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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.24916 AND 24917 OF 2010
AND
M.P.NOS.1 AND 1 OF 2010

Gangotri Textiles Limited,
Unit-7, HTSC No.360
No.473/2, P.K.D. Nagar,
Near Dr.Rajagopal Hospital
Peelamedu, Coimbatore District
Rep. By its Managing Director,
Manoj Kumar Tibrewal

...Petitioner
(in W.P.No.24916 of 2010)

Sri Dwaraka Textiles Limited,
Unit-08, HTSC No.146
No.473/2, P.K.D. Nagar,
Peelamedu, Coimbatore District
Rep. by its Managing Director
Manojkumar Tibrewal

...Petitioner
(in W.P.No.24917 of 2010)

Vs.

1. Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary
19-A,Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore, Chennai-600 008
2. The Chairman
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-600 002.
3. The Superintending Engineer
Coimbatore Elec. Distribution Circle (South),
Tamil Nadu Electricity Board,
Coimbatore.

... Respondents
(in both W.Ps)



Prayer in W.P.No.24916 of 2010 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his Bill No.360 dated 01.08.2010 for Rs.84,814.20, quash the same in so far as it relates to levy of excess charges/penalty for alleged excess demand and energy quota as illegal, arbitrary without the authority of law and against the orders of the first respondent made in Suo moto proceeding No.1 of 2009 dated 28.10.2009 and consequently direct the 3rd respondent to refund the above amount.

Prayer in W.P.No.24917 of 2010 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his Bill No.146 dated 01.08.2010 for Rs.3,84,632.50, quash the same in so far as it relates to levy of excess charges/penalty for alleged excess demand and energy quota as illegal, arbitrary without the authority of law and against the orders of the first respondent made in Suo moto proceeding No.1 of 2009 dated 28.10.2009 and consequently direct the 3rd respondent to refund the above amount.

For Petitioner	:	Mr.S.P.Parthasarathy (in both W.Ps)
For R1	:	No Appearance (in both W.Ps)
For R2 & R3	:	Mr.L.Jai Venkatesh [For TANGEDCO] (in both W.Ps)

COMMON ORDER

The relief sought for in these writ petitions is to call for the records of the 3rd respondent in his Bill Nos.360 and 146 dated 01.08.2010 for Rs.84,814.20 and Rs.3,84,632.50 and quash the same in so far as it relates to levy of excess charges/penalty for alleged excess demand and energy quota as illegal, arbitrary without the authority of law and against the orders of the first respondent made in Suo moto proceeding No.1 of 2009 dated 28.10.2009 and consequently direct the 3rd respondent to refund the above amount.



2. When these writ petitions were taken up, the learned counsel for the petitioners had submitted that the issue involved in these writ petitions is squarely covered by the decision of the Appellate Tribunal for Electricity in Appeal Nos. 177, 178, 182, 183, 186 and 187 of 2013 dated 29.05.2014, by which the Tribunal dismissed the appeals filed by the Tamil Nadu Electricity Board and held as under:

"i) According to the judgment of this Tribunal in Appeal Nos. 51 & 56 of 2012, the demand and energy quota as communicated by the Electricity Board in advance based on the advance declaration of energy proposed to be made available from captive generation will be used for calculation of excess demand and excess energy charges till the new procedure as decided by the State Commission dispensing the need for advance declaration by the captive consumer by order dated 7.9.2010 has been implemented. The period in question is April & May 2010 and hence the total demand and energy quota communicated by the Electricity Board / TANGEDCO on the basis advance declaration of energy proposed to be made available from captive generation will be the basis for calculation of excess demand / energy as per the above judgment of the Tribunal.

ii) The State Commission has correctly interpreted the findings of this Tribunal in Appeal Nos. 51 & 56 of 2012 and drawn the correct conclusion in the impugned order dated 17.4.2012 which is in consonance with the findings of this Tribunal."

3. The learned counsel for the petitioners has also produced a copy of the order passed by the Hon'ble Supreme Court in Civil Appeal No(s). 8215/2015 dated 25.10.2018, wherein the view taken by the Regulatory Commission and the Appellate Tribunal for Electricity that 'the decision and methodology for charging excess energy and demand charges adopted by the Distribution Licensee is correct but the date of collection of such charges would be from 2010 and not from 2008 when the Restriction and Control measures were introduced' has been affirmed.

4. In view of the above, the impugned CC Bills dated 01.08.2010 for the month of July 2010 in respect of the petitioner's HT Service Connection Nos. 360 and 146 in so far as it relates to the demand of Rs. 84,814.20 and Rs. 3,84,632.50 are set aside and the writ petitions are disposed of on the same lines as observed by the Appellate Tribunal for Electricity in Appeal Nos. 177, 178, 182, 183, 186 and 187 of 2013 dated



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29.05.2014. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Cse/Jeni

To

1. The Secretary
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore, Chennai-600 008
2. The Chairman
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-600 002.
3. The Superintending Engineer
Coimbatore Elec. Distribution Circle (South),
Tamil Nadu Electricity Board,
Coimbatore.

+2ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.66967

W.P.Nos.24916 & 24917 of 2010

GP(CO)
RLP(03/01/2022)