

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.9319 of 2017

and

W.M.P.Nos.10297 and 10298 of 2017

M/s.Rosariya Automotive Industries P.
Ltd., rep. by its Manager
K.Shankar ... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai, Chennai - 2.
- 2.Director Finance,
Tamil Nadu Generation and
Distribution Corporation Limited,
144, Anna Salai, Chennai - 2.
- 3.The Chief Financial Controller -
Revenue,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
7th Floor, 144, Anna Salai, Chennai - 2.
- 4.The Superintending Engineer,
TANGEDCO,
Tirupur Electricity Distribution Circle,
Tirupur.
- 5.The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution
Circle, Theni.

6.The Superintending Engineer,
TANGEDCO,
Krishnagiri Electricity Distribution
Circle/Metro,
Krishnagiri.

7.The Tamil Nadu Electricity
Regulatory Commission
rep. by its Secretary,
No.19A, Rukmini Lakshmipathi Salai,
Egmore, Chennai - 8. .. Respondents

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the proceedings of the third respondent bearing Lr.No.CFC/FC/REV/AAO/HT/D.419/2014 dated 11.07.2014 inso far as the petitioner is concerned and for consequential impugned demand notice in Lr.No.SE/TEDC/TPR/DFC/AO/Rev/HT/Wind/D403/15 dated 18.03.2015 issued by the fourth respondent and quash the same as being arbitrary, illegal and without the authority of law and contrary to the provisions of the Electricity Act, 2003 and consequently direct the fourth respondent to give payment of Rs.28,73,042/- towards the encashment of unutilised banked wind energy for the periods from 2012-13 payable to the petitioner.

For Petitioner ... Mr.R.S.Pandiyaraj

For Respondents .. Mr.Manishankar,
Addl. Advocate General
assisted by Mr.S.K.Rameshwar

ORDER

The petitioner challenges the impugned notice dated 18.03.2015 presumably placing reliance upon the circular dated 11.07.2014. Accordingly, the impugned notice has been issued on the premise that the wind farm of the petitioner has not fulfilled the captive generating plant status as stipulated by the Electricity Rules, 2005.

2.When the matter is taken up for hearing, learned Additional Advocate General would submit that in view of the subsequent circular covering the circular dated 24.02.2017, the case of the petitioner would be considered afresh.

3.Learned counsel appearing for the petitioner submits that unscheduled power cut that was prevailing at the relevant point of time has to be taken into consideration.

4.Considering the submissions made, the writ petition stands disposed of, leaving all the issues open and giving liberty to the petitioner to make a detailed representation, seeking the benefits under the new circular apart from raising the plea by placing reliance upon the unscheduled power cut. As and when such a representation is made, the third respondent shall consider it and pass a speaking order within a period of four weeks from the date of receipt of the said representation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

mmi

To

- 1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai, Chennai - 2.
- 2.The Director Finance,
Tamil Nadu Generation and
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144, Anna Salai, Chennai - 2.
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Tirupur.

5.The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution
Circle, Theni.

6.The Superintending Engineer,
TANGEDCO,
Krishnagiri Electricity Distribution
Circle/Metro,
Krishnagiri.

7.The Secretary,
Tamil Nadu Electricity
Regulatory Commission,
No.19A, Rukmini Lakshmipathi Salai,
Egmore, Chennai - 8.

+1cc to Mr.R.S.Pandiyaraj,Advocate sr.23230

sr(co)
ss(9/5/2017)

W.P.No.9319 of 2017



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