

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8689 of 2011

And

M.P.No.1 of 2011

Cheran Spinners & Ltd.,
repd. its Manager
G.Palanisamy

... Petitioner

Vs.

1.Tamil Nadu Electricity Regulatory
Commission,
rep. By its Secretary,
19-A, Rukmini Lakshmiipathy 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,
Mettur Elec. Distribution Circle,
Tamil Nadu Electricity Board,
Mettur Dam.

... Respondents

Prayer:

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 No.SEM/DFC/AOR/A 2/HT/F. 105/R.No.262/11 dated 'nil'

issued by the third respondent in so far as the time barred claim of Rs.33,31,982.61 for the months of December, 2008 to March 2009 and also the balance amount of Rs.13,48,138.98 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 authority of law and against the provisions of Electricity Act, 2003.

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.Aravind Pandian, AAG
Assisted by
Mr.S.K.Rameshwar

ORDER

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 third 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 petition is closed.

26.08.2019

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

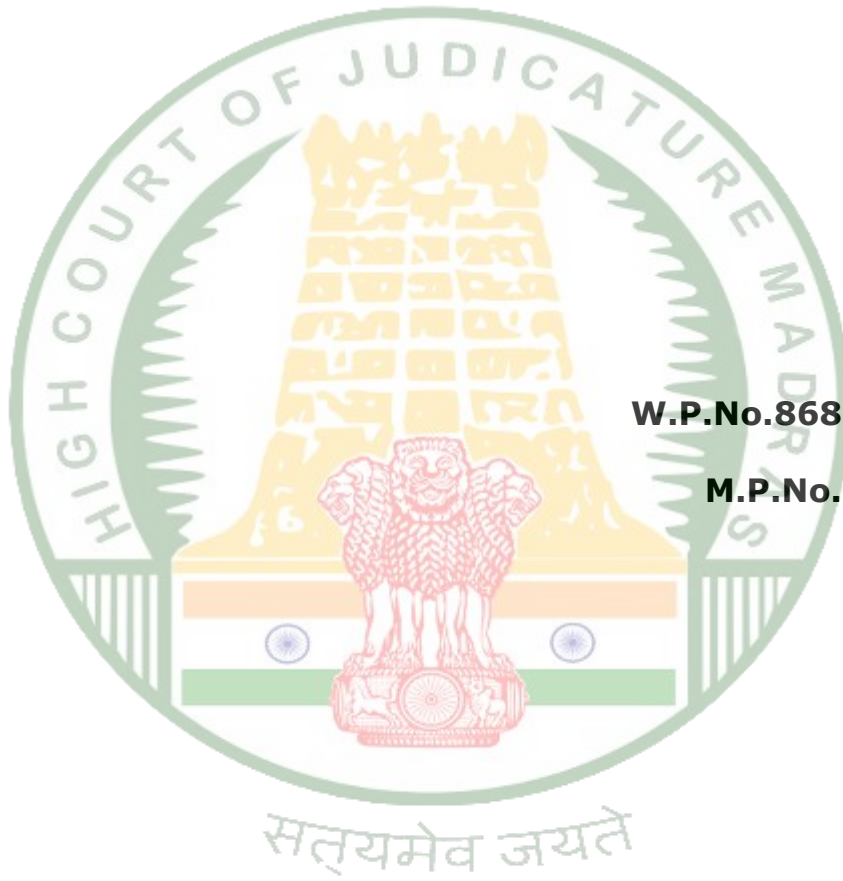
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