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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 13650 of 2011

and

M.P.No.2 of 2011

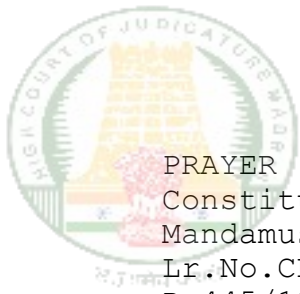
NRK Infra System Private Limited,
Old No.3, New No.5, 2nd Floor,
5th Trust Cross Street,
Mandavelipakkam,
Chennai - 28.

...Petitioner

Vs

1. Union of India,
Rep. by its Deputy Director,
Ministry of Environment & Forests,
146, Paryawaran Bhavan,
Lodhi Road,
New Delhi 110 003.
2. The State of Tamil Nadu,
Rep. by its Chief Secretary,
New Secretariat,
Wallajah Road,
Chennai - 600 002.
3. Tamil Nadu Generation & Distribution,
Corporation Limited rep. by its
Chief Engineer / Civil Designs,
3rd Floor, NPKKR Maligai,
144, Anna Salai,
Chennai 600002.
4. Tamil Nadu Electricity Board,
Rep. by its Chairman,
144, Anna Salai,
Chennai 600 002.
5. The Superintending Engineer,
North Chennai Thermal Power Station,
Chennai - 120.

...Respondents



PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, Calling for the records of the 3rd respondent in Lr.No.CE/C/HQ/EE3/SE/ CD/EE/ FAM/ SDM/ F.NCTPS-Free/ SCC/ D.445/11 dated 30.4.2011 quash the same as being arbitrary, illegal in so far as it seeks to levy charges for collection of fly ash, thereby permitting the petitioner to collect the fly ash allotted to it free of charge and consequently direct the 3rd respondent to refund all charges collected from the petitioner from 3.11.2009 being the date of the Ministry of Environment and Forests Notification S.O. 2804 (E) when fly ash was mandated to be supplied free of cost to priority industries such as the petitioner.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.S.Makesh
Central Govt Standing Counsel
[For R1]

Mr.C.Selvaraj
Additional Government Pleader
[For R2]

Mr.M.Adbul Kalam
Senior Counsel for TANGEDCO
[For R3 to R5]

O R D E R

The relief sought for in the present writ petition is to quash the order passed by the 3rd respondent in 31.04.2011, regarding levy charges for collection of fly ash, thereby permitting the petitioner to collect the fly ash allotted to it free of charge and consequently to direct the 3rd respondent to refund all charges collected from the petitioner from 3.11.2009 being the date of the Ministry of Environment and Forests Notification S.O. 2804 (E) when fly ash was mandated to be supplied free of cost to priority industries such as the petitioner.

2. The issues raised in the present writ petition are no more res-integra and already decided by the Hon'ble Division Bench of this Court. The learned Counsel for the petitioner reiterated that, the petitioner was a party to that proceedings. The Division Bench concluded by stating that, the TANGEDCO, which is an industry, manufacturing power through Thermal



Stations, is bound to follow the directions issued by the Union of India, which has Statutory force and the competent authority having prohibited the collection of any charge for the supply of fly ash to brick manufacturers, the TANGEDCO is not entitled to collect the service charge from the brick manufacturers.

3. The principles and the ratio laid on reaching finality and therefore, the present writ petition is to be considered with reference to the Judgment of the Division Bench relied on by the petitioner in the case of Tamil Fly Ash Bricks and Block's Manufactures Association Vs Tamil Nadu Generation and Distribution corporation Limited, and others dated 19.08.2014 in Writ appeal No.1299 ,1510 and 1538 of 2013.

4. In this view of the matter, the order impugned in the present writ petition is passed by the third respondent in Lr.No.CE/C/HQ/EE3/SE/ CD/EE/ FAM/ SDM/ F.NCTPS-Free/ SCC/ D.445/11 on 30.04.2011 is quashed and the amount already collected is directed to be refunded as expeditiously as possible .

5. With this direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Director,
Union of India,
Ministry of Environment & Forests,
146, Paryawaran Bhavan, Lodhi Road,
New Delhi 110 003.
2. The Chief Secretary,
The State of Tamil Nadu,
New Secretariat,
Wallajah Road,
Chennai - 600 002.



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3. The Chief Engineer / Civil Designs,
Tamil Nadu Generation & Distribution,
Corporation Limited,
3rd Floor, NPKKR Maligai,
144, Anna Salai,
Chennai 600002.
4. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai 600 002.
5. The Superintending Engineer,
North Chennai Thermal Power Station,
Chennai - 120.

+1cc to Mr.S.Makesh, Advocate, S.R.No.61044
+1cc to the Government Pleader, S.R.No.61099

W.P.No. 13650 of 2011
and
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SSI[co]
NSK 08/12/2021