



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)Nos.12885 and 12886 of 2014

and

M.P. (MD) .Nos.1,1,2,2,3 and 3 of 2014

M/s.Aruna Alloy Steels (P) Ltd.,
HTSC No.185,
C.No.3/1, Melur Road, Ulaganeri Village,
Madurai-625007, Deputy General Manager,
Mr.V.Kannan ... Petitioner in W.P(MD)Nos.12885 of 2014

M/s.Aruna Alloy Steels (P) Ltd.,
HTSC No.114 & 120,
C.No.3/1, Melur Road, Ulaganeri Village,
Madurai-625007, Deputy General Manager,
Mr.V.Kannan ... Petitioner in W.P(MD)Nos.12886 of 2014
Vs.

1.TANGEDCO

Rep by its Chairman & Managing Director,
No.144, Anna Salai,
Chennai-02.

2.The Chief Financial Controller (Revenue)

TANGEDCO,
144, Anna Salai,
Chennai-02.

3.The Superintending Engineer,

Madurai Electricity Distribution Circle,
TANGEDCO, Madurai.

4.The Superintending Engineer,

Tirunelveli Electricity Distribution Circle,
TANGEDCO, Tirunelveli.

5.The Superintending Engineer,

Theni Electricity Distribution Circle,
TANGEDCO, Theni.

6.The Accounts Officer/Revenue

Madurai Electricity Distribution Circle,
TANGEDCO, Madurai.

... Respondents in both W.Ps



Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the communication of the 2nd respondent, Chief Financial Controller, TANGEDCO bearing ref.No.CEC/FC/REV/AAO/HT/D.606/2012 dated 14.09.2012, quash the same as arbitrary and illegal and consequently, direct the respondents to first effect adjustment of the wind energy generated from the petitioner's captive windmills, operating under the Renewable Energy Wheeling Agreement under the REC scheme against the petitioner's HTSC Nos.185, 114 and 120 and thereafter adjust the energy generated by wind mills with banking facility and raise the current consumption Bills accordingly.

For Petitioner in
both W.Ps : Mr.AR.L.Sundaresan,
Senior Counsel for
Mr.R.S.Pandiyaraj

For Respondents
in both W.Ps : Mr.S.M.S.Johny Basha
Standing Counsel

COMMON ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2.Already there was a direction issued by this Court on 06.08.2014 in M.P.(MD).Nos.2 2, 3 & 3 of 2014 in W.P.(MD).Nos.12885 and 12886 of 2014, transmitting the writ petition to the Tamil Nadu Electricity Regulatory Commission. It is useful to extract the said order hereunder:

"Mr.S.M.S.Johny Basha, learned counsel take notice for the respondents.

2.Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner submitted that the impugned proceedings is wholly un-justice and even in the impugned proceedings, the respondents would admit that the board's act would be somewhat an unfair advantage. Further, it is brought to the notice of this Court that in an identical case, the Principal Bench of this Court has entertained a Writ petition in W.P.No.33439 of 2013 and after hearing the learned standing counsel for the respondents board, granted an interim stay in respect of an identical proceedings dated 14.09.2014. The operative portion of the order reads as follows:

"3.However, having regard to the urgency in fixing the last date for payment of current consumption charges, under the impugned communication of the Chief Financial Controller (Revenue), TANGEDCO



No.133, Anna Salai, Chennai 2 / the 2nd respondent, dated 14,09.2013, with reference to HTSC Nos.1263 and 1666 at Manali and Gummidipoondi, respectively, the learned counsel for the petitioner submitted that the undisputed Current Consumption Charges would be paid to the Accounts Officer / Revenue, CEDC/ North, TANGEDCO, Chennai 600 002 / the 5th respondent herein. As specific date has been fixed for the payment of Current Consumption Charges, it is well known that, if it is not paid in time, the consumer would be burdaned with payment of Surcharge (Belated payment Surcharge).

4.As the submission of the learned counsel for the petitioner appears to be reasonable, till appropriate instructions are received, there shall be an order of interim stay of the operation of the proceedings in No.CFC/FC/AAO/HT/D.606/2012, dated 14.09.2012, of the Chief Financial Controller (Revenue), TANGEDCO, No.133, Anna Salai, Chennai - 2 / the 2nd respondent herein on condition that the petitioner remits the undisputed current consumption charges, for HTSC Nos.1263 and 1666 at Manali and Gummidipoondi, respectively, until further orders. The petitioner is permitted to make the payment before the 5th respondent by tomorrow (10.12.103)."

3.Subsequently, the matter came up for further orders on 29.01.2014 and on the said date, the interim order already granted was extended and issuing certain further directions. The operative portion of the order reads as follows:

"4.In the above said circumstances, having regard to the consensus arrived at by the parties, Registry is directed to transmit W.P.No.33439 of 2013, along with the certified copies of the orders passed in the Miscellaneous petitions, to the Tamil Nadu Regulatory Commission, Chennai, within a period of two weeks, from the date of receipt of a copy of this order. In the mean time, the interim order granted on 09.12.2013, shall continue to operate. Liberty is given to the respondents to move the Commission for vacating the interim order.

5.Registry is directed to retain the originals. Parties are directed to file the duplicate copies duly attested, before the Commission."

4.It is seen from the above order that the Registry was directed to transfer the W.P.No.33439 of 2013 along with the certified copies of the order passed in the miscellaneous petition to the Tamil Nadu Regulatory Commission, Chennai within a period of two weeks and the



interim order granted initially was directed to continue to operate. Liberty was given to the respondent Board to move the commission for vacating the interim order.

5.It is submitted by the learned Senior Counsel appearing for the petitioner that Writ petition has been transferred to the Regulatory Commission and the matter is pending before the Regulatory Commission and the parties are contesting the matter before the Commission.

6.In the light of the above, since identical issue involved in this Writ petition as per the direction referred above has been transferred to the Regulatory Commission, this Writ petition is also directed to be transmitted to the Tamil Nadu Electricity Regulatory Commission along with the certificated copies of the order passed in the miscellaneous petition within a period of two weeks from the date of receipt of a copy of this order.

7.In the mean time, the interim stay granted shall continue subject to the further order to be passed by the Regulatory Commission.

3.In view of the above, these Writ Petitions stand disposed of with a direction to the Registry to transmit the same to the Tamil Nadu Electricity Regulatory Commission, along with the certified copy of the order passed in these miscellaneous petitions, within a period of two weeks from the date of receipt of a copy of this order. In the meantime, there shall be an order of interim stay until further orders to be passed by the Regulatory Commission. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

- 1.The Chairman & Managing Director,TANGEDCO
No.144, Anna Salai, Chennai-02.
- 2.The Chief Financial Controller (Revenue)
TANGEDCO, 144, Anna Salai,
Chennai-02.



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

4.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
TANGEDCO, Tirunelveli.

5.The Superintending Engineer,
Theni Electricity Distribution Circle,
TANGEDCO, Theni.

6.The Accounts Officer/Revenue
Madurai Electricity Distribution Circle,
TANGEDCO, Madurai.

Copy to

1. The Section Officer,
E.R.Section,Madurai Bench of Madras High Court,
Madurai.

2. The Section Officer,Writ Section,
Madurai Bench of Madras High Court, Madurai.

W.P(MD)Nos.12885 and 12886 of 2014

and

M.P. (MD) .Nos.1,1,2,2,3 and 3 of 2014

10.12.2019

SCR(CO)

TR(23.01.2020) 5P 9C