IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.16041, 17427, 17440, 18902, 21165,
22257, 22266, 23145, 29481, 29482, 29483,
34635 OF 2012 & 32665 & 40294 OF 2015
AND
M.P.NOS.1 OF 2012 (IN 8 CASES),
2 OF 2012 (IN 10 CASES), 3 OF 2012 (IN 5 CASES)
AND
2, 3 & 3 OF 2015 & W.M.P.NO.121 OF 2021

1. CHETTINAD CEMENT CORPORATION LIMITED,
REP., BY ITS COMPANY SECRETARY,
5TH FLOOR, RANI SEETHAI HALL,
603, ANNA SALAI, CHENNAI-600 006.

.. Petitioner in W.P.No.16041 of 2012

1 SAHELI EXPORT PVT. LTD.
NEW NO.25 OLD NO.10 MADHAVAN NAIR ROAD
MAHALINGAPURAM NUNGAMBAKKAM CHENNAI-34

... Petitioner in WP No.17427 of 2012

1 DALMIA CEMENTS (BHARAT) LTD.
REP BY ITS SENIOR GENERAL MANAGER
FAGUN MANSIONS 4TH FLOOR 26 ETHIRAJ SALAI
EGMORE CHENNAI 8

... Petitioner in WP No.17440 of 2012

1 M/S.DCW LTD.
REP. BY ITS SENIOR GENERAL MANAGER
(ELECTRICAL) 358 ANNA SALAI
THOUSAND LIGHTS CHENNAI-6

... Petitioner in WP No.18902 of 2012

1 M/S.THE MADRAS ALUMINIUM COMPANY LTD
REP. BY HEAD COMMERCIAL
PO BOX NO.4 METTUR DAM SALEM-636 402.

... Petitioner in WP No.21165 of 2012

1 SHREE AMBIKA SUGARS LTD.
REP BY ITS CHAIRMAN AND MANAGING DIRECTOR
NO.112 UTHAMAR GANDHI SALAI NUNGAMBAKKAM
CHENNAI 34

... Petitioner in WP No.22257 of 2012

1 TERRA ENERGY LIMITED
REP. BY ITS EXECUTIVE DIRECTOR ELDORADO
V FLOOR 112 NUNGAMBAKKAM HIGH ROAD
CHENNAI-34.

... Petitioner in WP No.22266 of 2012

1 DHARANI SUGARS AND CHEMICALS LTD.
REP. BY ITS PRESIDENT CORP. FINANCE
PGP HOUSE 57 STERLING ROAD NUNGAMBAKKAM
CHENNAI-34

... Petitioner in WP No.23145 of 2012

1 HI-TECH CARBON (A UNIT OF ADITYA BIRLA NUVO LTD)
K/16 PHASE II SIPCOT INDL. COMPLEX P.O.
GUMMIDIPOONDI DT, THIRUVALLUR-601 201
REP. VICE PRESIDENT(FINANCE & COMMERCIAL) Y.K.GOYA

... Petitioner in WP No.29481 of 2012

1 HI-TECH CARBON (A UNIT OF
ADITYA BIRLA NUVO LTD) K/16 PHASE II
SIPCOT INDL. COMPLEX P.O. GUMMIDIPOONDI DT
THIRUVALLUR-601 201 REP. VICE
PRESIDENT(FINANCE & COMMERCIAL) Y.K.GOYA

... Petitioner in WP No.29482 of 2012

1 HI-TECH CARBON (A UNIT OF
ADITYA BIRLA NUVO LTD) K/16 PHASE II SIPCOT
INDL. COMPLEX P.O. GUMMIDIPOONDI DT
THIRUVALLUR-601 201
REP. VICE PRESIDENT(FINANCE & COMMERCIAL) Y.K.GOYA

... Petitioner in WP No.29483 of 2012

1 SHREE AMBIKA SUGARS LTD.
REP BY ITS GENERAL MANAGER (LEGAL & SECL)
NO.112 UTHAMAR GANDHI SALAI NUNGAMBAKKAM
CHENNAI-34.

