

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P. No.4619 of 2013
and
M.P. Nos.2 & 3 of 2013

Asahi India Glass Ltd.,
Rep. by its Section Head Power,
L.Srinivasan,
Plot No.F-76 to F-81,
SIPCOT Industrial Park,
Sriperumbudur,
Kancheepuram District.

.... Petitioner

Vs.

- 1.Union of India,
Represented by the Secretary, Ministry of Power,
Shram Shakthi Bhavan,
Ministry of Power,
New Delhi - 1.
- 2.State of Tamil Nadu,
Through its Secretary,
Department of Energy,
Fort St. George,
Chennai - 600 009.
- 3.Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36, Janpath,
New Delhi - 110 001.
- 4.Tamil Nadu Electricity Regulatory Commission,
Through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore,
Chennai - 600 008.

5.Tamil Nadu Generation and Distribution Corporation Ltd.,
Rep. by its Chairman and Managing Director,
144, Anna Salai,
Chennai - 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to Tamil Nadu Electricity Regulatory Commission (Renewable Energy Purchase Obligation) (Amendment) Regulations, 2011, insofar as it seeks to include consumers owning and connected Captive Generating Plants (CGPs) and open access consumers in the State of Tamil Nadu, within the definition of an obligated entity for the purposes of the Regulations as being unconstitutional, and ultra vires of Section 86(1)(e) of the Electricity Act, 2003, which was published by the 4th respondent in Notification No.TNERC/RPO/19/2 dated 29.07.2011 and quash the same.

For Petitioner : Mr.D.Ravichander
For R1 & R4 : No appearance
For R2 : Mr.D.Raghu
Government Advocate
For R3 : Mr.T.Mohan
For R5 : Mr.S.K.Raameshuwar
Standing Counsel

O R D E R

Asahi India Glass Ltd., represented by its Section Head Power, L.Srinivasan, has come to this Court, challenging the Tamil Nadu Electricity Regulatory Commission (Renewable Energy Purchase Obligation) (Amendment) Regulations, 2011, insofar it seeks to include consumers owning and connected Captive Generating Plants (CGPs) and open access consumers in the State of Tamil Nadu, within the definition of an obligated entity for the purposes of the Regulations, as being unconstitutional and ultra vires of Section 86(1)(e) of the Electricity Act, 2003.

2.When the matter was taken up for hearing today, Mr.D.Ravichander, learned counsel appearing for the petitioner and Mr.T.Mohan, learned counsel appearing for the 3rd respondent

jointly made a statement that the issue raised in the present writ petition has already been decided by the Hon'ble Apex Court in Civil Appeal No.4417 of 2015 [Hindustan Zinc Ltd. v. Rajasthan Electricity Regulatory Commission] and batch dated 13.05.2015, against the appellants/owners therein, rejecting one of the contentions raised inter alia by the appellants/owners that the Rajasthan Electricity Regulation Commission does not have jurisdiction under Section 86(1)(e) read with Section 181 of the Electricity Act, 2003, to frame the impugned Regulation, in respect of the industries running their own Captive Power Plants and it has the power only to frame Regulations with respect to the distribution licensees and therefore, it was not open for the Rajasthan Electricity Regulation Commission to impose the RE obligation upon the owners having Captive Power Plants to make them compulsorily purchase energy from renewable source and to pay surcharge in the event of shortfall to fulfill the RE obligation.

3.As the issue raised in this writ petition has already been decided by the Hon'ble Apex Court in the aforesaid case, by a detailed judgment, nothing survives in this writ petition for further consideration. Therefore, this writ petition fails and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Ministry of Power, Union of India,
Shram Shakthi Bhavan,
Ministry of Power,
New Delhi - 1.

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

3/4

3.The Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36, Janpath,
New Delhi - 110 001.

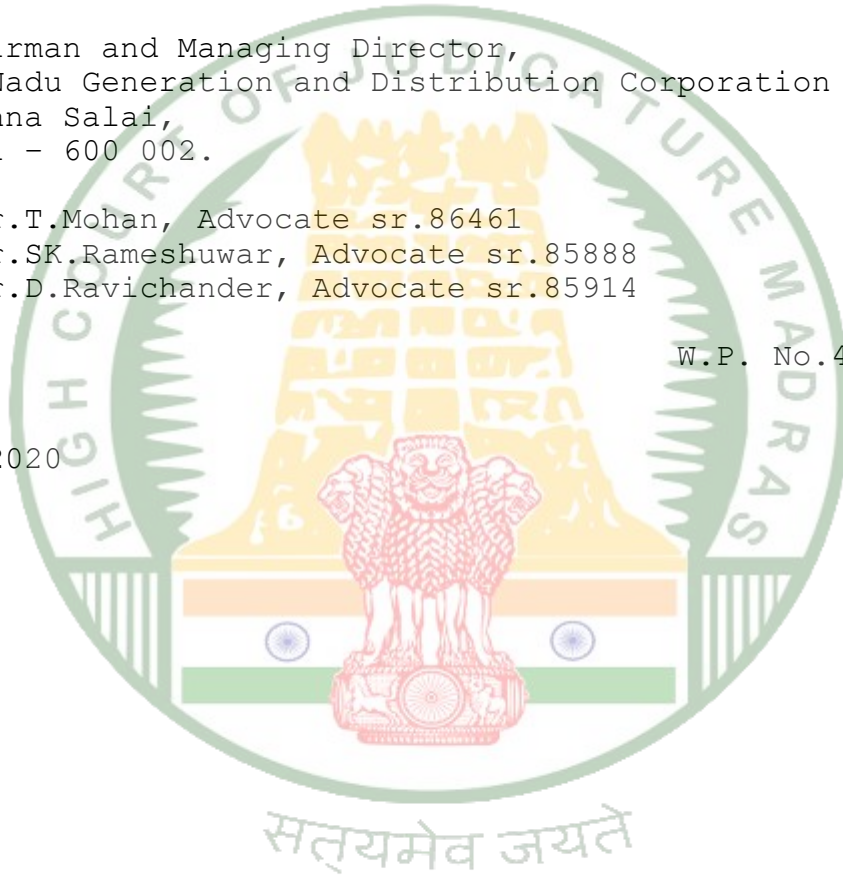
4.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore,
Chennai - 600 008.

5.The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Anna Salai,
Chennai - 600 002.

+1cc to Mr.T.Mohan, Advocate sr.86461
+1cc to Mr.SK.Rameshuwar, Advocate sr.85888
+1cc to Mr.D.Ravichander, Advocate sr.85914

W.P. No.4619 of 2013

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