS
SHOLINGAR ROAD WALLAJAPET.
- 49 M/S.DURGA TRANSFORMERS PVT.
LTD. 70 A& B HEM ROAD K.R.PURAM
COIMBATORE TAMILNADU INDIA.
- 50 M/S.SRT POWER
MAGADI ROAD BANGALORE-562 130.

R-3 TO R-50 IMPEADED

MPL. AS PER ORD.DATED 10/03/15 BY TSSJ IN
MP.2/15 IN WP.5906 TO 5912/15.

RESPONDENTS IN W.P.NO.26102 OF 2015

- 3 SRI VENKATESWARA INDUSTRIES
P.LTD. BY MG. DIRECTOR: A. SIVASUBRAMANI
KUNDRATHUR ROAD PORUR CHENNAI.
- 4 SAKTHI TRANFORMERS
BY PARTNER K.G. RAJENDRAN 10&11 SHARMA
NAGAR THIRUNEERMALAI MAIN ROAD
KUNDRATHUR CHENNAI-69.

- 5 M/S.I.P.L.PRODUCTS
BY ITS PROPRIETOR A. SHANMUGA VELAYUTHAM
NO.K.2 INDUSTRIAL ESTATE GUINDY
CHENNAI-32.
- 6 M/S.SENTHIL ENGINEERING
CO. BY MG. PARTNER K. SAKUNTHALA DEVI
KUNDRATHUR ROAD PORUR CHENNAI.
- 7 SHREE ABIRAMI ENGINEERING
WORKS BY PARTNER P. SIRSABESAN 56
ARUNACHALAM MAIN ROAD AMBAL NAGAR PORUR
CHENNAI-116.
- 8 SUPREME POWER
EQUIPMENT (P) LTD. BY MANAGING DIRECTOR V.
RAJ MOHAN SHED NO.55 INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI.
- 9 DHANYA ELECTRICAL CO.
BY PARTNER K.V. PRADEEP KUMAR 174
INDUSTRIAL ESTATE THIRUMAZHISAI CHENNAI.
- 10 S.A.P.INDUSTRIES
BY PARTNER G.V. PARTHASARATHY INDUSTRIAL
ESTATE TIRUMUDIVAKKAM CHENNAI.
- R-3 TO R-10 CONTD.
R-3 TO R-10 ARE IMPEADED AS PER ORDER
DATED: 28.08.2015 BY M.M.S. J. IN MPS.2 TO
9 OF 2015 IN WP.26102/2015.
- 11 SRI VENKATESWARA INDUSTRIES
P. LTD. BY MG.DIRECTOR A. SIVASUBRAMANI
KUNDRATHUR ROAD PORUR CHENNAI.
- 12 SAKTHI TRANSFORMERS
BY PARTNER K.G. RAJENDRAN 10&11 SHARMA
NAGAR THIRUNEERMALAI MAIN ROAD
KUNDRATHUR CHENNAI-69.
- 13 M/S. I.P.L.PRODUCTS
BY ITS PROPRIETOR A. SHANMUGA VELAYUTHAM
NO.K.2 INDUSTRIAL ESTATE GUINDY CHENNAI-
32.
- 14 M/S. SENTHIL ENGINEERING CO.
BY MG. PARTNER K. SAKUNTHALA DEVI
KUNDRATHUR ROAD PORUR CHENNAI.
- 15 SHREE ABIRAMI ENGINEERING
WORKS BY PARTNER P. SIRSABESAN 56
ARUNACHALAM MAIN ROAD AMBAL NAGAR PORUR
CHENNAI-116.

- 16 SUPREME POWER EQUIPMENT (P)
LTD. BY MANAGING DIRECTOR V. RAJ MOHAN
SHED NO.55 INDUSTRIAL ESTATE
THIRUMAZHISAI CHENNAI.
- 17 DHANYA ELECTRICAL CO.
BY PARTNER K.V. PRADEEP KUMAR 174
INDUSTRIAL ESTATE THIRUMAZHISAI CHENNAI.
- 18 S.A.P.INDUSTRIES
BY PARTNER G.V. PARTHASARATHY INDUSTRIAL
ESTATE THIRUMUDIVAKKAM CHENNAI.
- 19 SARAYU ENGINEERING
BY ITS CEO R. VENKATESHWARAN 37 PADIYUR
ROAD DINDIGUL-624 001.
- 20 ASSOCIATED TRANSFORMERS
PRIVATE LTD. BY DIRECTOR V. RAJANANDHINI
37 PADIYUR ROAD DINDIGUL-624 001.
- 21 HINDUSTAN TRANSFORMERS
BY MANAGING PARTNER V. RAMESH 37-B SIDCO
ESTATE THIRUMAZHISAI CHENNAI-124.
- 22 SRI THIRUMALA FABRICATORS
BY ITS PARTNER E. MAHALAKSHMI 27&28 SIDCO
ESTATE THIRUMAZHISAI CHENNAI-124.
- 23 M/S.CYLEX EQUIPMENTS
REP. BY ITS PROPERITEX MRS.CYNTHIA ALEXANDER
HAVING OFFICE AT NO.54 55 PERUMAL NAGAR
THIRUMUDIVAKKAM VILLAGE (NEAR SIDCO) CHENNAI-
44.
- 24 CURRENT POWER EQUIPMENTS PVT.
REP. BY ITS DIRECTOR MR. M. SARAVANAN
HAVING REG. OFFICE AT SURVEY NO.214
THIRUMUDIVAKKAM VILLAGE (NEAR SIDCO)
CHENNAI-44.

