IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.8680, 8709, 14029, 16423, 19474, 19479
20942, 20938, 22510, 22519 and 22696 of 2021

M/S.ASHOK LEYLAND LIMITED,
UNIT – II, P.B.NO.37, PLOT NO.77,
SIPCOT ELECTRONIC COMPLEX,
SIPCOT PHASE – II,
HOSUR – 635 109,
REP. BY ITS AUTHORISED SIGNATORY,
D.SANTHI ... PETITIONER in WP.No.8680 of 2021

M/S.ASHOK LEYLAND LTD
UNIT - I PLOT NO.175 SIPCOT PHASE-I
HOSUR KRISHNAGIRI - 635 126
REP BY ITS AUTHORISED SIGNATORY MRS.D.SANTHI
... PETITIONER in WP No.8709 of 2021

ARS STEELS AND ALLOY INTERNATIONAL PVT LTD
REP BY ITS AUTHORISED SIGNATORY D- 109
2ND FLOOR LBR COMPLEX
ANNA NAGAR EAST CHENNAI- 600 102.
... PETITIONER in WP No.14029 of 2021

M/S.ABI -SHOWTECH (INDIA) PVT. LTD.
HTSC NO.1159 PULIVALAM VILLAGE
BANAVARAM POST VELLORE DISTRICT
TAMIL NADU - 632 505
REP. BY ITS AUTHORISED SIGNATORY
MR.K.SUNDAR. ... PETITIONER in WP No.16423 of 2021

M/S.ASHOK LEYLAND LTD
HTSC NO.1283 ENNORE CHENNAI-600 057
REP BY ITS AUTHORISED SIGNATORY MRS.D.SANTHI

... PETITIONER in WP No.19474 of 2021

M/S.ASHOK LEYLAND LTD
HTSC NO.1559
THIRUVALLUR
REP BY ITS AUTHORISED SIGNATORY
MRS.D.SANTHI
... PETITIONER in WP No.19479 of 2021

MRF LIMITED
REP. BY ITS GENERAL MANAGER
ARAKONAM-631 003.
... PETITIONER in WP Nos.20942 & 20938 of 2021

M/S.ASHOK LEYLAND LTD
HTSC NO.259 CAB PANEL PRESS SHOP
PLOT NO.E1 HOSUR 635 109
REP. BY ITS AUTHORISED SGNATORY MRS.D.SANTHI
... PETITIONER in WP No.22510 of 2021

M/S.ASHOK LEYLAND LTD
HTSC NO.1015 ENNORE
CHENNAI -57 REP. BY ITS AUTHORISED SIGNATORY
MRS. D.SANTHI.
... PETITIONER in WP No.22519 of 2021

OPG POWER GENERATION PRIVATE LIMITED
REP. BY ITS SENIOR MANAGER
P.VENKATASUBRAMANIAN
... PETITIONER in WP No.22696 of 2021

VS.

THE CHIEF ELECTRICAL INSPECTOR TO THE GOVERNMENT,
THIRU-VI-KA INDUSTRIAL ESTATE,
GUINDY, CHENNAI 600 032. ... RESPONDENT (1) in all WP's

THE ELECTRICAL INSPECTOR,
3/1B, 3RD CROSS STREET,
MOHAN RAO COLONY,
KRISHNAGIRI – 635 001.
... RESPONDENT (2)in WP.Nos.8680, 8709 & 22510 of 2021

THE ELECTRICAL INSPECTOR
NO.1/108 BAJANAI KOIL STREET PONNERI
THIRUVALLUR-601 204.
... RESPONDENT (2) in WP.Nos.14029,19479 & 22696 of 2021

THE ELECTRICAL INSPECTOR
NO.19 10TH EAST MAIN ROAD 1ST FLOOR
GANTHI NAGAR VELLORE 632 006.
... RESPONDENT (2) in WP.Nos.16423, 20942 & 20938 of 2021

THE ELECTRICAL INSPECTOR
PLOT NO.36 ISWARYA NAGAR MTH ROAD
AMBATTUR CHENNAI-600 053
... RESPONDENT (2) in WP Nos.19474 & 22519 of 2021