... Petitioner in WP No.34635 of 2012

1 BANNARI AMMAN SUGARS LIMITED
REP. BY ITS COMPANY SECRETARY
KOLUMDAMPATTU VILLAGE THANDARAMPATTU TALUK
TIRUVANNAMALAI DISTRICT.

... Petitioner in WP No.32665 of 2015

1 M/S.SOUTHERN ENERGY
DEVELOPMENT CORPORATION LTD.
REP BY ITS DIRECTOR SRIDHARAN RANGARAJAN
PARRY HOUSE 43 MOORE STREET CHENNAI 1
... Petitioner in WP No.40294 of 2015

-vs-

1. STATE OF TAMIL NADU,
REP., BY THE SECRETARY TO GOVERNMENT,
ENERGY DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE, CHENNAI-600 009.

2. TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED,
REP., BY ITS MANAGING DIRECTOR,
800, ANNA SALAI, CHENNAI-600 002.

3. THE DIRECTOR,
CHIEF ELECTRICAL INSPECTOR TO
GOVERNMENT OF TAMIL NADU,
THIRU VI KA INDUSTRIAL ESTATE,
GUINDY, CHENNAI-32.
.. Respondents in W.P.No.16041 of 2012

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVT. ENERGY DEPT.
SECRETARIAT FORT ST. GEORGE CHENNAI-9

2 TAMILNADU GENERATION AND DISTRIBUTION CORPT.LTD.
REP. BY ITS MANAGING DIRECTOR
800 ANNA SALAI CHENNAI-600 002

3 THE CHIEF ELECTRICAL INSPECTOR OF GOVT.
THIRU VI KA INDUSTRIAL
ESTATE GUINDY CHENNAI-32

4 THE ELECTRICAL INSPECTOR
OFFICE OF THE ELECTRICAL INSPECTORATE
4/7 KESAVAN NAGAR TIRUPAPULIYUR
CUDDALORE

... Respondents in WP No.17427 of 2012

1 STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT ENERGY
DEPARTMENT SECRETARIAT FORT ST.GEORGE
CHENNAI9

2 TAMILNADU GENERATION AND DISTRIBUTION CORPORATION LTD.
REP BY ITS MANAGING DIRECTOR
800 ANNA SALAI CHENNAI 2

3 THE DIRECTOR
CHIEF ELECTRICAL INSPECTOR TO GOVT. OF TAMILNADU
THIRU VI KA INDUSTRIAL ESTATE
GUINDY CHENNAI 32

4 THE ELECTRICAL INSPECTOR
13 NM BUNGALOW ROAD
TVS TOLLGATE TRICHY

.. Respondents in WP No.17440 of 2012

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVT.ENERGY DEPT.
SECRETARIAT FORT ST.GEORGE
CHENNAI-9
2 TAMILNADU GENERATION AND DISTRIBUTION CORPT.LTD.
REP.BY ITS MANAGING DIRECTOR
800 ANN SALAI CHENNAI-2

