IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16355 of 2021
and W.M.P.No.17328 of 2021

M/s.Chenniappa Yarn Spinners Pvt. Ltd.,
rep. by its authorised person
Mr.J.Vijayakumar ...Petitioner

-Vs-

1. Tamil Nadu Generation and Distribution
   Corporation Ltd., (TANGEDCO)
   rep.by its Chairman and Managing Director,
   No.144, Anna Salai,
   Chennai – 600 002.

2. The Chief Engineer,
   Non-Conventional Energy Sources,
   TANGEDCO, 2nd Floor,
   Anna Salai, Chennai 600 002.

3. The Superintending Engineer,
   Tirupur Electricity Distribution Circle,
   Tamil Nadu Generation and Distribution
   Corporation Limited,
   Tirupur.

4. Tamilnadu Electricity Regulatory Commission,
   19-A, Rukmini Lakshmipathy Salai,
   Egmore, Chennai-600 008.
   represented by its Secretary. ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd and 3rd respondents to give the adjustment of the excessively collected banking charge of Rs.7,12,166/- (period from 01.08.2012 to 31.03.2016) based on the working instructions issued by the 1st respondent dated 03.10.2017 in the matter of implementation of the order of the State Commission (TNERC) issued in RA. No.6 of 2013 dated 31.03.2016.

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.L.Jaivenkatesh, Standing Counsel

O R D E R

The petitioner is owning windmills and they have also entered into an Energy Wheeling Agreement with the respondent Board and they are 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. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. The learned counsel for the petitioner relied upon by the final order passed by this Court in similar matter in W.P.No. 3987 of 2021, dated 30.03.2021 and agreed to pass orders on the same line. The relevant paragraphs of the said order extracted below;

> "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.

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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.?"

4. The learned counsel appearing for the petitioner fairly submitted before this Court that the entire excess amount payable to the petitioner can be adjusted in the ensuing CC Bills.

5. The learned standing counsel appearing for the respondent board on instructions has also agreed to adjust the excess amount with future CC Bills after the same is approved by the respondent board.

6. In view of the statement made by the either counsel appearing for the parties, this Court is inclined to direct the respondent board to adjust the excess amount payable to the petitioner in the future Consumption Charges Bills.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KST
To

1. Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
No.144, Anna Salai,
Chennai – 600 002.

2. The Chief Engineer,
Non-Conventional Energy Sources,
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4. The Secretary,
Tamilnadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008.

+1 CC to Mr.R.S.Pandiyaraj, Advocate, Sr 38738.

W.P.No.16355 of 2021

GPL(CO)
LS(23/08/2021)