R-11 TO R-24 CONTD-
ARE IMPEADED AS PER ORDER DATED: 16.09.
2015 BY M.M.S. J. IN MPS.2 TO 15/ 2015 IN
WP.26102/2015.

Prayer: W.P.No.5685 TO 5689 of 2015 is filed under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus to direct the 2nd respondent to process only those tenders submitted pursuant to tender Specification No.M-21/2014-15, AND M.27/2014-15 IN W.P.Nos.5792, 5793, 5794/15 & M.20/2014-2015 IN W.P.NOS.5906 TO 5912/2015 that does contain the type test certificates or the values in Schedule B, arrived at on the basis of the specifications in Schedule I of the tender.

W.P.No.26102 of 2015:- Petition under Article 226 of the constitution of India to issue a writ of declaration Declaring that the processing of tender M-18 of 2014/15 for 500 KVA/11 KV/433V Energy Efficient Transformers in so far as relates to new entrant clause and current density value as arbitrary illegal and void.

For Petitioners : Mr.V.T.Gopalan,Sr.Counsel
in W.P.Nos.5685 to 5689, for Mr.J.Srinivasa Mohan and
5792 to 5795, 5906 to Mr.V.G.Suresh Kumar
5912 and 26102 of 2015

For Respondents : Mr.P.H.Aravind Pandian,
1 and 2 in all W.Ps Addl.Advocate General
(TNEB) assisted by Mr.P.R.Dhilipkumar

For Respondent Nos.10 : Mr.M.A.Mohomedhali and
and 11 in W.P.Nos.5685 Mr.D.Segaran
to 5689 of 2015, respon-
dents No.27 and 28 in W.P.
Nos.5792 to 5795 of
2015 respondents
9 and 10 in W.P.
Nos.5906 to 5912 of
2015 and respondents
No.10 to 13 in W.P.No.
26102 of 2015

For Respondent Nos.12: Mr.G.Masilamani,Sr.Counsel
13,24,25,27 to 29 and 43 for Mr.K.Venkatasubburaju
in W.P.Nos.5685
to 5689 of 2015,
respondents No.9 to 11,
13, 29, 30, 36 and 40
in W.P.Nos.5792 to
5795 of 2015 and
respondents No.3 to 9 in W.P.
No.26102 of 2015.

For Respondent Nos.20: Mr.M.Venkatachalapathy,Sr.Counsel
21 and 23 in W.P.Nos. for Mr.S.Thangavel
5685 to 5689 of 2015,
respondents No.16
to 18, 20, 21 and 23 in
W.P.Nos.5792 to 5795
of 2015 and respondents
No.4, 20, 21, 23, 31
and 32 in W.P.Nos.
5906 to 5912 of 2015

For Respondent Nos.41 : Mr.S.Rajasekar
and 43 in W.P.Nos.5685
to 5689 of 2015,
respondents No.41 and
42 in W.P.Nos.5792 to

5795 of 2015,
respondents No.39 and
41 in W.P.Nos.5906 to
5912 of 2015,
and respondent
Nos.14 and 15 in
W.P.No.26102 of 2015.

For Respondent No.19 : Mr.S.Gunaseelan
in W.P.Nos.5685 to
5688 of 2015,
respondent No.20 in
W.P.No.5689 of 2015
and respondent No.19
in W.P.Nos.5906 to 5912
of 2015.

For Respondent No.42 : Mr.R.Muthukumaraswamy, Sr.Counsel
in W.P.Nos.5685 to for Mr.T.Sella Pandian
5689 of 2015,
respondent No.14 in
W.P.Nos.5792 to 5795
of 2015 and
respondent No.42 in
W.P.Nos.5906 to 5912
of 2015

COMMON ORDER

A policy decision was taken by the official respondents to procure Energy Efficient Distribution Transformers as per the guidelines of Central Electricity Authority, Ministry of Power, Government of India in the month of August, 2008. Tenders were called in which bids of 40 tenderers were opened. After finalisation of tenders, LOAs were issued to number of firms. Out of them, purchase orders have been issued to 20 firms. Thereafter, the aforesaid firms, who bagged the orders, started working towards compliance of the purchase orders. One firm has already sold the transformers and the others are in the process of doing so. The petitioners are some of the tenderers, whose technical and price bids were rejected. Tender specifications were for 100, 200, 250 and 500 KVA Energy Efficient Distribution Transformers. The following charts with respect to the petitioners qua the KVA would be apposite:

'100 KVA/22KV/433V Energy Efficient Distribution Transformer
Quantity : 4500 Nos.
Tender No. : 20/14-15
Total No. of Firms Filed Writ Petition : 7 Firms

Sl. No.	W.P.No.	Name of the Firm	Category	Result
1	5911/2015	M/s. Arunachalam Transformer	New Entrant	Technical Bid Rejected & Price Bid not opened.
2	5912/2015	M/s.Mega Power Electricals	New Entrant	

