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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.23125 of 2009

M/s.Thangavelu Textile Mills (P) Ltd.,
Rep. by its Managing Director,
P.Thangavelu,
No.111/1, Thathampatty, P.B.No.3,
Kamaraj Nagar Colony,
Salem - 636 014.

... Petitioner

Vs

1. The Tamil Nadu Electricity
Regulatory Commission,
Rep. by its Secretary,
19-A, Rukmani Lakshmipathy Salai,
(Marshall's Road),
Egmore,
Chennai - 600 008.

3. The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer,
Tamil Nadu Electricity Board,
Salem Electricity Distribution Circle,
Salem.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Bill No.149, dated 30.10.2009 and quash the same in so far as it relates to levy of penalty for exceeding quota during evening peak hour as illegal, arbitrary, without authority of law and against the orders of the 1st respondent made in Miscellaneous petition No.42 of 2008, dated 28.11.



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ORDER

The relief sought for in this writ petition is to quash the records of the 3rd respondent in Bill No.149, dated 30.10.2009 and consequently direct the 2nd and 3rd respondents to refund or give adjustments in their subsequent month bills for the amount of Rs.33,660/- collected illegally from the petitioner.

2. The issue raised in the present writ petition has already been settled before the Appellate Tribunal for electricity (APTEL). The writ petition challenges the excess charges levied for exceeding quota by the 3rd respondent. In this regard, the Tamil Nadu Electricity Regulatory Commission has passed an order on 04.05.2010 as follows:

"Para 11.7 para 3.9 of the order of the commission in RPNO.2 of 2008 explicitly states as follows,

It must be borne in mind that excess demand charges and excess energy charges are liable in addition to the penalty of drastic reduction of electricity supply to 5% (or 10%) during the following 48 hrs as the case may be for violation of restriction and control measures."

3. Against which, the aggrieved persons similar to that of the petitioner association filed appeal before the Appellate Tribunal for Electricity (APTEL) and obtained interim order on 11.01.2011.

4. In this regard, the 2nd respondent filed SLP before the Hon'ble Apex Court in Civil Appeal Nos.1090-1099 of 2011, wherein this Court and the Hon'ble Apex Court entertained the Civil appeal against the judgment of the Appellate Tribunal. On a perusal of the interim order dated 04.02.2011, there is a direction to the appellant/Tamil Nadu Electricity Board to furnish the Bank Guarantee of the Nationalized Bank in favour of the respondent therein.

5. Since the issue involved in the present writ petition is pending before the Hon'ble Supreme Court at the instigation of the respondent herein, the writ petition is disposed of. Subject to the outcome of the Supreme Court order, the parties may seek remedy in the manner known to law. No costs.

Sd/-
Assistant Registrar



To

1. The Secretary,
Tamil Nadu Electricity
Regulatory Commission,
19-A, Rukmani Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai - 600 008.
3. The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Tamil Nadu Electricity Board,
Salem Electricity Distribution Circle,
Salem.

+1 cc to M/s.R.Hemalatha,Advocate Sr.No. 57203

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B.S.(C.O.)/AKM/19.08.19/3P-5C/