3 THE DIRECTOR CHIEF ELECTIRCAL
INSPECTOR TO GOVT.OF TAMILNADU
THIRU VIKA INDUSTRIAL ESTATE
GUINDY CHENNAI-32

4 THE ELECTRICAL INSPECTOR
NPS COMPLEX POLPETTAI THOOHUKUDI

.. Respondents in WP No.18902 of 2012

1 STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT ENERGY DEPARTMENT
SECRERTARIAT FORT ST. GEORGE
CHENNAI-9.

2 TAMIL NADU GENERATION AND
DISTRIBUTION CORPN LTD
REP. BY ITS MANAGING DIRECTOR
800 ANNA SALAI CHENNAI-2.

3 THE DIRECTOR
CHIEF ELECTRICAL INSPECTOR TO GOVT. OF TAMIL NADU
THIRU.VI.KA INDUSTRIAL ESTATE GUINDY
CHENNAI-32.

4 THE ELECTRICAL INSPECTOR
26J PULIKUTHI 4TH STREET SANGEETH THEATRE
COMPLEX GUGAI SALEM-636 006.

.. Respondents in WP No.21165 of 2012

1 STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT ENERGY DEPT.
SECRETARIAT FORT ST.GEORGE CHENNAI 9

2 TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LTD.
REP BY ITS MANAGING DIRECTOR 800
ANNA SALAI CHENNAI 2

3 THE DIRECTOR
CHIEF ELECTRICAL INSPECTOR OF GOVT. OF TAMILNADU
THIRU VI KA INDUSTRIAL ESTATE
GUINDY CHENNAI 32

4 THE ELECTRICAL INSPECTOR
4/7 KESAVAN NAGAR THIRUPAPULIYUR
CUDDALORE 607 002

.. Respondents in WP No.22257 of 2012

1 STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT ENERGY DEPARTMENT
SECRETARIAT FORT ST. GEORGE CHENNAI-9.

2 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LIMITED
REP. BY ITS MANAGING DIRECTOR 800
ANNA SALAI CHENNAI-2.

3 THE DIRECTOR
CHIEF ELECTRICAL INSPECTOR TO GOVT.OF TAMIL NADU
THIRU.VI.KA. INDUSTRIAL ESTATE GUINDY
CHENNAI-32.

4 THE ELECTRICAL INSPECTOR
4/7 KESAVAN NAGAR THIRUPAPULIYUR
CUDDALORE-607002.

.. Respondents in WP No.22266 of 2012

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVT. ENGERGY DEPARTMENT
SECRETARIAT FORT ST. GEORGE CHENNAI-9

2 TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LTD.
REP. BY ITS MANAGING DIRECTOR 800
ANNA SALAI CHENNAI-2

3 THE DIRECTOR CHEIF ELECTRICAL INSPECTOR
TO GOVT. OF TAMILNADU
THIRU VI KA INDUSTRIAL ESTATE
GUINDY CHENNAI-32

4 THE ELECTRICAL INSPECTOR
4/7 KESAVAN NAGAR THIRUPAPULIYUR
CUDDALORE 607 002

.. Respondents in WP No.23145 of 2012

1 STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT ENERGY DEPARTMENT
SECRETARIAT FORT ST. GEORGE
CHENNAI-9.

2 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD
REP. BY ITS MANAGING DIRECTOR
800 ANNA SALAI CHENNAI- 2.

3 CHIEF ELECTRICAL INSPECTOR
THIRU VI KA INDUSTRIAL ESTATE GUINDY
CHENNAI-32.

4 ELECTRICAL INSPECTOR
KANCHEEPURAM NORTH DIVISION
THIRU VI KA INDUSTRIAL ESTATE COMPLEX
GUINDY CHENNAI-32.

5 M/S.PTC INDIA LTD
(FORMERLY KNOWN AS POWER TRADING CORPORATION
OF INDIA LTD) 2ND FLR NBCC TOWER 15
BHIKAJI CAMA PLACE NEW DELHI-110 066.

.. Respondents in WP No.29481 of 2012

1 STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT ENERGY
DEPARTMENT SECRETARIAT
FORT ST. GEORGE CHENNAI-9.

2 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD
REP. BY ITS MANAGING DIRECTOR 800
ANNA SALAI CHENNAI-2.

3 CHIEF ELECTRICAL INSPECTOR
THIRU VI KA INDUSTRIAL ESTATE GUINDY
CHENNAI-32.

4 ELECTRICAL INSPECTOR
KANCHEEPURAM NORTH DIVISION
THIRU VI KA INDUSTRIAL ESTATE COMPLEX
GUINDY CHENNAI-32.

5 M/S.PTC INDIA LTD
(FORMERLY KNOWN AS POWER TRADING CORPORATION
OF INDIA LTD) 2ND FLR NBCC TOWER 15
BHIKAJI CAMA PLACE NEW DELHI-110 066.

.. Respondents in WP No.29482 of 2012

1 STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT ENERGY
DEPARTMENT SECRETARIAT FORT ST.GEORGE CHENNAI-9.

2 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD
REP. BY ITS MANAGING DIRECTOR
800 ANNA SALAI CHENNAI-2.

