

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16525 of 2019

and

W.M.P.Nos.16162 & 16165 of 2019

Super Sales (India) Limited
Ayyampalayam, Jamin Muthur Post
Pollachi, Coimbatore District
Represented by its Authorised Signatory
G.Bhakthavatchalam

...Petitioner

Vs.

1.Tamil Nadu Electricity Regulatory Commission
No.19-A, Rukmani Lakshmpathy Salai
Egmore, Chennai represented
by its Secretary

2.Tamil Nadu Generation and Distribution
Corporation Ltd.,
Represented by the Chairman
144, Anna Salai
Chennai 600 002

3.The Superintending Engineer
TANGEDCO,
Udumalpet Electricity Distribution Circle
Udumalpet

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for records of the first respondent Commission comprised in its order dated 22.02.2019 in M.P.No.17-26 of 2013 and Batch matters and consequently demand notice issued by the 3rd respondent Lr.No.SE/UEDC/UDT/DFC/AO/R/AAO/HT/AS/F, 13f batch case/D 19dt/04/2019 quash both as the same is illegal and contrary to the provisions of the Electricity Act, 2003, as also the judgment of the Hon'ble Supreme Court and consequently direct the first respondent Commission to take up the matter in M.P.No.17-26 of 2013 and hear the same afresh, after the appointment of a Judicial member and order to dispose of the same on merits and law.

For Petitioner : Mr.S.P.Parthasarathy

For Respondents: Mr.P.H.Aravind Pandian, AAG
Assisted by Mr.S.K.Rameshwar

O R D E R

By consent, the Writ Petition itself is taken up for final disposal.

2.The writ petition has been filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for records of the first respondent Commission comprised in its order dated 22.02.2019 in M.P.No.17-26 of 2013 and Batch matters and consequently demand notice issued by the 3rd respondent Lr.No.SE/UEDC/UDT/DFC/AO/R/AAO/HT/AS/F, 13f batch case/D 19dt/04/2019 quash both as the same is illegal and contrary to the provisions of the Electricity Act, 2003, as also the judgment of the Hon'ble Supreme Court and consequently direct the first respondent Commission to take up the matter in M.P.No.17-26 of 2013 and hear the same afresh, after the appointment of a Judicial member and order to dispose of the same on merits and law.

3.The learned counsel for the petitioner would submit that the petitioner is a registered company under the Companies Act, 1956, having their industry at Coimbatore. The petitioner is having a HT service connection bearing No.155 coming under the 3rd respondent. Earlier occasion, there was a challenge between the petitioner and the Electricity Board with regard to the Excess demand and energy charges during peak hours and the dispute was agitated before this Court as well as before the Tamil Nadu Electricity Regulatory Commission. Wherein, this Court directed the Regulatory Commission to pass orders on merits and in accordance with law. The Regulatory Commission has also passed an order as directed by this Court but without judicial member. The said issue is also pending before this Court and the matter is posted on 17.06.2019. When that being so, immediately after the order of the Regulatory Commission, the 3rd respondent i.e. The Superintending Engineer, TANGEDCO, Udumalpet passed an impugned Demand Notice without any calculation from the year 2011-12 to till date to the petitioner to remit a sum of Rs.51.60,592/-. Aggrieved by the said impugned demand notice, the petitioner made a representation to the 3rd respondent on 08.05.2019 and the said representation was not disposed of till now. The petitioner has also stated in his representation that the petitioner has already paid the full energy penalty of Rs.6,62,334.60 and peak hour MD penalty charges Rs.5,97,771.50. Totally, the petitioner has paid

Rs.12,60,106.10. The 3rd respondent, without considering the penalty charges paid by the petitioner has sent a demand notice, which is unsustainable one.

4.The learned counsel for the petitioner would further submit that it is suffice to issue a direction to the 3rd respondent to consider his representation dated 08.05.2019 and pass appropriate orders after deducting the penalty amount already paid by the petitioner.