Prayer in WP.No.8680 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus, calling for the records of the 1st Respondent's impugned Demand Letter No.12083/A1/2019-55, dated 04.03.2020 and Order No.DAR 174/CEIG/D5/R43/DR/2020-1, dated 22.02.2021, insofar as condition No.19 pertaining to payment of electricity tax on purchase of energy from the Indian Energy Exchange is alone concerned and quash the same as illegal, arbitrary, without jurisdiction, ultra vires the provisions of the Tamil Nadu tax on Consumption or Sale of Electricity Act, 2003 and consequently and direct the Respondents to issue Electrical Safety Certificate for the installations in the Petitioner's premises at Unit - II, P.B.No.37, Plot No.77, SIPCOT Electronic Complex, SIPCOT Phase - II, Hosur - 635 109, after verifying compliance with the other conditions within the scope of Central Electricity Authority (Measures relating to Safety & Electric Supply) Regulation, 2010.

Prayer in WP No.8709 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st Respondents impugned demand letter No. 12083/ A1/ 2019- 56 dated 04.03.2020 and the 2nd Respondents order No.DAR 37 / EI/ KRG/ R43/ DR/ 20 dated 13.11.2020, in so far as condition No.05 pertaining to payment of electricity tax on purchase of energy from the Indian Energy exchange is alone concerned and quash the same as illegal arbitrary, without jurisdiction, ultra vires the provisions of the Tamil Nadu tax on consumption or sale of Electricity Act, 2003 and consequently and direct the Respondents to issue Electrical Safety Certificate for the installations in the Petitioner's premises at Plot No.175, SIPCOT, Phase-1, Hosur, Krishnagiri - 635 126, after verifying compliance with the other conditions within the scope of Central Electricity Authority (Measures relating to Safety & Electric Supply) Regulation, 2010.

Prayer in WP No.14029 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st Respondents letter cum demand bearing reference Letter No.KPM 1604/ CEIG/ D3/ 2021 dated 7.4.2021 (Impugned Communication) wherein a condition directing payment of tax on electricity purchased from Indian Energy Exchange (IEX) of Rs. 2,10,260/- and penal interest at 12 percentage that is sought to be assessed under the Tamilnadu Tax on sale or consumption of Electricity Act, 2003 has effectively been made as a condition precedent for issuing permanent safety certificate to the petitioners plant at Plot No. B1/ S, SIPCOT Industrial Estate, Gummidipoondi, Thiruvallur- 601 201 (the premises) and quash the same as illegal arbitrary, without jurisdiction, ultra vires the provisions of the Tamil Nadu tax on Consumption or Sale of Electricity Act, 2003 and consequently direct the Respondents to refund the electricity tax and interest already paid by the petitioner under protest and not levy electricity tax an electricity procured through the Indian Energy Exchange.

Prayer in WP No.16423 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondents impugned demand and Letter No.12083 /A1 /2019 -4 and Letter No.12083 / A1/ 2019 -333 both dated 12/03/2020 and consequential impugned Letter No.VLR 216 / CEIG / A3 /2021 dated 09/06/2021wherein a condition directing payment of tax on electricity purchased from India Energy Exchange (IEX) is sought to be assessed under the Tamil Nadu Tax on sale or Consumption of Electricity Act 2003 as a condition precedent for issuing permanent safety certificate to the petitioners plant at pulivalam village, Banavaram Post, Vellore District 632 505 and quash the same as illegal arbitrary, without jurisdiction, ultra vires the provisions of the Tamil Nadu tax on consumption or sale of Electricity Act 2003 and direct the respondents to issue the electrical safety certificate for the installations in the petitioner's premises at Pulivalam Village, Banavaram Post, Vellore District 632 505, after virifying compliance with the other conditions within the scope of Central Electricity Authority (Measures relating to safety and Electric Supply) Regulation 2010.

