



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.02.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

W.P. (MD) Nos. 9253 to 9255 of 2014, 5726, 12631 and 19347 & 19348 of 2015
and
MP (MD) Nos. 1 to 3, 1 to 3 & 1 to 3 of 2014, 1 to 3 of 2015, 1 to 3 of 2015 & 1 to 3 and 1 to 3 of 2015 and WMP (MD) Nos. 6458 to 6460 of 2016

W.P. (MD) Nos. 9253 to 9255 of 2014:

Raju Spinning Mills Pvt. Ltd., HTSC No.78
1110-B, Cotton Market,
Rajapalayam - 626 117,
rep.by its Manager K.Muthulingam
.. Petitioner in WP (MD) No.9253/2014

Raju Spinning Mills Pvt. Ltd., Unit-B, HTSC No.173
Padikasuvaithanpatty Village,
Vaithiyalingapuram Post,
Srivilliputhur Taluk,
rep.by its Manager K.Muthulingam
.. Petitioner in WP (MD) No.9254/2014

Raju Spinning Mills Pvt. Ltd., B Unit, (Expansion)
HTSC No.216,
Vanniyampatti Road,
Padukkasuvaithanpatti Village,
Vaithiyalingapuram - 626 154,
Srivilliputhur Taluk,
rep.by its Manager K.Muthulingam
.. Petitioner in WP (MD) No.9255/2014

Vs.

1. Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai,
Chennai-600 002.

2. Chief Financial Controller/Revenue,
TANGEDCO, 144, Anna Salai,
Chennai-600 002.



3. The Superintending Engineer,
Virudhunagar Electricity Distribution Circle/Metro
TANGEDCO,
Virudhunagar.

4. The Tamil Nadu Electricity Regulatory Commission,
through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008. .. Respondents in all W.Ps.

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.Ht/AS.3/REV/D.N.115/13 and D.N.115/12 dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.

W.P. (MD) No. 5726 of 2015:

Sri Saravana Spinning Mills,
HTSC No.200,
P.B.No.83, 329, Sankarapandiapuram Street,
Rajapalayam - 626 117,
Virudhunagar District,
rep. by its Manager A. Nagaraj .. Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
144, Anna Salai,
Chennai-600 002.
2. Chief Financial Controller/Revenue,
TANGEDCO, 144, Anna Salai,
Chennai-600 002.
3. The Superintending Engineer,
Virudhunagar Electricity Distribution Circle/Metro
TANGEDCO,
Virudhunagar.
4. The Tamil Nadu Electricity Regulatory Commission,
through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008. .. Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.Ht/AS.3/REV/D.N.115/13 dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.

W.P. (MD) No. 12631 of 2015:

Sri Matha Spinning Mills Pvt Ltd.,
HTSC No.216,
Lakshmanapatti,
Dindigul - 624 709,
Dindigul District,
rep.by its Director C.Kandaswamy

.. Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
144, Anna Salai,
Chennai-600 002.
2. Chief Financial Controller/Revenue,
TANGEDCO, 144, Anna Salai,
Chennai-600 002.
3. The Superintending Engineer,
Virudhunagar Electricity Distribution Circle/Metro
TANGEDCO,
Dindigul.
4. The Tamil Nadu Electricity Regulatory Commission,
through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.Ht/AS.3/REV/D.N.115/13 dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.



W.P. (MD) Nos. 19347 & 19348 of 2015:

Elkaypee Spinners (P) Ltd.,
HTSC No.155

S.F.No.581, Karur Road,
Vedasandur

Dindigul District,

rep.by its Authorised Signatory

K.Sekar

.. Petitioner in WP(MD) No.19347 of 2015

Chenduran Cotspin (India) P.Ltd.,

HTSC No.144,

S.F.No.577, Karur Road,

Vedasandur, Dindigul District,

rep.by its Authorised Signatory

K.Sekar

.. Petitioner in WP(MD) No.19348 of 2015

Vs.

1. Tamil Nadu Generation and Distribution

Corporation Limited (TANGEDCO),

144, Anna Salai,

Chennai-600 002.

2. Chief Financial Controller/Revenue,

TANGEDCO, 144, Anna Salai,

Chennai-600 002.

3. The Superintending Engineer,

Virudhunagar Electricity Distribution Circle/Metro

TANGEDCO,

Dindigul.

4. The Tamil Nadu Electricity Regulatory Commission,

through its Secretary,

No.19A, Rukmini Lakshmipathy Salai,

Egmore, Chennai-600 008.

.. Respondents in both W.Ps.

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.Ht/AS.3/REV/D.N.115/13 and D.N.115/12 dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.



