

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14061 of 2010
And
M.P.Nos.1 and 2 of 2010

Shri Krishna Smelters Ltd.,
Represented by M.Kandasamy,
Manager

... Petitioner

Vs.

1.The Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 636 401.

2.The Chief Engineer,
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Erode.

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

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in his notice Lr.No.SE/MED/DFC/HT/AS/Asst.3/F.R&C/D.No.050/2010 dated 18.05.2010 and quash the same in so far as it relates to levy of penalty for exceeding quota during evening peak hour for a period of 25 days in a billing month for the period 12/2007 to 7/2009 as illegal, arbitrary and without authority of law.

For Petitioner
For Respondents

: Mr.C.S.Krishnamoorthy
: Mr.Aravind Pandian, AAG
Assisted by
Mr.S.K.Rameshwar

O R D E R

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 first respondent. In this regard, the Tamil Nadu Electricity Regulatory Commission has passed an order on 04.05.2010, relevant portion of which reads 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."

2. Against which, the aggrieved similarly placed persons filed appeal before the Appellate Tribunal for Electricity (APTEL) and obtained final order on 11.01.2011.

3. In this regard, the Tamil Nadu Electricity Board approached the Hon'ble Supreme Court by filing Civil Appeal Nos.1090 - 1099 of 2011 and the Hon'ble Supreme Court vide order dated 04.02.2011 entertained the Civil Appeals 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 therein/Tamil Nadu Electricity Board to furnish Bank Guarantee of a Nationalized Bank in favour of the Registrar (Judicial) of the Hon'ble Supreme Court.

4. Since the issue involved in the present writ petition is pending before the Hon'ble Supreme Court at the instigation of the respondent herein/ Tamil Nadu Electricity Board, the writ petition is disposed of directing the respondent to maintain status-quo as on date. Subject to the outcome of the Supreme Court order, the parties may seek remedy in the manner known to law.

5. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

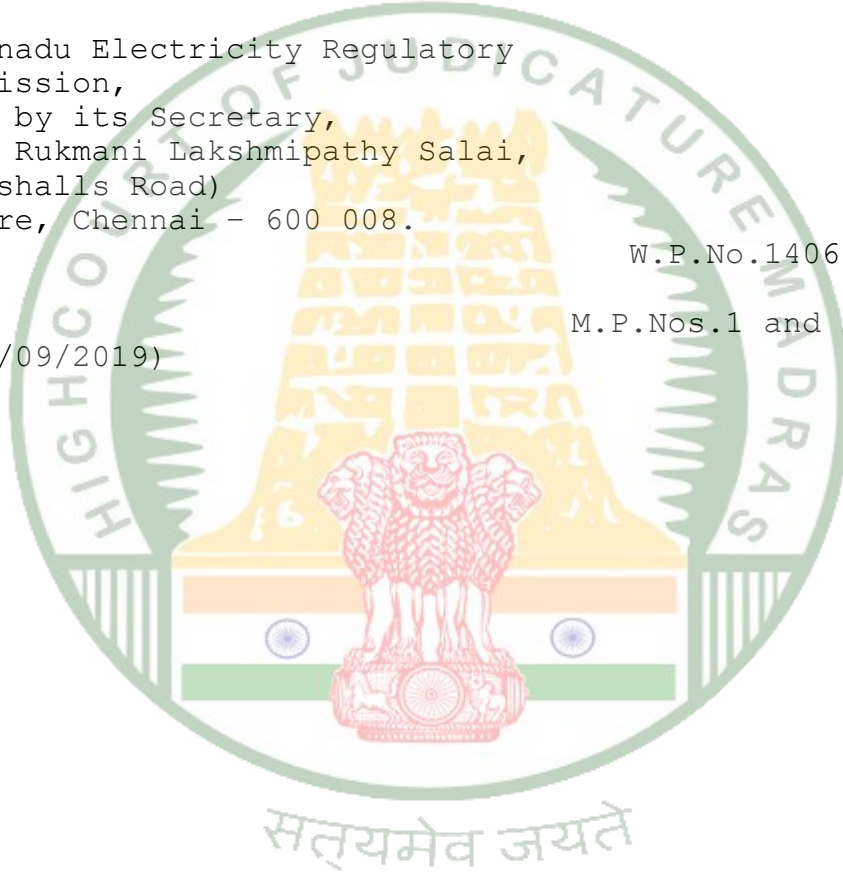
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To

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A.SK(30/09/2019)



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