Sl. No.	W.P.No.	Name of the Firm	Category	Result
3	5906/2015	M/s.Mathi Electrical	New Entrant	Rejected after price bids are opened since their rates are high. (As per the Tender Specification New Entrant should be quoted and negotiated L1)
4	5907/2015	M/s.E.V.R. Electrical	New Entrant	
5	5908/2015	M/s. Emmes Control (P) Ltd.	New Entrant	
6	5909/2015	M/s. Venkateshwara Engineering Works	New Entrant	
7	5910/2015	M/s.Vishnu Electricals	New Entrant	

2000 KVA/22KV/433V Energy Efficient Distribution Transformer

Quantity : 2500 Nos.

Tender No. : 21/14-15

Total No. of Firms Filed Writ Petitions : 6 Firms

Sl. No.	W.P.No.	Name of the Firm	Category	Result
1	5689/2015	M/s. Arunachalam Transformer	New Entrant	Technical Bid Rejected & Price Bid not opened.
2	5685/2015	M/s.Vishnu Electricals	New Entrant	Rejected after price bids are opened since their rates are high.
3	5686/2015	M/s.Emmes Controls (P) Ltd.	New Entrant	
4	5687/2015	M/s.Sri Venkateshwara Engineering Works	New Entrant	
5	5688/2015	M/s.EVR Electricals Pvt.Ltd.	New Entrant	
6	5795/2015	M/s. Mathi Electricals	New Entrant	

250 KVA/11KV/433V Energy Efficient Distribution Transformer

Quantity : 3000 Nos.

Tender No. : 27/14-15

Total No. of Firms Filed Writ Petitions : 3 Firms

Sl. No.	W.P.No.	Name of the Firm	Category	Result
1	5793	M/s.Vishnu Electricals	New Entrant	Price Bids opened and rejected since their price bids are high.
2	5794	M/s.Emmes Controls (P) Ltd.	New Entrant	
3	5792	M/s.EVR Electricals Pvt. Ltd.	Regular	Rejected.

500 KVA/11KV/433V Energy Efficient Distribution Transformer

Quantity : 800 Nos.
Tender No. : M18/2014-15
Total No. of Firms Filed Writ Petitions: Nil
Order finalised for : 23 Firms
Purchase Order issued : 20 Firms

Sl. No.	W.P. No.	Name of the Firm	Result
1	26102/2015	M/s.EVR Electricals Pvt. Ltd.	Not a bidder

Almost all the petitioners as indicated from the chart recorded above are new entrants except the petitioner in W.P.No.5792 of 2015, being one of the regular tenderer for 250 KVA.

2. Before going to the respective contentions of the parties before the Court, it is imperative to have a look at the specifications governing the cases, the relevant portion of which reads as under:

SECTION - II

(Specification No.: M-20/2014-15)

BID QUALIFICATION REQUIREMENTS (BQR)

THE BIDDERS shall become eligible to bid on satisfying the following BID QUALIFICATION REQUIREMENTS and on production of the required documentary evidences along with the tender.

1. The Bidders shall be actual manufacturer of Distribution Transformers of tendered rating or higher rating. Necessary proof for the same shall be enclosed in the 'A' cover.

<https://hcservices.ecourts.gov.in/hcservices/> and 3.

4. Copy of Type test reports from any independent NABL accredited Laboratory like CPRI, ERDA etc., for the tendered capacity transformers along with the copies of

drawings duly approved by the Type Testing Agency for the tests conducted not before 5 years as on the date of tender opening should be enclosed along with the tender inside Envelope-A.

5.

6. New Entrant:

6.1 A tenderer shall be declared as 'New Entrant' who have no previous experience of supply for the tendered items or no satisfactory period of service or no financial turnover but have infrastructure/ manufacturing facility as per the inspection report of the third party inspection or TANGEDCO or TANTRANSCO Engineers. The tenderer who have lesser quantity of supply experience or lesser satisfactory period of service or lesser financial turnover criteria than prescribed in the tender document may also be considered under New Entrant category.

6.2. The tenderer is eligible to be considered for placement of orders under New Entrant category if the bidder is the evaluated and negotiated L1 tenderer.

6.3. The tenderers who have been considered under the New Entrant category shall satisfy all technical, commercial and BQR conditions except BQR condition of quality, of previous experience of supply or satisfactory period of service or financial turnover criteria.

6.4. TANGEDCO or TANTRANSCO have right to place order up to 20% of the tendered quantity on a New Entrant. In case more than one bidder qualify under the New Entrant category, TANGEDCO or TANTRANSCO has right to place order upto 20% of the tendered quantity on each New Entrant.

