

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.Nos.25164, 25165 and 25166 of 2011
and
M.P.Nos.1 and 2, 1 and 1 and 2 of 2011

M/s.Brakes India Limited,
Rep.by its Executive Director,
(Operation & Finance) Mr.S.Kesavan,
M.T.H.Road, Padi, Chennai - 600 050.

...Petitioners in all W.Ps

Vs

The Superintending Engineer,
Chennai Electricity Distribution Circle/West,
Tamil Nadu Electricity Board,
Now Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
Tirumangalam 110/33/11 KV SS Complex,
Anna Nagar, Chennai - 600 040.

...1st Respondent in
W.P.No.25164 of 2011

The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Now Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
Vellore - 632 006.

...1st Respondent in
W.P.No.25165 of 2011

The Superintending Engineer,
Chengalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Now Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Post Box No.18, Chengalpet - 605 001.

...1st Respondent in
W.P.No.25166 of 2011

The Government of Tamil Nadu,
Rep by its Secretary to Government,
Energy Department,
Fort St. George, Chennai - 600 009.

... 2nd Respondent in
all W.Ps.

The Tamil Nadu Electricity OMBUDSMAN,
No.19 A, Rukmini Lakshmipathy Salai,
(TIDCO Complex), Egmore, Chennai - 600 008.

...3rd Respondent in
all W.Ps.

PRAYER in W.P.No.25164 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, call the records of the 3rd Respondent culminating in its Common Order dated 29.12.2010 passed in Appeal Petition Nos.22, 35 and 96 of 2010, quash the same and direct the 1st and 2nd Respondents to refund or adjust against the future bills of the petitioner the sum of Rs.12,01,045/- (Rupees Twelve Lakhs One Thousand and Forty Five Only) paid by the Petitioner as Electricity Tax under the head maximum demand charge at 5% covering the period from April, 1998 to June, 2003 in respect of their HT SC No.1113.

PRAYER in W.P.No.25165 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, call the records of the 3rd Respondent culminating in its Common Order dated 29.12.2010 passed in Appeal Petition Nos.22, 35 and 96 of 2010, quash the same and direct the 1st and 2nd Respondents to refund or adjust against the future bills of the petitioner the sum of Rs.6,54,522.50/- (Rupees Six Lakhs Fifty Four Thousand Five Hundred and Twenty Two and Paise Fifty Only) paid by the Petitioner as Electricity Tax under the head maximum demand charge at 5% covering the period from April, 1998 to June, 2003 in respect of their HT SC No.1067.

PRAYER in W.P.No.25166 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified Mandamus, call the records of the 3rd Respondent culminating in its Common Order dated 29.12.2010 passed in Appeal Petition Nos.22, 35 and 96 of 2010, quash the same and direct the 1st and 2nd Respondents to refund or adjust against the future bills of the petitioner the sum of Rs.8,45,955/- (Rupees Eight Lakhs

Forty Five Thousand Nine Hundred and Fifty Five Only) paid by the Petitioner as Electricity Tax under the head maximum demand charge at 5% covering the period from April, 1998 to June, 2003 in respect of their HT SC No.222.

(In all WPs)

For Petitioners : Mr.Arun Anbumani

For Respondents : Mr.P.R.Dilipkumar

COMMON ORDER

These writ petitions have been filed to call the records of the 3rd Respondent culminating in its Common Order dated 29.12.2010 passed in Appeal Petition Nos.22, 35 and 96 of 2010, quash the same and direct the 1st and 2nd Respondents to refund or adjust against the future bills of the petitioner the sum of Rs.12,01,045/- (Rupees Twelve Lakhs One Thousand and Forty Five Only), Rs.6,54,522.50/- (Rupees Six Lakhs Fifty Four Thousand Five Hundred and Twenty Two and Paise Fifty Only) and Rs.8,45,955/- (Rupees Eight Lakhs Forty Five Thousand Nine Hundred and Fifty Five Only) respectively paid by the Petitioner as Electricity Tax under the head maximum demand charge at 5% covering the period from April, 1998 to June, 2003 in respect of their HT SC.Nos.1113, 1067 and 222 respectively.

2.In view of the issue raised in the present writ petition being settled against the 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 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 petition be disposed of in the terms aforesaid, with the agreement that the ultimate fate of the matter before the Hon'ble Supreme Court would also govern the present petitioner and the same interim order would continue to enure for the benefit of the writ petitioner during the pendency of the Special Leave Appeals.

3. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintending Engineer,
Chennai Electricity Distribution Circle/West,
Tamil Nadu Electricity Board,
Now Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
Tirumangalam 110/33/11 KV SS Complex,
Anna Nagar, Chennai - 600 040.

2. The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Now Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
Vellore - 632 006.

3. The Superintending Engineer,
Chengalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Now Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Post Box No.18, Chengalpet - 605 001.

4. The Secretary,
The Government of Tamil Nadu,
Energy Department,
Fort St. George, Chennai - 600 009.

5. The Tamil Nadu Electricity OMBUDSMAN,
No.19 A, Rukmini Lakshmipathy Salai,
(TIDCO Complex), Egmore, Chennai - 600 008.

+1cc to Mr.P.R.Dilipkumar , Advocate SR.No. 75068

+1cc to Mr.ARun Anbumani , Advocate SR.No. 75022

W.P.Nos.25164, 25165 and
25166 of 2011 and
M.P.Nos.1 and 2, 1 and
1 and 2 of 2011

A.SK(10/10/2019)