3 CHIEF ELECTRICAL INSPECTOR
THIRU VI KA INDUSTRIAL ESTATE
GUINDY CHENNAI-32.

4 ELECTRICAL INSPECTOR
KANCHEEPURAM NORTH DIVISION
THIRU VI KA INDUSTRIAL ESTATE COMPLEX
GUINDY CHENNAI-32.

5 M/S.PTC INDIA LTD
(FORMERLY KNOWN AS POWER TRADING CORPORATION
OF INDIA LTD) 2ND FLR NBCC TOWER 15
BHIKAJI CAMA PLACE NEW DELHI-110 066.

.. Respondents in WP No.29483 of 2012

1 STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT ENERGY
DEPARTMENT SECRETARIAT FORT ST. GEORGE
CHENNAI-9.

2 TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LIMITED
REP BY ITS MANAGING DIRECTOR
800 ANNA SALAI CHENNAI-2.

3 THE DIRECTOR
CHIEF ELECTRICAL INSPECTOR TO GOVT. OF
TAMILNADU THIRU VI KA INDUSTRIAL ESTATE
GUINDY CHENNAI-32.

4 THE ELECTRICAL INSPECTOR
13 MNS BUNGALOW ROAD
TVS TOLLGATE TRICHY 620 020.

.. Respondents in WP No.34635 of 2012

1 STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT ENERGY
DEPARTMENT SECRETARIAT FORT ST. GEORGE, CHENNAI-9.

2 THE DIRECTOR OF ELECTRICITY TAX
O/O. THE CHIEF ELECTRICAL INSPECTOR TO GOVT.
THIRU-VI-KA INDUSTRIAL ESTATE CHENNAI-32.

3 THE ELECTRICAL INSPECTOR
16 7TH EAST CROSS STREET
GANDHI NAGAR EAST VELLORE-632006.

.. Respondents in WP No.32665 of 2015

1 STATE OF TAMIL NADU
REP BY THE SECRETARY TO GOVERNMENT ENERGY
DEPARTMENT SECRETARIAT FORT ST. GEORGE
CHENNAI 9

2 THE DIRECTOR OF ELECTRICITY TAX
O/O. THE CHIEF ELECTRICAL INSPECTOR OF GOVERNMENT
THIRU VI KA INDUSTRIAL ESTATE
CHENNAI 32

3 THE ELECTRICAL INSPECTOR
13 N.M.BUNGALOW ROAD T.V.S.TOLL GATE
TRICHY 20

.. Respondents in WP No.40294 of 2015

Prayer:-

These Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to

W.P.No.16041 of 2012:-

Calling for the records of the impugned notice in Form E – 2 dated 11.06.2012 of the 3rd respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamil Nadu Tax on Consumption of Sale of Electricity Amendment Act, 2003.

WP No.17427 of 2012:-

Calling for the records of the 3rd respondent relating to the impugned notice in No.13715/A2/2012 dated 29.5.2012 and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamilnadu Tax on Consumption of Sale of Electricity Amendment Act 2003.

WP No.17440 of 2012:-

Calling for the records of the impugned notice in Form E-2 dt 11.6.2012 of the 3rd respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamilnadu Tax on Consumption of Sale of Electricity Amendment Act, 2003.

WP No.18902 of 2012:-

Calling for the records of the impugned notice in Letter No.11/E1/TUT/Tax/2011-1 dated 21.5.2012 of the 4th respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamilnadu Tax on consumption of Sale of Electricity Amendment Act, 2003.

WP No.21165 of 2012:-

Calling for the records of the impugned notice in Letter No.MTR 45/ EI/SLM/ETAX/ 2012 dated 24.7.2012 of the 4th respondent and quash the same as being arbitrary, illegal and ultravires the provisions of the Tamil Nadu Tax on Consumption of Sale of Electricity Amendment Act, 2003.

WP No.22257 of 2012:-

Calling for the records of the impugned notice in Letter No. CUD 09/2009-201 HT/EI/ Cuddalore/ETax/A1/2012 dt 29.6.2012 and the consequential demand in Letter No. CUD09/2009-2010/HT/EI/Cuddalore/ETax/A1/2012 dt 27.7.2012 issued by the 4th respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamilnadu Tax on Consumption of Sale of Electricity Amendment Act, 2003 in so far as it concerns the sum of Rs.9, 10, 72, 142/- attributed to sale of electricity to TNEB through PTC.