SECTION - III

(Specification No: M-20/2014-15)

REJECTION OF TENDERS:

1. Tender will be SUMMARILY rejected if:

- (a) the EMD requirements are not complied with.
- (b) Type Test Certificate are not enclosed along with the Tender offer inside the Envelope-A.
- (c) Details of 200 KVA/22 KV/433V rating or higher KVA/ higher KV capacity rating distribution transformers manufactured and supplied with minimum of 30 Nos. put together during the preceding five years to State Electricity Boards/ Power Utilities as per clause 2 & 3 Section-II are not enclosed inside the Envelope-A cover.
- (d) Demand Draft or Banker's Cheque towards cost of specification or proof for exemption from payment of cost of specification in case of bidders who have downloaded the specification from TANGEDCO website is not enclosed inside the outer cover.
- (e) The Bid Qualification Requirements as per Section-II of this Specification are not satisfied.
- (f) In case of new entrants, the factory inspection shall be carried out by the Third Party/Departmentally and if not found with adequate infrastructural facilities to carry out the manufacturing activities of DT's, the offer shall be summarily rejected.

II. Tender is liable to be rejected, if it is

(a) and (b)

(c) not in conformity with Board's Commercial terms and Technical Specifications. (Section - V & VI).

(d) to (h)

(i) not containing all the required particulars as per Schedules - A, B, C, D, E, F, G, H & I.

(j) to (n)

(o) The offers of the tenderers with deviations in commercial terms and technical terms of the tender document are liable for rejection.

SECTION - IV INSTRUCTION TO TENDERERS

1.0. This Tender will be processed as per the provision in the Tamil Nadu Transparency in Tenders Act 1998 and the Tamil Nadu Transparency in Tender Rules, 2000.

...

4.20. AMBIGUITIES IN CONDITIONS OF TENDERS:

In the case of ambiguous or contradictory terms/ conditions mentioned in the bid, interpretation as may be advantageous to the purchaser may be taken without any reference to the Tenderer.

.....

SECTION-VI

TECHNICAL SPECIFICATION FOR OUTDOOR TYPE 100 KVA/ 22 KV/ 433V ENERGY EFFICIENT DISTRIBUTION TRANSFORMER

2.0 APPLICABLE STANDARDS

Distribution Transformers shall conform to IS : 2026 as amended upto date or other International Standards for equal or better performance.

....

8.0 WINDINGS:

8.1.7. The current density for HV & LV windings should not be more than 2.8 A/Sq.mm for copper conductor.

28.0 CURRENT TRANSFORMERS:

28.1 CTs shall be provided for transformers on secondary side (single turn primary) which should be of outdoor type and completely moulded. Moulded material may be of Epoxy/Resin moulding type.

28.2. Current transformers shall be mounted outside the tank with suitable clamp arrangements on LV side of the transformer in U, V and W terminals.

28.3. The current transformers shall comply with IS 2705.

28.4. Embedded studs with short leads instead of terminal box,

28.5. CT should not get saturated upto 120% of rated current.

28.6. CT has to be type tested and type test certificate has to be enclosed.

In the supply the CTs has to be tested at stores. If any deviations from the type test values, the whole lot will be rejected.

28.7. CT shall have the following parameters.

Parameter	Value
Burden	5 VA
Application	Metering
ISF	5
Ratio	200/5 AMPs
Accuracy Class	0.55

28.8 Three phase CTs with suitable ratio shall be provided along with DT as per specification and additionally one number CT with same specification will be supplied along with each DT.

.....

41.0 PERFORMANCE GUARANTEE OF DISTRIBUTION TRANSFORMERS:
1 to 8

9. Defective Supplies: The intimation of failure of transformer shall be given by the any TANGEDCO filed offices from TANGEDCO Stores. The failed Transformers is to be replaced/ repaired by you free of all charges at the earliest but in any case within 2 months from the date of intimation by the consignee. In case defective/ failed transformers are not replaced/ repaired and returned to the area stores within the prescribed period as above, TANGEDCO has right to recover the cost of the Transformer or to withhold payment till Transformer is repaired.

...

SCHEDULE - B

GUARANTEED TECHNICAL PARTICULARS FOR ENERGY EFFICIENT DISTRIBUTION TRANSFORMERS TO BE FURNISHED ALONG WITH THE OFFER

S.No.	PARTICULARS	100KVA/22KV ENERGY EFFICIENT
A	Maker's Name and Address	
B	Phone No., Fax No. & E mail	
C	Brand Name	
1 to 14		
15.	Current Density:	
	(i) HV winding	
	(ii) LV winding	
16.	WINDINGS:	
	(a) Material:	
	(i) HV winding	
	(ii) LV winding	

....

REMARKS:

1. Firm should furnish type test reports of the transformer manufactured as per Technical Specifications.

2. The pro forma should be filled up for the type tested design and submitted along with drawings. The drawings & GTP be legible and neatly drawn.

.....