5.The learned Additional Advocate General would submit that the representation of the petitioner dated 08.05.2019 will be disposed of within a period of two weeks. In the meanwhile, this court may direct the petitioner to deposit any conditional amount in favour of the Electricity Board.

6.Considering the limited request made by the learned counsel for the petitioner and the learned Additional Advocate General, this court is inclined to issue a direction to the 3rd respondent to rework the calculation and furnish a fresh demand notice detailing the penalty amount imposed against the petitioner.

7.The petitioner is also hereby directed to pay 50% of the demand amount to the Electricity Board within a period of one week from the date of receipt of a copy of this order. Thereafter, the 3rd respondent shall afford an opportunity of personal appearance and hearing of the petitioner and pass appropriate orders on merits within a period of two weeks.

8.With the above direction, this writ petition stands disposed of. It is open to the petitioner to reserve other issues in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Tamil Nadu Electricity Regulatory Commission
No.19-A, Rukmani Lakshmpathy Salai
Egmore, Chennai.

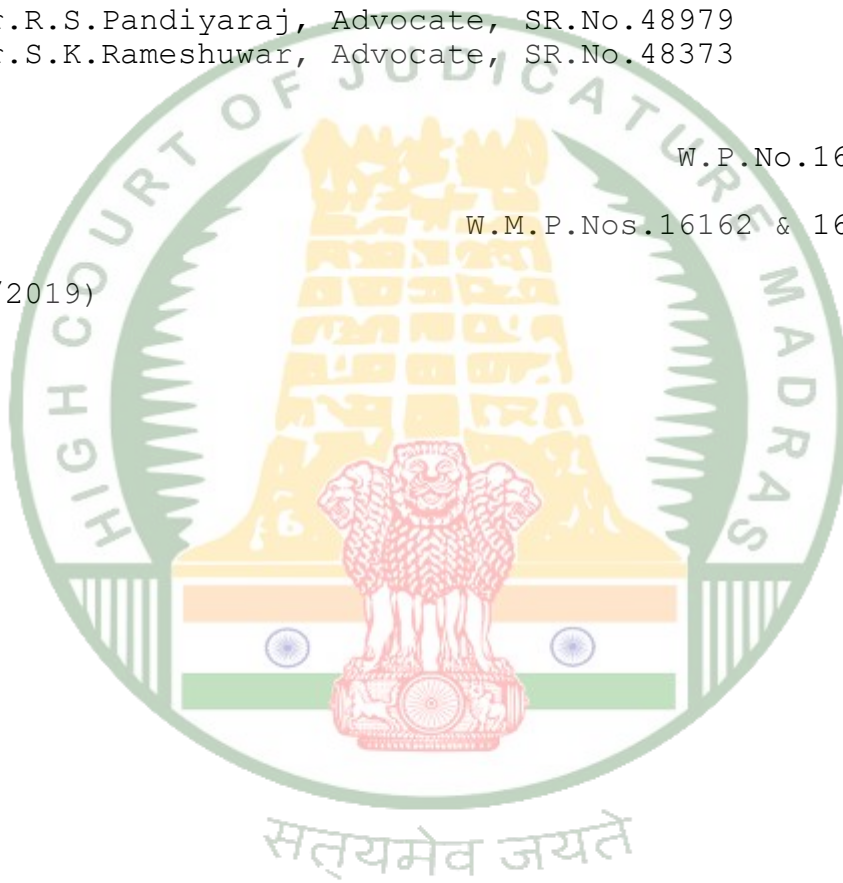
2.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
144, Anna Salai
Chennai 600 002

3.The Superintending Engineer
TANGEDCO,
Udumalpet Electricity Distribution Circle
Udumalpet

+1cc to Mr.R.S.Pandiyaraj, Advocate, SR.No.48979
+1cc to Mr.S.K.Rameshuwar, Advocate, SR.No.48373

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Kak(24/07/2019)



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