WP No.22266 of 2012:-

Calling for the records of the impugned notice in Letter No. 353/EI/Cuddalore/ ETax/A1/2012 dated 01.06.2012 and the consequential demand notice in Letter No. CUD 09/2003-2004/EI/ Cuddalore/ETax/A1/2012 dated 27.07.2012 issued by the 4th respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamil Nadu Tax on Consumption of Sale of Electricity Amendment Act, 2003 in so far as it concerns the sum of Rs.82,17,262/- attributed to sale of electricity to TNEB through PTC.

WP No.23145 of 2012:-

Calling for the records of the impugned notice in Letter No. VLPM160/ EI/ Cuddalore/ETax/A1/2012 dated 6.8.2012 issued by the 4th respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of the Tamilnadu Tax on Consumption of Sale of Electricity Amendment Act, 2003 in so far as it concerns the sum of Rs.1,35,15,338/- attributed to sale of electricity to TNEB through PTC.

WP No.29481 of 2012:-

Calling for the records relating to the impugned demand notice dated 4.9.2012 bearing reference Letter No.101/EI/ KPM/ (N)/ 2012 issued by the 4th respondent and quash the same as illegal and forbear the respondents from levying and/ or collecting electricity tax from the petitioner for electricity sold by the petitioner to the TANGEDCO through a trading licensee.

WP No.29482 of 2012:-

Calling for the records relating to the impugned demand notice dated 5.9.2012 bearing reference Letter No.101/EI/ KPM/ (N)/ 2012 issued by the 4th respondent and quash the same as illegal and forbear the respondents from levying and/ or collecting electricity tax from the petitioner for electricity sold by the petitioner to the TANGEDCO through a trading licensee.

WP No.29483 of 2012:-

Calling for the records relating to the impugned demand notice dated 5.9.2012 bearing reference Letter No.101/EI/ KPM/ (N)/ 2012 issued by the 4th respondent and quash the same as illegal and forbear the respondents from levying and/ or collecting electricity tax from the petitioner for electricity sold by the petitioner to the TANGEDCO through a trading licensee.

WP No.34635 of 2012:-

Calling for the records of the impugned notice issued by the 4th respondent in Letter No.2737/E1/DE Tax/12 dated 23.11.2012 and quash the same as being arbitrary, illegal and ultra vires the provisions of the TamilNadu Tax on consumption of Sale of Electricity Amendment Act 2003 in so far as it concers the sum of Rs.41,38,107/- attributed to sale of electricity to TNEB through PTC.

WP No.32665 of 2015:-

Calling for the records of the impugned order bearing Letter No. 3834/A2/2015-3 dated 19.09.2015 issued by the 1st Respondent and quash the same as being arbitrary and illegal and violative of the provisions of Tamil Nadu Tax on Consumption of Sale of Electricity Act, 2003.

WP No.40294 of 2015:-

Calling for the records of the impugned order bearing Letter No. 10951/A2/2013-8 dt 23.10.2015 issued by the 1st respondent and quash the same as being arbitrary and illegal and violative of the provisions of Tamil Nadu Tax on Consumption of Sale of Electricity Act, 2003.

For Petitioner (In W.P.No.16041 of 2012)	:	Mr.T.Balaji
For Petitioner (In W.P.No.17427 of 2012)	:	Mr.Vinod Kumar
For Petitioner (In W.P.Nos.17440, 18902, 21165, 22257, 22266, 23145, 34635 of 2012 & 32665 & 40294 of 2015)	:	Mr.Rahul Balaji
For Petitioner (In W.P.Nos.29481 to 29483 of 2012)	:	Mr.Shivanthanu Mohan
For Respondents (In all W.Ps.)	:	Mr.V.Veluchamy, Government Advocate

COMMON ORDER

Since the reliefs sought for in all these writ petitions are identical, the writ petitions were heard together and are being disposed of by this common order.

2.These writ petitions are filed challenging the orders passed under Section 9 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 (hereinafter referred to as “the Act”).

3.Note of demand of tax assessed under Section 9 of the Act was issued to the petitioners and challenging the said proceedings, the petitioners are constrained to move these writ petitions.