SCHEDULE-I				
MEASUREMENTS OF CORE & WINDINGS				
FOR 100 KVA/22KV/433V ENERGY EFFICIENT DISTRIBUTION TRANSFORMER				
	DESCRIPTION		As per Technical Specification	As per offer
CORE				
L.V.COIL				
				
	CONDUCTOR CROSS SEC.	Sq mm	83	
.....				
H.V.COIL				
.....				
	CONDUCTOR CROSS SEC.	Sq mm	1.16	

Thus, the specifications have been clearly spelt out in the tender documents. The current density has been fixed based upon the guidelines issued by the Central Electricity Authority, Ministry of Power, Government of India stated above qua copper and Aluminium conductors. The transformer has to be manufactured and type tested as per the specification. A bidder has to be an actual manufacturer. A requisite Type test report has to be obtained from the authorities mentioned in the document. Concession has been given to the new entrant as per Clause 6 of Section - II qua the bid qualification requirements, which dispensed with previous experience. A tenderer with lesser quantity of supply experience or lesser satisfactory period of service or lesser financial turnover criteria than the one prescribed was also brought under the said category. The eligibility for placing of orders would come only when the bidder is the evaluated and negotiated L1 tenderer. Such a new entrant will have to satisfy all technical and commercial BQR conditions except BQR condition of quality, of previous experience of supply or satisfactory period of service or financial turnover criteria. A maximum cap of 20% has been fixed giving a discretion to the respondents to place orders in favour of a new entrant.

<https://hcservices.ecourts.gov.in/Bcservices/> While dealing with rejection of tenders, Clause I of Section III mandates the enclosure of Type test certificate and satisfaction of Bid Qualification Requirements. Insofar as new entrants are concerned, there has to be a satisfactory clearance on

factory inspection of the infrastructural facilities. Similarly, Clause II also deals with the factors for rejection of tender, one among being not enclosing the particulars such as Schedules A to I. The tenders were to be processed as per the provisions of Tamil Nadu Transparency in Tenders Act, 1998 and the rules made thereunder. Under Section VI qua Technical Specification, it has to conform to IS: 2026 as amended upto date or other International Standards for equal or better performance. Clause 8.0, which deals with 'WINDINGS', the current density for HV and LV winding should not be more than 2.8 A/ sq.mm for copper conductor. Clause 28 deals with 'Current Transformers'. It has to be a completely moulded one and to be done outside the tank with suitable clamp. It has to be type tested at Stores. Such Type test certificate has to be enclosed. Thus, a current transformer is not required to be manufactured, but to be produced at the relevant point of time as it is meant for measuring the current in a transformer. Thus, it is not an integral part of Distribution Transformer, being external in nature. In other words, they are only bought out items. It appears that the cost of a current transformer is about few hundreds of rupees. A Type test report of the current transformer is to be verified at the time of inspection of Distribution Transformers at the field after supply. It is also to be seen that non-production of a type test certificate qua a current transformer would not ipso facto result in the rejection of a bid as stipulated in specifications at Section III - clause II (c) (i) and (o) pertaining to rejection of tenders, which only prescribes the mandatory compliance of the particulars as per Schedules A to I. This is made clear by clause 28.8, which says that three phase CTs with suitable ratio shall be provided along with Distribution Transformer as per specification. Therefore, the production of Test type certificate comes at a later point of time. As per the Schedule, a specification as required by the official respondents has to be met by the tenderers. It is a working schedule, which has to be complied with mandatorily. In other words, the Schedule has been fixed in such a way that it should give the desired result. To put it differently, the conductor cross section has to be 83 sq mm and 1.16 sq mm for LV Coil and HV coil respectively. If this is done, the expectation of the official respondents would invariably be met. That is the reason why the tenderers were asked to fill up the pro forma for the type test design and submit them along with the drawings.

Submissions of Petitioners:-

4. Learned Senior Counsel appearing for the petitioners made four submissions. The first submission is that the acceptance of the tenders is totally contrary to the object and rationale behind it. When conservation of the energy is the prime criteria, the actual current density ought to have been taken into consideration. In other words, what is the actual density, which a tenderer would provide, must be the criteria, since the object is to preserve and conserve electricity. All the petitioners have quoted the exact current density as against the private respondents. Otherwise, it will lead to the existing tenderers to get into the system through a different door destroying the very object of the tenders themselves. Thus, there is an element of public interest involved. The second submission of the learned Senior Counsel is that the private respondents have not complied with the tender condition qua

the current transformers. The current transformers form part and parcel of the distribution transformers. They ought to have produced the type test reports. Hence, for such non-compliance, respondents 1 and 2 ought to have rejected their tenders. Thirdly, it is submitted that it is a case of the existing tenders entering in the garb of new entrants. It is they who adorn the role of new entrants. That is the reason why very low price has been quoted, which defies logic. In some cases, tenders have been given in the proprietor's name, who were partners in the firms who are regular tenderers. Finally, it is submitted that some of the private respondents did not have the adequate and requisite facilities qua infrastructure/ manufacture. In support of the same, the learned Senior counsel has relied upon the meter readings and other documents. The learned Senior Counsel relied upon the following decisions in support of the case of petitioners:-

- '1. Noble Resources Limited Vs. State of Orissa and another, ((2006) 10 SCC 236); and
2. Reliance Energy and another Vs. Maharashtra State Road Development Corporation Limited and others, ((2007) 8 SCC 1).'

Submissions of Respondents:-

5. The submissions of the learned Senior Counsels, counsels and the learned Additional Advocate General are summarised hereunder:

The writ petition filed in W.P.No.26102 of 2015 is liable to be dismissed as not maintainable since the petitioner therein did not even take part in the tender process. The petitioners, having not challenged the rejection of technical and financial bids, cannot seek the relief as sought for. Under the Tamil Nadu Transparency in Tenders Act, there is a provision for appeal under Section 11. Though applications filed for amendment having been allowed, there is no reason for the delay and hence the writ petitions are liable to be dismissed for laches.