For Petitioners : Mr.R.S.Pandiyaraj
For Respondents : Mrs.Rajeswari
for Mr.S.M.S.Johny Basha
Standing Counsel
in all the writ petitions.

C O M M O N O R D E R

Since all these petitioners laid challenge to the orders of cancellation of Deemed Demand Charges passed by the respondents in these writ petitions, they are taken up together for hearing and disposed of by means of this common order.

2. The case of the petitioner in W.P.(MD)No.9253 of 2014 is that it is a High Tension Electricity Consumer supplied by the third respondent. Since there were power crisis, with the permission of the fourth respondent, which is a regulatory body, the official respondents enforced restrictive supply to the HT Consumers. It is also the case of the petitioner that to meet out its need for electricity the petitioner and other similarly placed industries in the State sourced electricity power from the third party power generators within and outside the State under certain terms and conditions. However, all of a sudden, the second respondent issued the impugned letter dated 29.07.2013 withdrawing the benefit of deemed demand so far granted to the petitioner and other similar HT Consumers without the approval of the fourth respondent. Since it has a slipping effect on the cost of their production activities, the petitioner instituted this writ petition. Similar is the case of the petitioners in the other writ petitions.

3. Heard the learned counsels for the petitioners and the learned Standing counsel appearing on behalf of the respondents.

4. The very same impugned order was quashed by a learned Single Judge of this Court in the order dated 14.09.2018 passed in a batch of writ petitions in W.P.No.5916 of 2014, etc. batch (Rasi Tex (In) P Ltd V. TANGEDCO and Others).

5. The respondents/TANGECO questioned the said order in W.A.No.2539 and 2540 of 2018 before a Division Bench of this Court. The Division Bench, after taking note of the submission of the learned Advocate General that during the pendency of the writ petitions interim stay has been granted subject to the condition that the writ petitioners pay 50% of the amount demanded within a stipulated time and also considering the objections of the learned Senior counsel and other counsels for the respondents therein,



while ordering notice on 19.11.2018, passed the following interim order :

"8. Therefore, in the light of the above facts and circumstances, and reasons assigned above, this Court is of the considered view that the same arrangement shall continue till the disposal of the writ appeals for the reason that appellant in the event of success in these appeals may not be able to recover it and there may be possibility of respondents / writ petitioners to wind up operations due to vagaries of business or other reasons. Therefore, without prejudice to the rights and contentions, the first respondents / writ petitioners shall continue to pay 50% of the demand made as per the impugned orders / demand, the subject matter of challenge in the writ petitions, within a period of two weeks from the date of each demand. It is also made clear that the amount collected by virtue of the interim order in the writ petitions as well as in these writ appeals, by the appellant is also subject to the result of these writ appeals, and if the appellant fails, they are liable to refund the Deemed Demand Charges already collected from the first respondents / writ petitioners."

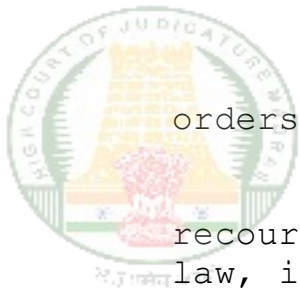
6. The learned Standing Counsel for the respondents admitted that the said writ appeals are pending and the petitioners are similarly placed units as that of the first respondents in the writ appeals. It is also brought to the notice of this Court that in the interregnum, following the interim order passed by the Division Bench, this Court disposed of a number of writ petitions with similar directions.

7. Considering the submissions of either side and in light of the facts coupled with the interim order passed by the Division Bench, these writ petitions are disposed of with the following directions :

(i) The petitioners are directed to pay 50% of the deemed demand charges, if not paid so far and continue to pay the same till the disposal of the writ appeal.

(ii) The petitioners are also liable to pay the balance deemed demand charges, if the writ appeal filed by the TANGEDCO is allowed.

(iii) Needless to say that the petitioners are also entitled to get similar refund, if any, if the first respondents in the writ appeals succeed, subject to the



orders/observations of the Division Bench.

(iv) It is open to the petitioners to take recourse to any suitable action in the manner known to law, in the interregnum.

There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
144, Anna Salai,
Chennai-600 002.
2. Chief Financial Controller/Revenue,
TANGEDCO, 144, Anna Salai,
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Egmore, Chennai-600 008.
5. The Superintending Engineer,
Virudhunagar Electricity Distribution Circle/Metro
TANGEDCO, Dindigul.

+1 CC to M/s.R.S.PANDIYARAJ, Advocate (SR-5047[F] dated
06/02/2020)

Common Order in
W.P. (MD) Nos. 9253 to 9255 of 2014, 5726,
12631, 19347 & 19348 of 2015
05.02.2020

SCR(CO)

TR(20.02.2020) 7P 7C