4.The respective learned counsels appearing on behalf of the writ petitioners made a submission that the procedures contemplated under the provisions of the Act had not been followed before passing the impugned orders. There are several grounds which all are in favour of the petitioners more specifically, regarding exemption on payment of consumption tax. The exemption granted and exemption to be granted and the procedures to be followed for assessment and the statutory exemptions are not even considered while passing the impugned orders and therefore, the writ petitions are filed.

5.This Court is of the considered opinion that it is a notice of demand of tax assessed under Section 9 of the Act, which is under challenge and there is provision for appeal under Section 10 of the Act.

6.Let us now consider the scheme of the Act, which was enacted to consolidate and rationalize the laws relating to levy of tax on consumption or sale of electricity in the State of Tamil Nadu.

7.Section 2 provides 'definitions'; Section 3 enumerates 'tax on the consumption or sale of electricity'; Section 8 contemplates 'obligation of licensees to keep books of account and to submit return'. Accordingly, every licensee and every person other than a licensee (a) keep books of account in the prescribed form; and (b) submit returns showing the units of electricity supplied and the amount of the electricity tax payable in respect thereof, to the Director in such form within such time as may be prescribed.

8.Section 9 stipulates 'assessment'. Sub-Section (1) of Section 9 states that “if no return in respect of any period is submitted by a licensee or a person required to submit return under Section 8 or if the return submitted by such licensee or person appears to the Director to be incorrect or incomplete the Director shall, after giving such licensee or person as the case may be, a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of electricity tax payable under the Act by such licensee or person”.

9.Period of limitation is also contemplated under Section 9 (3) of the Act. Accordingly, no assessment under Section 9(3) shall be made after the expiry of four years. Thus, the procedures are enumerated for assessment under Section 9 of the Act.

10.Section 10 contemplates 'appeal' and sub-Section (1) stipulates that “any person may in the prescribed manner appeal to the Government against any order of assessment of Electricity Tax within sixty days or such further period as may be allowed by the Government for the reasons shown to their satisfaction from the date of receipt of a notice of demand issued after such order of assessment”.

11.Section 14 provides 'exemption and reduction of tax'. Accordingly, the Government may, by notification, make an exemption or reduction in rate in respect of the electricity tax payable under the Act on energy sold for consumption by or in respect of any (i) institution or class of persons; (ii) place of public worship, public burial or burning ground or other place for the disposal of the dead; (iii) premises declared by the State Government to be used exclusively for purposes of public charity; and (iv) vessel whether seagoing or inland. Thus, the provision regulates the submission of return by the licensee or person concerned and procedures for assessment. If any person is aggrieved from and out of the assessment made, or in respect of procedural violations, if any, or non-adjudication of relevant facts by the original authorities, then an appeal to the Government lies and the said appellate remedy is to be exhausted before approaching the High Court under Article 226 of the Constitution of India.

12.The statutory appellate remedy, at no circumstances, be undermined by the High Courts. In the present case, the appeal lies before the Government and the Government is competent to deal with such appeal, if any, filed by the aggrieved persons. In the present case, the appellate authority/Government is the final fact finding authority and a complete adjudication of facts is paramount important for the purpose of exercise of judicial review by the High Court under Article 226 of the Constitution of India. Factual adjudication requires verification and scrutinisation of the original records and the evidences to be produced by the respective parties. Such an adjudication can never be entertained by the High Court under Article 226. Thus, the aggrieved person must be provided with an opportunity to exhaust the appellate remedy, which would be of greater assistance for the aggrieved person to redress their grievances in the manner known to law. For instance, the aggrieved persons, against whom an assessment order is passed, will get an opportunity to produce all the documents, related evidences to establish that they have already been granted exemption or they are entitled for exemption or the assessment itself is perverse and not in conformity with the procedures contemplated. However, such elaborate adjudications cannot be undertaken by the High Court with reference to the documents and evidences. In such circumstances, undoubtedly, the aggrieved persons are deprived of their opportunity to adjudicate all the relevant documents, which all are in their possession. Thus, the importance of an appellate remedy is to be considered by the High Court for the purpose of entertaining a writ more specifically, when the orders-in-original are under challenge in the writ proceedings.