6. It is further contended that all the private respondents have complied with the conditions mentioned in the tender document by enclosing the Type test certificates. The private respondents have gone through the rigour of the Type test. It is not as if they have not complied with the requirements of Schedules A to I as mandated under Section III. Having participated in the tender process, it is not open to the petitioners to contend to the contra. In case of ambiguity in the conditions of contract, an interpretation advantageous to the purchaser may be taken.

7. It is also contended that the Distribution Transformers of the private respondents conformed to IS: 2026 as required under Section VI and the specifications fixed qua WINDINGS as per Central Electricity Authority Guidelines. There is an inbuilt mechanism as stipulated in the tender documents itself about the satisfaction of the specification of the Type test design and drawings. The satisfaction has been arrived at on an expert analysis. The object is to reduce no load loss and load loss by achieving saving of 30% and 50% respectively. The fixation of 2.8 A/sq mm has been in vogue in other States as well. There is no necessity to fill up the actual current density as the mechanism provided in the Schedule

would take care of the same. There is no ambiguity involved. There is no arbitrariness or unreasonableness involved. Therefore no interference is required. Inspections have been done at different level, which extended even at the time of issuing purchase orders. For the new entrants, the official respondents have made thorough verifications. The allegations made in this regard are not correct. There is no bar in law for a proprietor to take part, though he is a partner in some other firm. The private respondents have sought for supply of only few numbers of distribution transformers. Though the price quoted is very low, it cannot be said that they are not of a good quality. Perhaps, it is a business acumen to have an entry as a tenderer expecting few benefits. The allegations on fact are not true since it may not require much of infrastructure/ usage of electricity in producing few DTs considering the volume of work undertaken. The Current Transformer is external to the Distribution Transformer. Thus, there is no necessity to produce the type test reports for the same, being bought out items. Therefore, there is no merit in the writ petitions filed. The respondents have relied upon the following decisions in support of their case:

- '1. M.P.Oil Extraction Vs. State of Madhya Pradesh, ((1997) 7 SCC 592);
2. Raunag International Limited Vs. I.V.R.Constructions, ((1999) 1 SCC 492);
3. Tejas Constructions & Infrastructure (P) Ltd. Vs. Municipal Council, Sendhwa, ((2012) 6 SCC 464);
4. Michigan Rubber India Limited Vs. State of Karnataka, ((2012) 8 SCC 216);
5. Siemens Aktiengesellschaft & Siemens Ltd. Vs. DMRC Limited, ((2014) 11 SCC 288);
6. AIA Engineering Limited Vs. Tamil Nadu Generation and Distribution Corporation Limited, ((2015) 4 CTC 45);
7. Jagdish Mandal Vs. State of Orissa and others, ((2007) 14 SCC 517) and
8. National Thermal Power Corporation Limited Vs. Ansaldo Caldaie Boilers India Private Limited and another, ((2012) 4 SCC 471).'

DISCUSSION:-

8. Writ Petition in W.P.No.26012 of 2015 has been filed by the petitioner, who admittedly was not a tenderer for supply of 500 KVA Energy Efficient Distribution Transformer. Therefore, this Court is of the considered view that the said writ petition is liable to be dismissed as not maintainable apart from the reasons that are assigned for the other writ petitions.

9. Admittedly, the specification has been arrived at based upon the guidelines issued by the Central Electricity Authority, Ministry of Power, Government of India. The petitioners having accepted the said specifications and participated in the tender cannot question the same. The power of judicial review in such matters is rather limited. There is no arbitrariness or unreasonableness in the clause prescribed in the said specifications more so, when it has not been put into challenge specifically. The submission that the object and rationale behind the floating of tenders will have to be seen, has to be considered by considering the entire gamut of the materials available on

record. Here again, the power of this Court is very limited. The object was to reduce the load loss and no load loss. Only with that object, specification has been given. The Schedule and annexure read with the specifications would show that respondents 1 and 2 are very clear of their requirement. It is not as if they want 2.8 A/sq mm winding and it is the maximum limit. What is to be seen is the compliance of the Schedules, especially the Conductor Cross Section. There is a methodology, which is clearly spelt out and as understood by the official respondents. If the parameters are satisfied, then the object would be complied with according to the respondents. For achieving this, the tender document itself provides for mechanism. It starts with the compliance of type test reports from the named laboratories. It is now the case of the petitioners that the private respondents have not complied with the specifications required, especially as provided under the Schedules. Merely because the petitioners have pointed out the current density qua their distribution transformers, it cannot be said that the specifications of others would not be satisfactory when there is no mandate to that effect. After all, it is the official respondents, who are the best persons to understand and appreciate the specifications inclusive of design and drawings. It is also not the case of the petitioners that the official respondents have not applied their mind properly. The Test piece and the type test certificates are to be verified at the time of factory inspection when tenderer is a first time participant. Even after orders are backed, there would be another verification by the Inspection Officer. The tender documents also deals with the defective supplies. The petitioners cannot contend that the official respondents will have to think and act as the petitioners have perceived. Thus, in the absence of any material to the contra about the distribution transformers of the private respondents not meeting the specifications of the official respondents, this Court cannot interfere with the same.

