

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.25190 and 25191 of 2011

- 1.S.S.Spinning Mills, HT SC No 68,
S.F.No.174/1, Thekkalur Road,
Nambiyam Palayam Village,
Avanashi Tirupur - 641 604,
Rep by its,
General Manager A.Chockalingam ... Petitioner in
W.P.No.25190 of 2011
- 2.Sri Vignesh Yarns (p) Ltd, HT SC No 8,
No.17C, Kamaraj Road,
Tirupur - 641 604, Rep by its,
General Manager A.Chockalingam ...Petitioner in
W.P.No.25191 of 2011

Vs.

- 1.Tamil Nadu Electricity Regulatory
Commission repd. By its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road)
Egmore, Chennai - 600 008.
- 2.The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
Tirupur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupur. ... Respondents in both
W.Ps.

Prayer in W.P.No.25190 of 2011: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 3rd respondent in his Notice LR.No.SE/TEDC/TPR/DFC/AAO/HT/R/F.S.S.SPG. MILLS/D.525/11 dated 19.010.2011 issued by the 3rd Respondent in so far as the time barred claim of Rs.5,34,977.68 for the months of December, 2008 to March 2009 and also the balance amount of Rs.5,47,120.21 for

the months of April, 2009 to July 2009 without opportunity the petitioner and quash the same for exceeding quota during evening peak hour as illegal, arbitrary, without the authority of law and against the provisions of Electricity Act, 2003.

Prayer in W.P.No.25191 of 2011: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 3rd respondent in his Notice LR.No.SE/TEDC/TPR/AAO/HT/R/F.SRI VIGNESH/D.526/11 dated 19.10.2011 issued by the 3rd Respondent in so far as the time barred claim of Rs.3,47,438.4/- for the months of December, 2008 to March 2009 and also the balance amount of Rs.6,20,516.42/- for the months of April, 2009 to July 2009 without opportunity to the petitioner and quash the same for exceeding quota during evening peak hour as illegal, arbitrary, without the authority of law and against the provisions of Electricity Act, 2003.

(in both W.Ps.)

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.S.K.Rameshwar

COMMON ORDER

The issue raised in the present writ petitions have already been settled before the Appellate Tribunal for Electricity (APTEL). These writ petitions 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, 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 petitions are pending before the Hon'ble Supreme Court at the instigation of the respondent herein/ Tamil Nadu Electricity Board, these writ petitions are 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, these Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.

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

+2cc to Mr.R.S.Pandiyaraj, Advocate Sr.75828

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srg 31/10/2019