Prayer in WP No.19474 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st Respondents impunged demand Letter No.12083/ A1 / 2019 - 54 dated 4.3.2020 and consequential Letter No.12083/ A1 / 2019-53 dated 27.7.2020 and quash the same as illegal arbitrary, without jurisdiction ultra vires the provisions of the TamilNadu tax on consumption or Sale Electricity Act 2003 and consequently and direct the Respondent to issue the drawing approval and electrical safety certificate for the installations in the petitioners premises at Ennore, chennai-600 057 after verifying compliance with the other conditions within the scope of Central Electrical Authority (Measures relating to Safety and Electric supply)Regulation 2010

Prayer in WP No.19479 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st Respondents impugned demand Letter No.12083/ A1 / 2019 - 49 dated 19.3.2020 and consequential Letter No.CES(N) 1537/EI/ PON/2021 dated 9.6.2021 and quash the same as illegal arbitrary, without jurisdiction ultra vires the provisions of the TamilNadu tax on consumption or Sale Electricity Act 2003 and consequently and direct the Respondent to issue the drawing approval and electrical safety certificate for the installations in the petitioners premises at Technical centre, Phase-III, vellivoyalchavadi, Ponneri Taluk, Tiruvallur-03 after verifying compliance with the other conditions within the scope of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulation 2010

Prayer in WP No.20942 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the 2nd respondent Letter No.VLR161/ E1/Vellore/ Regulations-43/ A1/2021 dated 17.03.2021 and quash the same to the extent of condition No.2 pertaining to payment of electricity tax on purchase of energy from the Indian Energy Exchange and consequently and direct the 2nd respondent to issue the electrical safety certificate for the installations in the petitioners premise at Arakonam to Thiruthani Road, Itchiputhur, Arakonam 631 003 after verifying compliance with the other conditions within the scope of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulation 2010

Prayer in WP No.20938 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Letter No.12083/A1/ 2019-870 dated 19.09.2020, demanding tax for the period 04/2015 to 05/2020 and quash the same as being without jurisdiction and ultra vires the provisions of the Tamil Nadu tax on Consumption or Sale of Electricity Act, 2003

Prayer in WP No.22510 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the Respondent in Letters No.12083 / A1 /2019 -57 dated 04/03/2020, demanding taxon sale of energy to the Indian Energy Exchange for the period 04/2015 to 01/2020 and quash the same as being without jurisdiction and ultra vires the provisions of the Tamil Nadu tax on Consumption or Sale of Electricity Act, 2003

Prayer in WP No.22519 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the Respondent in Letters No.12083 / A1 /2019 -53 and Letter No.12083 / A1 /2019 -340 both dated 27/07/2020, demanding tax on sale of energy to the Indian Energy Exchange for the period 04/2015 to 01/2020 and quash the same as being without jurisdiction and ultra vires the provisions of the Tamil Nadu tax on Consumption or Sale of Electricity Act, 2003

Prayer in WP No.22696 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the Respondent in Letter No.12083/ A1/ 2019, dated 08.07.2019, demanding tax on sale of energy to the Indian Energy Exchange for the period 01.04.16 to 31.03.19 and quash the same as being without jurisdiction and ultra vires the provisions of the Tamil Nadu tax on consumption or sale of Electricity Act, 2003.

For Petitioner	:	Mr.R.S.Pandiyaraj in WP.Nos. 8680, 8709, 16423, 19474, 19479, 22510, 22519 & 22696 of 2021 Mr.M.Vijayan in WP.Nos.20942, 20928 of 2021 Mr.R.Parthasarathy in WP.No.14029 of 2021
For Respondents in all W.Ps.	:	Mr.J.Ravindran, Addl. Advocate General assisted by Mr.A.Selvendran, Special Government Pleader

COMMON ORDER

Petitioners have come up with the above Writ Petitions challenging the impugned Demand Notice issued by the Chief Electrical Inspector to the Government and for a consequential direction to the Respondents to issue Electrical Safety Certificate to carry out installation in their premises, after verifying compliance with the other conditions within the scope of Central Electricity Authority (Measures relating to Safety & Electric Supply) Regulation, 2010.

2. As the issue involved in all the Writ Petitions is one and the same, cases are taken up for disposal by a common order.