10. Coming to the contentions of the current transformers, they are stated to be few hundreds of rupees of value. The tenderer is not required to produce or manufacture the same. In other words, they are bought out items. They are meant to be used only for measuring the current. They do not come within the purview of Schedules A to I leading to rejection of tenders. Thus, being not an integral part of the distribution transformer, the submission made in this regard cannot be accepted. In other words, type test report for a current transformer is not required to be submitted along with the the offer. It is not the case of the petitioners that the private respondents have not produced the current test reports thereafter or the purchase orders would be issued even without them. In this connection, it is to be seen that type test reports for the current transformers are to be obtained from the stores as against the type test reports meant for distribution transformers. Moreover, as submitted by the learned counsel for the respondents, even assuming there is ambiguity, an interpretation, which is advantageous to the purchaser, has to be made, which, in fact was done by the official respondents. This Court does not find any arbitrariness or illegality in the said process adopted, as what is to be seen is from the perspective of distribution transformers, being the primary concern, and not an incidental one qua a current transformer. Even otherwise, what is to be seen by a

Court of law is, the substantial compliance of conditions, as against the minor or technical deficiencies, as held by the Apex Court in Jal Mahal Resorts (P) Ltd. Vs. K.P.Sharma, ((2014) 8 SCC 804), which reads as under:

'114. In support of the submission, the learned counsel for the appellant has cited several authorities of this Court inter alia being BSN Joshi & Sons Ltd. vs. Nair Coal Services Ltd. (2006) 11 SCC 548 and the relevant portion at 571, para 66 (v) and (vii) states as follows: (SCC p. 572)

"66. (v) when a decision is taken by the appropriate authority upon due consideration of the tender document submitted by all the tenderers on their own merits and if it is ultimately found that successful bidders had in fact substantially complied with the purport and object for which essential conditions were laid down, the same may not ordinarily be interfered with;

* * *

(vii) where a decision has been taken purely on public interest, the court ordinarily should exercise judicial restraint."

115. Similarly reliance was also placed on Poddar Steel Corporation vs. Ganesh Engineering Works (1991) 3 SCC 273 by the appellant, wherein this Court held that: (SCC p. 276, para 6)

"6. As a matter of general proposition it cannot be held that an authority inviting tenders is bound to give effect to every term mentioned in the notice in meticulous detail, it is not entitled to waive even a technical irregularity of little or no significance."

Thus, it was held that minor technical irregularity and deviation from non-essential or ancillary/subsidiary requirement can be waived and the Government would be justified in waiving technical compliance with a tender condition.

116. The thrust of the aforesaid case law cited is to reinforce the submission that when there is substantial compliance with the terms of tender, the Government is entitled to waive any non-essential term in the tender for the bona fide reasons and in public interest. In any case, since the Project in terms of RFP had to be executed through an SPV and the appellant being such an SPV, then the vehement insistence by the respondent that the lead member must be a company is not a violation of a substantial condition of the tender. In conclusion, therefore, it had to be held that there were no mala fides in the decision-making process and the finding given by the High Court is perverse and cannot be sustained and deserves to be set aside."

11. Coming to the other issues involved, this Court is not willing to conduct a roving enquiry into the same. It is not the case of the petitioners that the compliance made by the private respondents is not correct leading to an inferior quality of a distribution transformer. When that is the position, merely because rates were quoted very low, there cannot be a ground to reject the bid of the private respondents. Quoting a lower amount may have different reasons from the perspective of different tenderers. According to the private respondents, lesser amounts have been quoted to have an entry into the scheme of things. They will be advantageous from the point of view of tax and in becoming recognised tenderers while bidding any other tenders including outside the States. In other words, it is also submitted that the private respondents have quoted for lesser number of distribution transformers. The very same reason has also been assigned by few of the private respondents as against whom certain allegations were made qua the usage of electricity. Explanations have also been given on the documents produced by the petitioners. As stated above, this Court is not willing to go into the factual aspects in detail in the absence of any extreme arbitrariness or unreasonableness. Suffice it is to state that petitioners bids were rejected as against the private respondents.

12. Coming to the decisions relied upon by both sides, law is quite settled on the power of judicial review while dealing with the matters pertaining to tenders. This Court does not find any malafide leading to favouring the private respondents. Similarly, there is no public interest being affected, especially by taking into consideration the submission made by the learned Additional Advocate General that by preventing the supply, public interest would be affected more. The Courts will have to be guarded in entering into the field of commerce. In Jagdish Mandal Vs. State of Orissa and others, ((2007) 14 SCC 517), the Apex Court held as follows:

"22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always

seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

OR

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached";

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226.'

13. In National Thermal Power Corporation Limited Vs. Ansaldo Caldaie Boilers India Private Limited and another, ((2012) 4 SCC 471), while dealing with expertise of the authorities, it has been held by the Supreme Court as under:

'33. From the terms and conditions contained in the MOU, it appears to us that it was the intention of the Appellant that the Qualified Steam Generator Manufacturer would have to be the manufacturer of the evaporator itself and could not have outsourced the manufacture thereof to a third party, since the evaporator controlling the pressure of the Steam generated is a vital and crucial component of the Steam Generator itself. The Appellant, which will be the ultimate user of the Generator, must be presumed to be conscious of the competence of the tenderer to "provide" the evaporator in keeping with the required specifications.'

