

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.30662 & 30666 of 2018

and

W.M.P. No.35763 of 2018

and

W.M.P.No.35771 of 2018

M/s Keyaram Developers and Hotels Pvt.Ltd.,
No.2, Harrington Road
Chennai 600 031
rep.by its Director K.Sandrasegaran

..Petitioner in both
the Writ Petitions

-Vs-

1. The Tamil Nadu Generation and Distribution Corporation Limited
Rep by its Chairman and Managing Director
No.800, Anna Salai
Chennai 600 002
2. The Superintending Engineer/West
Chennai Electricity Distribution Circle
Anna Nagar, Chennai 600 040
3. The Superintending Engineer
The Tamil Nadu Generation and Distribution Corporation Ltd.,
Tirunelveli 627 011
4. M/s Khivraj Automobile and Infrastructure Pvt.Ltd.,
No.617, Anna Salai
Chennai 600 006 rep.by its Director
5. Tamil Nadu Electricity Regulatory Commission
rep.by its Secretary
Egmore, Chennai
(R5 suo motu impleaded vide order of
Court dated 20.11.2018 in W.P.Nos.30662
& 30666 of 2018)

..Respondents in both the
Writ Petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the second respondent herein in Lr.No.SE/CEDC/W/DFC/AS/HTSC No.1700/F/ CGP/D.1318/18 & in Lr.No.SE/CEDC/W/DFC/AS/HTSC No.1786/F/CGP/D.1319/18 dated 3.11.2018 and quash the same and forbear the second respondent herein from levying cross subsidy surcharge against the petitioner for the units of electricity supplied by the fourth respondent herein.

For Petitioner :: Mr.AR.Karthik

For Respondents:: Mr.P.R.Dhilipkumar
Standing Counsel for R1 to 3
Mr.A.Yogeshwaran for R5

ORDER

These writ petitions are directed against the impugned show cause notices calling upon the petitioner to show cause why the Cross Subsidy Surcharge shall not be levied for the adjusted units as the tenants of the petitioner have not qualified as captive consumers in the respective Captive Generating Plant, as per the Electricity Rules, 2005.

2. When the matters were taken up, learned counsel for the petitioners submitted that the counter affidavit filed by the respondents 1 to 3 clearly admits the case of the petitioner that the show cause notices were issued without being aware of the pendency of the civil appeals before the Hon'ble Supreme Court and again in paragraph-6(ii), they have stated that the further proceedings in this regard will be kept in abeyance until the disposal of the aforesaid civil appeal.

3. Heard the learned counsel for the parties.

4. It is pertinent to extract paragraph-6(ii) of the counter affidavit, which reads as follows:-

"6(ii). It is admitted that the second respondent without aware of the pendency of Civil Appeal before the Hon'ble Supreme Court of India against the order dated 3.10.2012 passed by the APTEL in Appeal No.193 of 2011 has issued the show cause notice to the petitioner. If at all the petitioner would have been brought the fact to the knowledge of the second respondent by way of reply to the show cause notice, the

petitioner would have avoided approaching this Hon'ble Court. Therefore it is respectfully submitted that further proceedings in this regard will be kept in abeyance until the disposal of the aforesaid Civil Appeal."

5. Recording the above statement, these writ petitions stand disposed of. Consequently, W.M.P.Nos.35763 & 35771 of 2018 are closed. No costs.

ss

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman and Managing Director
Tamil Nadu Generation and
Distribution Corporation Limited
No.800, Anna Salai
Chennai 600 002
2. The Superintending Engineer/West
Chennai Electricity Distribution Circle
Anna Nagar, Chennai 600 040
3. The Superintending Engineer
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tirunelveli 627 011
4. The Secretary
Tamil Nadu Electricity Regulatory Commission
Egmore, Chennai

+1cc to MS.AL.Ganthimathi, Advocate, S.R.No.14382

+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.

W.P.Nos.30662 & 30666 of 2018

RSI-CO
Kak (21/03/2019)