3. According to the learned counsel for the Petitioners, the impugned Demand Notices are arbitrary and are legally untenable inasmuch as the payment of electricity tax on sale is unconnected with issuance of Safety Certificate for new equipments installed by the Petitioners and such payment cannot be insisted upon by the Respondents, and the same is ultra vires the provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003. It is his contention that, while the Petitioner is willing to comply with the final outcome of such assessment proceedings, subject to the statutory remedies, the insistence of such a condition is incorrect and beyond the powers of the Respondents and contrary to the statutory Scheme with regard to the assessment of electricity tax.

4. On the other hand, learned Additional Advocate General appearing for the Respondents, on instructions from the Respondents, filed Written Submissions dated 29.11.2021 and submitted that, the Chief Electrical Inspector to Government will issue Safety Certificate to the Petitioners, if all the conditions otherwise are satisfied, without insisting on payment of E-tax dues on consumption of electricity purchase through open access (i.e.) Indian Energy Exchange, Power Exchange India Limited, etc. However, he submitted that, as far as payment on E-Tax consumption of electricity purchase through open access (i.e.) Indian Energy Exchange, Power Exchange India Limited, etc. is concerned, Respondents may be permitted to proceed in accordance with law as per the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, vide G.O.Ms.No.49, Energy (B1) Department, dated 12.06.2003 and G.O.Ms.No.55, Energy (D2) Department, dated 20.10.2021, and all other relevant orders in force.

5. In reply, learned counsel for the Petitioners submitted that, Petitioners have no objection to proceed in accordance with G.O.Ms.No.49, Energy (B1) Department, dated

12.06.2003, however, they have serious objections to proceed with G.O.Ms.No.55, Energy (D2) Department, dated 20.10.2021 and that, the Petitioners are willing to satisfy the conditions stipulated by the Respondents for issuance of Safety Certificate.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. In the Written submissions dated 29.11.2021, Respondents have agreed that, the Chief Electrical Inspector to Government will issue Safety Certificate if all the conditions are otherwise satisfied, without insisting on payment of E-tax dues on consumption of electricity purchase through open access. However, Respondents sought permission of this Court to proceed in in accordance with law vide G.O.Ms.No.49, Energy (B1) Department, dated 12.06.2003 and G.O.Ms.No.55, Energy (D2) Department, dated 20.10.2021. When the said Government Orders are not under challenge, this Court cannot render any finding on the same.

8. In view of the above and considering the facts and circumstances of the case, this Court directs the 1st Respondent/Chief Electrical Inspector to the Government to issue Safety Certificates to the Petitioners, without insisting them to pay E-tax dues on consumption of electricity purchase through open access, provided all the conditions otherwise are satisfied. Insofar as E-Tax consumption of electricity purchase through open access is concerned, Respondents are directed to pass Assessment Orders as per the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 and relevant Government Orders.

9. Writ Petitions are disposed of accordingly. No costs. Consequently, connected W.M.P.Nos.9218, 9220, 9222, 9241, 9243, 9244, 14905, 14906, 17390, 17392, 17397, 20771, 20772, 20774, 20778, 20779, 20780, 22216, 23733, 23735, 23741, 23747, 23923 and 23925 of 2021 are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Chief Electrical Inspector
   to the Government,
   Thiru-Vi-Ka Industrial Estate,
   Guindy, Chennai 600 032.

2. The Electrical Inspector,
   3/1B, 3rd Cross Street,
   Mohan Rao Colony,
   Krishnagiri – 635 001.

3. The Electrical Inspector,
   No.1/108, Bajanai Koil Street,
   Ponneri, Thiruvallur-601204.

4. The Electrical Inspector,
   No.19, 10th East Main Road,
   1st Floor Ganthi Nagar,
   Vellore 632 006.

5. The Electrical Inspector,
   Plot No.36, Iswarya Nagar MTH Road,
   Ambattur, Chennai-600 053.

+5ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.63662

+2ccs to M/s.King & Partridge, Advocate, S.R.Nos.62840, 62841

Common Order in
W.P.Nos.8680, 8709, 14029, 16423,
19474, 19479, 20942, 20938, 22510,
22519 and 22696 of 2021

AJB(CO)
SU(23/02/2022)