

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM :

The Hon'ble Mr.AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Appeal Nos.594 & 596 of 2020
& CMP Nos.8302, 8304, 8308 & 8310 of 2020

W.A.No.594 of 2020

1.Tamil Nadu Transmission Company
(TANTRANSCO), Chennai 600 002.

2.State Load Dispatch Centre
C/o TANTRANSCO, 144, Anna Salai
Chennai 600 002.

...Appellants

-Vs-

1. OPG Energy Private Limited
represented by its Authorised Signatory
Registered Office at Maruthur Village
Kuttalam Taluk, Nagapattinam
District - 601 201.

2. Tamil Nadu Generation & Distribution Corporation Ltd
(TANGEDCO), 144, Anna Salai, Chennai 600 002.

3. The Superintending Engineer
NEDC / Nagapattinam
No.25, East Sattaiyapparkila Street
Nagapattinam, Pin 611 011

... Respondents

Prayer : Appeal under Clause 15 of the Letters Patent against
the order dated 12/06/2020 passed in WMP No.9532 of 2020 in WP
No.7739 of 2020 and batch.

W.M.P. 9532/2020:

Writ Miscellaneous Petition is filed under Article 226 of
the Constitution of India praying to issue an interim order of
stay of the operation of impugned order vide invoice No.193
dated 17/04/2020 pending disposal of this writ petition.

W.A.No.596 of 2020

1.Tamil Nadu Transmission Company
(TANTRANSCO), 144 Anna Salai Chennai 600 002.

2.State Load Dispatch Centre
C/o TANTRANSCO, 144, Anna Salai
Chennai 600 002.

...Appellants

-Vs-

1. OPG Energy Private Limited
represented by its Authorised Signatory
Registered Office at Maruthur Village
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District - 601 201.

2. Tamil Nadu Generation and Distribution
Corporation Limited, TANGEDCO, 144, Anna Salai
Chennai 600 002.

3. The Superintending Engineer
NEDC / Nagapattinam
No.25, East Sattaiyapparkila Street
Nagapattinam, Pin 611 011

... Respondents

Prayer : Appeal under Clause 15 of the Letters Patent against
the order dated 12/06/2020 passed in WMP No.9541 of 2020 in WP
No.7739 of 2020 and batch.

W.M.P. 9541/2020:

Writ Miscellaneous Petition is filed under Article 226 of
the Constitution of India praying issue an order of Injunction
forbearing the respondents from raising any demand for the open
access charges pertaining to the lock down period from the month
of April 2020 until 8th May 2020 pending disposal of this writ
petition.

W.P. 7739/2020:

Petition filed under Article 226 of the Constitution of
India praying to issue a Writ of Certiorarified Mandamus,
Calling for the records of the 2nd respondent vide impugned
invoice No.193 dated 17/04/2020 for Transmission Wheeling and
Scheduling and system Operating charges (MTOA) quash the same as
illegal and arbitrary in so far as the period from 25th March
2020 to 31st March 2020 direct the respondents herein to revise
reissue the invoice by deducting the proportionate portion of

the charges in terms of the Petitioner's letter dated 18.04.2020 consequently forbear the Respondent from instance payment pertaining to the lockdown period until 08.05.2020.

For Appellants : Mr.V.Anil Kumar
in both cases

For Respondents : Mr.Rahul Balaji - for R1
in both cases

J U D G M E N T

(Delivered by The Hon'ble Chief Justice)

Learned counsel for the appellants has raised several grounds questioning the correctness or otherwise of the impugned order dated 12.06.2020, but the main ground raised is that the learned Single Judge ought not to have entertained the Writ Petition in view of Clause 12 of the agreement, which is extracted herein under.

"12: Settlement of Disputes : If any dispute or difference on account of difference of any kind whatsoever arises between the parties to this agreement, it shall at the first instance, be settled amicably, by the parties, failing which either party may approach the Commission for the adjudication of such disputes under Section 86(1) (f) of the Electricity Act, 2003."

2. Learned counsel for the respondents submits that the learned Single Judge, after the arguments were heard, proceeded keeping in view of the controversy involved on merits and therefore the writ petition was rightly entertained by the learned Single Judge, as interference was called for on the issues raised in the writ petition.

3. Having heard learned counsel for the parties, since these appeals are only against an interim order passed during the pendency of the writ petition, we find it appropriate that the learned Single Judge may also address himself to the issue relating to the remedy available under Clause 12 of the agreement read with any law applicable in relation thereto, which the learned counsel for the parties will be at liberty to point out, including judgments on issue. The learned Single Judge may accordingly proceed to hear the matter and counsel for the parties agree to appear before the learned Single Judge on 13.08.2020.

4. The appeals stand disposed of with the said observations. Registry shall list the writ petitions before the learned Single Judge having the roster on 13.08.2020. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Tamil Nadu Generation & Distribution Corporation Ltd
(TANGEDCO), 144, Anna Salai, Chennai 600 002.
2. The Superintending Engineer
NEDC / Nagapattinam
No.25, East Sattaiyapparkila Street
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- 3.Tamil Nadu Transmission Company
(TANTRANSCO), 144 Anna Salai Chennai 600 002.
4. State Load Dispatch Centre
C/o TANTRANSCO, 144, Anna Salai
Chennai 600 002.

Copy To
The Section Officer,
Writ Section, High Court,
Madras-104 (28/08/2020)

Writ Appeal Nos.594 & 596 of 2020
& CMP Nos.8302, 8304,
8308 & 8310 of 2020

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MP (CO)

SP (20/08/2020)