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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.19753, 21050 & 23486 of 2021
and

W.M.P.Nos.21033, 21096, 22313, 22314, 24726
and 24727 of 2021

M/s.OPG Power Generation Private Limited
OPG Nagar, Periya Obalapuram Village,
Nagaraja Kandigai, Madharapakkam Road,
Gummidipoondi Thiruvallur,
Tamil Nadu 601201.

... Petitioner in W.P.No.19753 of 2021

Birla Carbon India Private Limited
formerly known as SKI Carbon Black (India) Pvt Ltd.,
K-16, Phase II, SIPCOT Industrial Complex,
P.O. Gummidipoondi, Thiruvallur District,
Tamil Nadu 601 201.

... Petitioner in W.P.No.21050 of 2021

Sree Rengaraj Ispat Industries P. Ltd.
Plot No.MM 1,2 and 5,
SIPCOT Industrial Growth Centre,
Perundurai 638 052
rep.by its Director S.Shyam Sundar

... Petitioner in W.P.No.23486 of 2021

Vs.

1. Tamil Nadu Generation and Distribution Corporation
Limited (TANGEDCO)
rep.by its Chairman,
NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.
2. The Chief Finance Controller / Revenue
TANGEDCO (Accounts Branch)
144, Anna Salai,
Chennai 600 002.



3. The Superintending Engineer,
CEDC/North, TANGEDCO
144, Anna Salai,
Chennai 600 002.

... Respondent 1 to 3 in WP.No.19753
& 23486 of 2021

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4. Tamil Nadu Transmission Corporation Ltd.
TANTRANSCO
rep.by its Managing Director,
144, Anna Salai, Chennai 600 002.

... 4th Respondent in WP.No.19753 of 2021

5. State Load Despatch Centre C/o TANTRANSCO
144, Anna Salai, Chennai 600 002.

... 5th Respondent in WP.No.19753
& 23486 of 2021

6. The Superintending Engineer,
Erode Electricity Distribution Circle
TANGEDCO,
144, Anna Salai, Chennai 600 002.

... 4th Respondent in W.P.No.23486 of 2021

1. Tamil Nadu Generation and Distribution Corporation
Limited (TANGEDCO)
rep.by its Chairman,
NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.

2. The Superintending Engineer,
CEDC/North, TANGEDCO
144, Anna Salai,
Chennai 600 002.

3. Tamil Nadu Transmission Corporation Ltd.
TANTRANSCO
rep.by its Managing Director,
144, Anna Salai, Chennai 600 002.

4. The Superintending Engineer,
Commercial Operation,
TANTRANSCO
144, Anna salai,
Chennai 600 002.

... Respondents W.P.No.21050 of 2021

Prayer in W.P.No.19753 of 2021: Petition filed under Article 226
of the Constitution of India to issue a Writ of Mandamus



directing the 3rd respondent TANGEDCO refund the excess open Access charges amounting to Rs.1,09,97,482/- (Rupees one crore nine lakhs ninety-seven thousand four hundred and eighty two only) paid by the petitioner under protest in respect of petitioners 110 KV and 230 KV thermal plant during the lockdown period of March 2020 to May 2020 along with interest till the date of realization in accordance with the final order dated 29.6.2021 passed by the TNERC.

Prayer in W.P.No.21050 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to refund the MTOA charges of Rs.2,44,533/- (Rupees Two Lakhs forty four thousand five hundred and thirty three only) paid in respect of its third party open access consumer M/s.Daimler India commercial vehicles Limited and the 4th respondent to refund the STOA charges of Rs.18,85,756/- (Rupees eighteen lakhs eighty five thousand seven hundred and fifty six only) paid by the petitioner in respect of its third party open access consumer M/s.Hyundai Motors India Limited for the month of April 2020 along with interest thereon at Rs.2,55,635/- (Rupees Two Lakhs fifty five thousand six hundred and thirty five only) in consonance with the order of the Honourable TNERC dated 29.6.2021.

Prayer in W.P.No.23486 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3rd respondent to refund the excess Open Access charges amounting to Rs. 25,49,602/- paid by the petitioner under protest in respect of Petitioners 110KV thermal power plant of 30 plus 8MW capacity during the lockdown period of May 2020 along with interest till the date of realization in accordance with the final order dated 29.6.2021 passed by the TNERC.

W.P.No.19753 of 2021:

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.J.Ravindran
Additional Advocate General assisted by
Mr.Madhusuthanan, Standing Counsel
for R1 to R4

W.P.No.21050 of 2021:

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.J.Ravindran
Additional Advocate General assisted by
Mr.Madhusuthanan, Standing Counsel
for R1 to R4



W.P.No.23486 of 2021:

For Petitioner : Mr.S.Pandiyaraj

For Respondents : Mr.L.Jaivenkatesh, Standing Counsel

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COMMON ORDER

These petitions have been filed to to refund the excess Open Access charges paid by the petitioner under protest in respect of the petitioner's thermal plant during the lockdown period of March, April and May 2020 along with interest till the date of realization in accordance with the final order dated 29.6.2021 passed by the TNERC.

2. The case of the petitioners is that pursuant to the order dated 29.06.2021, the petitioners have sent representations, requesting for the refund of excess OA charges paid by the petitioners with regard to their thermal plants. However, the petitioners have not received any response till date, but the respondent TANGEDCO has regularly collecting OA charges from the petitioners without making any provision for adjustment of excess amount. Therefore, the petitioners are constrained to approach this Court by filing these petitions.

3. The learned counsel appearing for the petitioners submitted that the respondent has neither filed an appeal against the order dated 29.06.2021, nor sought for a review of the order before TNERC and thereby, the order dated 29.06.2021 has attained finality and hence prays for implementation of the said order in letter and spirit.

4. The learned Additional Advocate General assisted by the learned Standing Counsel appearing for the official respondents submitted that as against the order of TNERC, the Electricity Board has preferred an appeal before the Appellate Tribunal and till date it is not taken for hearing and hence prays for appropriate order of this Court.

5. This Court has carefully considered the rival submissions and also perused the materials placed on record.

6. Though the respondent Board preferred an appeal before the Appellate Tribunal, no interim order was secured as against the order passed by TNERC and it was pending without any progress and as on date, the order dated 29.06.2021 is final. Hence, this Court issues direction to the TANGEDCO to implement



the order dated 29.06.2021 passed by TNERC, within a period of four weeks from the date of receipt of a copy of this order.

7. These Writ Petitions are disposed of with the above terms. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation
Limited (TANGEDCO)
NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.
2. The Chief Finance Controller / Revenue
TANGEDCO (Accounts Branch)
144, Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
CEDC/North, TANGEDCO
144, Anna Salai,
Chennai 600 002.
4. The Managing Director,
Tamil Nadu Transmission Corporation Ltd.
TANTRANSCO
144, Anna Salai,
Chennai 600 002.
5. The Superintending Engineer,
Commercial Operation,
TANTRANSCO
144, Anna salai,
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6. The Superintending Engineer,
Erode Electricity Distribution Circle
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7. State Load Despatch Centre
C/o TANTRANSCO
144, Anna Salai,
Chennai 600 002.

W.P.Nos.19753, 21050 & 23486 of 2021

AK-II (CO)
SU (21/01/2022)