

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.28922 of 2003
and WPMP.No.35304 of 2003

Fibroflex (India) Private Limited
B Super I & II, Industrial Estate,
Pettai,
Tirunelveli - 627 010
Rep by its Executive
Director S.Sundaaresan

Petitioner

Vs

1. The State of Tamil Nadu
rep.by its Secretary to Government
Energy Department, Fort St.George,
Chennai 600 009.
2. Tamil Nadu Electricity Board,
rep.by its Chairman,
800, Anna Salai,
Chennai 600 002.
3. The Chief Electrical Inspector to Government
Thiru Vi Ka.Industrial Estate, Guindy,
Chennai 600 032.
4. The Tamil Nadu Electricity Regulatory
Commission,
17, III Main road, Seethammal Colony,
Alwarpet,
Chennai 600 018.

Respondents

Prayer : - Writ Petition filed under Article 226 of the Constitution of India pleaded to issue a writ of declaration, declaring clause (a), (b) and (c) of Sub-Section (1) of Section 3 of The Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (Act 12 of 2003) relating to levying of tax on the electricity as ultra vires the Constitution of India, illegal, invalid and unenforceable in so far as the members of the petitioner Association are concerned.

For Petitioner : Mr.R.S.Pandiyaraj
Mr.P.S.Vasanthakumar
For Respondents : Mr.S.K.Rameshwar

O R D E R

This writ petition is filed for issuance of a writ of declaration, declaring clause (a), (b) and (c) of Sub-Section (1) of Section 3 of The Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (Act 12 of 2003) relating to levying of tax on the electricity as ultra vires the Constitution of India, illegal, invalid and unenforceable in so far as the members of the petitioner Association are concerned

2. The learned counsel for the petitioner would submit that the very same issue involved in the connected writ petitions was taken up to the Supreme Court and the interim order granted by the Hon'ble Supreme Court bearing Special Leave Appeal (Civil) Nos.24685 to 24719 of 2012 dated 31.08.2012 restraining the respondents from taking any coercive steps. When the writ petition appeal of the similar nature was posted before the first bench of this Court in W.A.No.547 of 2004 and W.A.M.P.No.969 of 2004 and W.P.No.25851 of 2003 the first bench has passed an order dated 02.06.2015 observing that the result of the Special Leave Appeal mentioned above will govern the writ petition also. The order of the first bench is as under.

"In view of the issue raised in the present writ appeal/writ petition being settled against the appellant/petitioner in terms of the Division Bench judgment in W.P.Nos.159 of 2008 etc. (batch) decided on 15.06.2012 and thereafter, the Hon'ble, the Hon'ble Supreme Court having entertained the Special Leave Appeals against the said judgment bearing Special Leave Appeal (Civil) Nos.24685 to 24719 of 2012 dated 31.08.2012, with an interim direction restraining the respondents therein from taking any coercive steps for disconnecting the supply of electricity to the premises of the petitioner therein, subject to that petitioner paying all the charges/dues except tax calculated on the basis of maximum demand, it is agreed that the present writ appeal and writ petition be demand, it is agreed that the present writ appeal and writ petition be disposed of in terms aforesaid, with the agreement that the ultimate fate of the matter before the Hon'ble Supreme Court would also govern the present appellant and writ petitioner and the same interim order would continue to enure for the benefit of the writ appellant and writ petitioner during the pendency

of the Special Leave Appeals".

3. In view of the order passed by the first bench of this Court in W.A.No.547 of 2004 and W.A.M.P.No.969 of 2004 and W.P.No.25851 of 2003 order dated 02.06.2015 this present writ petition is also disposed in the same line. The result of the Special Leave Appeals pending before the Supreme Court will govern the writ petitioner also. Till such time interim order granted by this Court will continue. Accordingly this writ petition is disposed of. No costs. Connected miscellaneous petition is also closed

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

dpq/vv

To

1. The Secretary to Government
The State of Tamil Nadu
Energy Department, Fort St. George,
Chennai 600 009.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai 600 002.
3. The Chief Electrical Inspector to Government
Thiru Vi Ka. Industrial Estate, Guindy,
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SP(07/07/2017)