

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30/3/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition No.3987 of 2021

a n d

W.M.P.No.4549 of 2021

N.S.P.Knitting Mills, HTSC 419,
S.F.No.163, Veeranampalayam,
Muthur Road, Kangayam,
Kangayam 638 701, Tiruppur rep. by its
Authorised Signatory M.Balamurugan

..Petitioner

vs.

1. Tamilnadu Generation and Distribution Corporation Ltd. (TANGEDCO), rep. by its Chairman & Managing Director, No.144, Anna Salai, Chennai-02.
2. The Chief Engineer, Non-Conventional Energy Sources, TANGEDCO, 2nd Floor, 144, Anna Salai, Chennai 600 002.
3. The Superintending Engineer, Palladam Electricity Distribution Circle, Tamil Nadu Generation and Distribution Corporation Limited, Palladam.
4. The Superintending Engineer, TANGEDCO, Tiruppur Electricity Distribution Circle, Tiruppur.
5. Tamilnadu Electricity Regulatory Commission, 19-A, Rukmini Lakshmipathy Salai, Egmore, Chennai 600 008. rep. by its Secretary.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 2nd and 3rd respondents to give the adjustment of the excessively collected banking charge of Rs.25,44,093/- (period from 1.8.2012 to 31.3.2016) based on the working instructions issued by the 1st respondent dated 3.10.2017 in the matter of implementation of the order of the State Commission (TNERC) issued in RA No.6 of 2013 dated 31.3.2016.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents: Mr.Damodaran, Standing Counsel

O R D E R

The petitioner is owning several windmills and he has also entered into an Energy Wheeling Agreement with the respondent Board and he is entitled for adjustment of the energy so generated from the Windmills for his captive consumption at this Spinning Mills as fixed by the Tamil Nadu Electricity Regulatory Commission

2. The Tamil Nadu Electricity Regulation Commission, vide order No.6 of 2012, dated 31/7/2012, fixed the banking charges at Rs. 0.94 per KW hr. The banking charges would be levied on all the units drawn from the bank in the month in which it is drawn and would continue till 31st March 2013. As against the same, appeals were filed before the Appellate Authority and the Appellate Authority held that appeal against this order shall lie before the Appellate Tribunal for Electricity under Section 111 of the Electricity Act, 2003, within a period of 45 days from the date of receipt of a copy of the order by the aggrieved person.

3. Eveready Spinning Mills (P) Ltd., Vedsanthur, had filed W.P.No.3979 of 2017, to direct the respondents 1 and 2 to provide suitable working instructions in the manner of implementation of the order of the State Commission (TNERC) issued in R.A.No.6 of 2013 dated 31/3/2016 and to allow all the benefits provided in the order for the petitioner.

4. This Court by an order, dated 5/4/2017, directed the respondents 1 to 3 therein to implement the order of the State Commission (TNERC) in R.A.No.6 of 2013, dated 31/3/2016, within a period of eight weeks, from the date of receipt of a copy of the order, dated 5/4/2017. Thereafter, the second respondent has issued a circular in Memo No.CFC/REV/DFC/REV/AS.3/D.No.384/17 dated 3/10/2017, by referring the orders of this Court and passed an order as follows:-

"While revising the CC bills from 1/8/2012 to 31/3/2016 in respect of the wind energy captive user, if any refund of banking charges and other charges arising, the same may be allowed for adjustment in the ensuing CC bill (s) in 10 instalments. Similarly, if any collection of CC charges is arising, the same shall be collected separately by issuing separate demand with 15 days notice and if not paid, the same may be included in the ensuing CC bill after giving appropriate notice to the respective consumers. Instalments if any requested can be acted up on suitably without exceeding three monthly instalments."

5. Though the circular has been issued on 3/10/2017, the same has not been implemented by the first respondent and therefore, the petitioner has made several representations and thereafter, approached this Court for a writ of mandamus, directing the second and third respondents to give adjustment of the excessively collected banking charge of Rs.25,44,093/- which is for the period from 1/8/2012 to 31/3/2016 based on the working instructions issued by the first respondent dated 3/10/2017.

6. Learned counsel for the respondent Board submits that representation of the petitioner is under consideration of the respondents.

7. This Court has paid its anxious consideration to the rival submissions made.

8. 12 (2) of the Tamil Nadu Electricity Supply Code, reads as follows:-

"Where it is found that the consumer has been over charged, the excess amount paid in such cases will be adjusted against future current consumption charges. If, even after such adjustment against future current consumption charges for two assessment periods, there is still a balance to be refunded, the refund will be made by cheque."

9. It appears that the respondents have charged excess amount and failed to adjust the same in future current consumption charges, despite the orders of APTEL and the order of this Court made in W.P.No.3979 of 2017 and the Circular issued in No.CFC/REV/DFC/REV/AS.3/D.No.384/17 dated 3/10/2017. Therefore, this writ petition is allowed, with a direction to

the respondents, to refund the excess amount due to the petitioner, as per Clause 12 (2) of the Tamil Nadu Electricity Supply Code, 20014, within a period of four weeks, from the date of receipt of a copy of this order.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mvs.

To

1. The Chairman & Managing Director,
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
No.144, Anna Salai, Chennai-02.
2. The Chief Engineer,
Non-Conventional Energy Sources,
TANGEDCO, 2nd Floor,
144, Anna Salai, Chennai 600 002.
3. The Superintending Engineer,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation Limited,
Palladam.
4. The Superintending Engineer,
TANGEDCO,
Tiruppur Electricity Distribution Circle,
Tiruppur.
5. The Secretary
Tamilnadu Electricity Regulatory
Commission,
19-A, Rukumini Lakshmipathy Salai,
Egmore, Chennai 600 008.

W.P.No.3987 of 2021

PPA (CO)
SP(14/07/2021)