14. Considering the power of judicial review, in Tejas Constructions & Infrastructure (P) Ltd. Vs. Municipal Council, Sendhwa, ((2012) 6 SCC 464), the Supreme court has held as follows:

'31. It is also noteworthy that in the matter of evaluation of the bids and determination of the

eligibility of the bidders Municipal Council had the advantage of the aid & advice of an empanelled consultant, a technical hand, who could well appreciate the significance of the tender condition regarding the bidder executing the single integrated water supply scheme and fulfilling that condition of tender by reference to the work undertaken by them. We, therefore, see no reason to interfere with the view taken by the High Court of the allotment of work made in favour of respondent No.2.

.....

33. Interference with the on-going work is, therefore, not conducive to public interest which can be served only if the scheme is completed as expeditiously as possible giving relief to the thirsting residents of Sendhwa. This is particularly so when the allotment of work in favour of respondent No.2 does not involve any extra cost in comparison to the cost that may be incurred if the contract was allotted to the appellant-company.'

Thus, in the light of the above said decisions, this Court does not find any reason to interfere with the order impugned.

15. Coming to the decision relied upon by the learned Senior Counsel appearing for the petitioners, this Court does not find any application of the ratio laid down therein to the facts of this case, especially in the light of the discussion made above, as there is no arbitrariness, unreasonableness, malafides or ulterior motive involved.

16. Accordingly, all the writ petitions are dismissed. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are dismissed.

सत्यमेव जयते
Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

usk

To

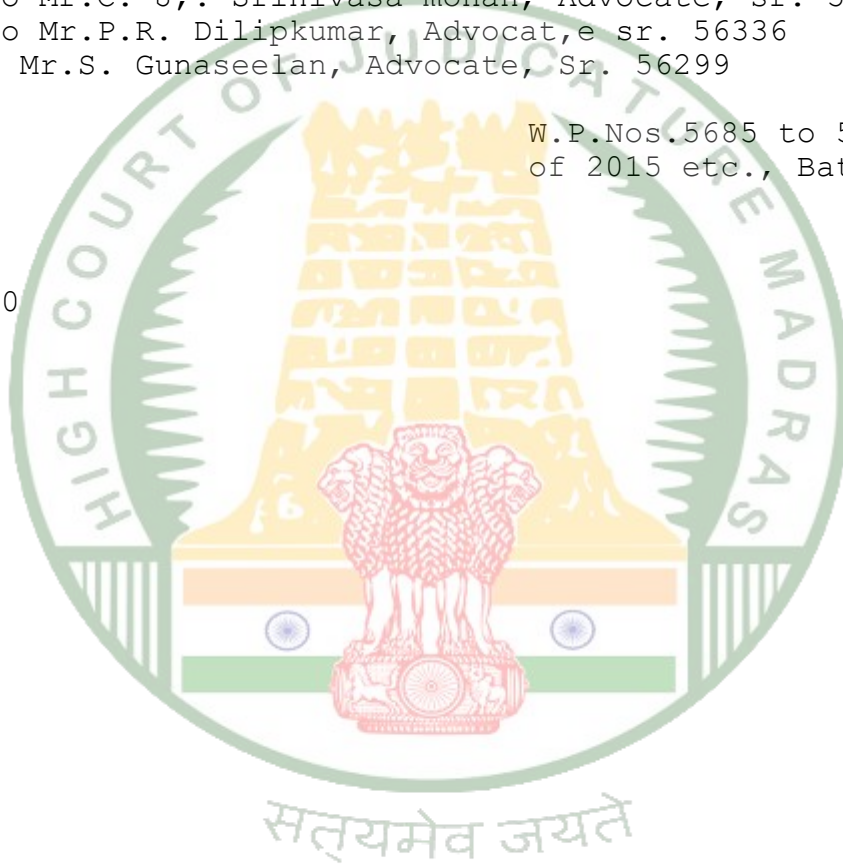
1. The chairman,
Tamilnadu Generation and
Distribution Corporation
Limited,
10th Floor, NPKRR Maaligai,
No.144, Anna Salai,
Chennai - 2.

2. The Chief Engineer/Material Management,
Tamil Nadu Electricity Board,
10th Floor, NPKRR Maaligai,
No.144, Anna Salai,
Chennai - 2.

1 cc to M/s.S. Thangavel, Advocate, Sr. 56405
2 ccs to M/s.S. Rajasekar, Advocate, Sr. 56267
1 cc to M/s. Venkatasubburajan, Advocate, sr. 56390
1 cc to Mr.T. Sellapandian, Advocate, Sr. 56391,
7 ccs to Mr.C. J,. Srinivasa mohan, Advocate, sr. 56741
2 ccs to Mr.P.R. Dilipkumar, Advocat,e sr. 56336
1 cc to Mr.S. Gunaseelan, Advocate, Sr. 56299

W.P.Nos.5685 to 5689
of 2015 etc., Batch

UG(CO)
kk 19/10



WEB COPY