13.The respective learned counsels appearing on behalf of the petitioners submit that there are factual differences in the writ petitions. Obviously, the facts cannot be similar. It is about to be dissimilar in view of the nature of usage of electricity and its consumption by the licensee or the persons concerned. Thus, all those facts are to be considered and suitable orders are to be passed by the appellate authority. In the present case, statutory exemptions are claimed. Certain petitions are filed claiming exemption under Section 14 of the Act. Entitlement of exemption is also a ground taken. The procedures followed for passing assessment orders are also questioned. Further, certain assessment orders are passed beyond the period of limitation as contemplated under Section 9 (3) of the Act. This apart, the scope of exemption under the Act is pending before the Hon'ble Supreme Court. Under these circumstances, the appellate authority/Government would be the proper authority for adjudication of all these issues independently and take a decision and pass orders in accordance with law.

14.In view of the facts and circumstances, the petitioners are at liberty to file an appeal under Section 10 of the Act before the competent authority within the period of six weeks from the date of receipt of a copy of this order in a prescribed format by complying with the provisions of the Act and Rules. If any such appeal is received by the appellate authority under Section 10 of the Act, the said appeal shall be entertained and the delay in filing the appeal, if any, may be condoned by taking into account the pendency of the writ petition before the High Court and accordingly, deal with the issues and grounds raised on merits and in accordance with law by affording opportunity to the petitioners and pass orders as expeditiously as possible. The petitioners are at liberty to raise all the factual as well as the legal grounds before the appellate authority in the manner known to law.

15.It is brought to the notice of this Court that pursuant to the interim orders passed by this Court, at the time of admission of some of the petitions, some of the petitioners have deposited some amount. The said deposited amount is to be adjusted or refunded based on the final outcome of the appeal to be dealt with by the competent authority under Section 10 of the Act.

With the above directions, all these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

abr

To

1. THE SECRETARY TO GOVERNMENT,
THE STATE OF TAMIL NADU,
ENERGY DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE,
CHENNAI-600 009.

2. THE MANAGING DIRECTOR,
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED,
800, ANNA SALAI, CHENNAI-600 002.

3. THE DIRECTOR,
CHIEF ELECTRICAL INSPECTOR TO
GOVERNMENT OF TAMIL NADU,
THIRU VI KA INDUSTRIAL ESTATE,
GUINDY, CHENNAI-32.

4. THE ELECTRICAL INSPECTOR
OFFICE OF THE ELECTRICAL INSPECTORATE
4/7 KESAVAN NAGAR TIRUPAPULIYUR
CUDDALORE

5. THE ELECTRICAL INSPECTOR
13 NM BUNGALOW ROAD
TVS TOLLGATE TRICHY-20

6. THE ELECTRICAL INSPECTOR
NPS COMPLEX POLPETTAI THOOHUKUDI

7. THE ELECTRICAL INSPECTOR
26J PULIKUTHI 4TH STREET
SANGEETH THEATRE COMPLEX
GUGAI SALEM-636 006.

8. THE ELECTRICAL INSPECTOR
KANCHEEPURAM NORTH DIVISION
THIRU VI KA INDUSTRIAL ESTATE COMPLEX
GUINDY CHENNAI-32.

9. THE ELECTRICAL INSPECTOR
16 7TH EAST CROSS STREET
GANDHI NAGAR EAST VELLORE-632006.

10. THE DIRECTOR OF ELECTRICAL TAX,
THE CHIEF ELECTRICAL INSPECTOR OF GOVERNMENT,
THIRU VI KA ESTATE, CHENNAI 32

+3cc to Mr.S.Ramasubramanian, Advocate, S.R.No.32460 to 32462
+1cc to Mr.Vinod Kumar, Advocate, S.R.No.32619
+1cc to Mr.T.Balaji, Advocate, S.R.No.32835

W.P.Nos.16041, 17427, 17440, 18902, 21165, 22257, 22266, 23145, 29481, 29482, 29483, 34635 of 2012 & 32665 & 40294 of 2015

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