

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

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The Honourable MR. JUSTICE M.DURAIWAMY

W.P.No.18982 of 2017
and W.M.P.Nos.20486 to 20488 of 2017

M/s.Seshasayee Paper & Boards [Petitioner]
 rep by Deputy Managing Director & Secretary
 Cauvery R.S (Post) Pallipalayam – 638 007.

Vs

- 1 Tamil Nadu Electricity Generation and Distribution Company (TANGEDCO)
 Rep by Chairman and Managing Director
 No.144 Anna Salai Chennai-02
- 2 The Superintending Engineer
 Mettur Electricity Distribution Circle
 Mettur Dam- 636 401
- 3 The Chief Financial Controller
 Revenue TANGEDCO
 No.800 Anna Salai, Chennai-02

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the 3rd Respondent comprised in impugned circular bearing Memo No.CFC/ FC/ DFC/ AS.3/ REV/ D.No.304/ 16 dated 03.12.2016 and the consequent letter issued by the 2nd Respondent Lr.No.SEM/ DFC/ AO/ R/ AAO HT/ F. Seshasayee/ R.846/ 16 dated 21.03.2016 and quash the same as being arbitrary illegal violative of the principles of natural justice besides being violative of the provisions of the Electricity Act 2003 and Tamil Nadu Electricity Regulatory Commission Grid Connectivity and Intra-State Open Access Regulations 2014 and consequently direct the 2nd Respondent to refund the amount of Rs.2 02 00 000/- paid under protest by the petitioner and forbear the 1st 2nd and 3rd respondents, their men, officers, agents, servants, representatives and/or anyone claiming through or under them and/or or any other person from in any manner levying, demanding and/or collecting parallel operation charges from the petitioner

for their HT SC.No.17 either through the monthly High Tension Bills or in any other manner.

For Petitioner : Mr.R.Parthasaratny

For Respondents : Mr.S.K.Rameshuwar, SC

ORDER

Mr.S.K.Rameshuwar, learned Standing Counsel takes notice for the respondents. By consent, the main writ petition is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records of the 3rd Respondent comprised in impugned circular dated 03.12.2016 and the consequential letter issued by the 2nd Respondent dated 21.03.2016 and to quash the same and consequently direct the 2nd respondent to refund the amount of Rs.2,02,00,000/- paid under protest by them and forbear the respondents 1 to 3 from in any manner levying or demanding or collecting parallel operation charges from them for their HT SC.No.17 either through the monthly High Tension Bills or in any other manner.

3. The learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, by order dated 22.03.2017 in W.P.No.2128 of 2017 etc. batch, disposed of the writ petitions with the following observations:-

“ 2. Considering the facts of the case, this Court is of the view that it would be appropriate if the issues are referred to the Tamil Nadu Electricity Regulatory Commission by the respondents and its decision would enable this Court to come to a proper decision.

3. In such view of the matter, a direction is issued to the respondents to refer the issues pertaining to Parallel Operation Charges and the impugned Circular dated 03.12.2016 to the Tamil Nadu Electricity Regulatory Commission within a period of two weeks from the date of receipt of a copy of this order. The Commission is expected to give its decision within a period of eight weeks thereafter. While doing so, the Commission shall take into consideration the views of the petitioner as well as the respondents.

4. In view of the above, there is no need to keep the present writ petitions pending till the outcome of the decision. It is needless to mention that if the petitioners are aggrieved by the said decision to be taken by the Commission, it is well open to them to have recourse, if they are so advised”.

4. Mr.S.K.Rameshuwar, learned Standing Counsel appearing for the respondents submitted that the prayer sought in the writ petition is similar to that of the prayer sought in the writ petitions, which were already disposed of by this Court in W.P.No.2128 of 2017 etc. batch.

5. In view of the submissions made by the learned counsel on either side, a direction is issued to the respondents to refer the issues pertaining to Parallel Operation Charges and the impugned Circular dated 03.12.2016 to the Tamil Nadu Electricity Regulatory Commission within a period of two weeks from the date of receipt of a copy of this order. The Commission is expected to give its decision within a period of eight weeks thereafter. While doing so, the Commission shall take into consideration the views of the petitioner as well as the respondents.

6. In view of the above, there is no need to keep the present writ petition pending till the outcome of the decision. It is needless to mention that if the petitioner is aggrieved by the said decision to be taken by the Commission, it is well open to them to have recourse, if they are so advised.

With this observation, the writ petition is disposed of. No costs. Connected miscellaneous petitions are closed.

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25.07.2017

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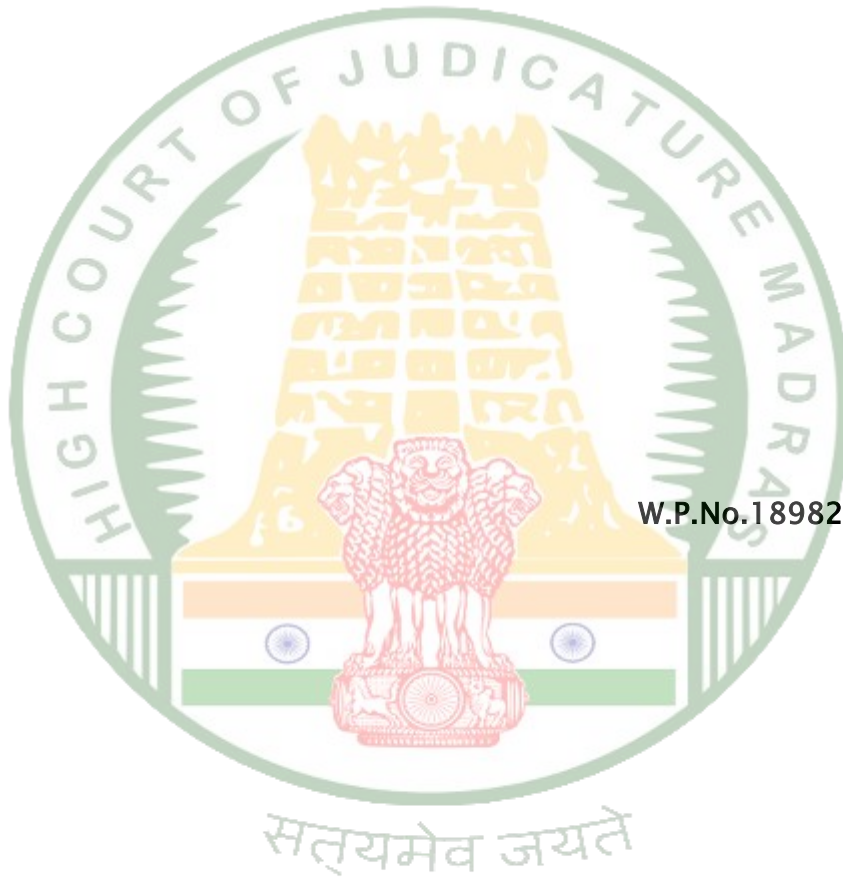
To

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M. DURAISWAMY,J.

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