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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.19190 OF 2014

AND

M.P.NO.2 OF 2014

M/s.N.Danissh Plaastics
Represented by its Managing Partner,
781/1, Ondikkaranpalayam
Villarampatti (Post)
Erode - 638 107.

...Petitioner

Vs

1. Tamil Nadu Generation and Distribution Corporation Ltd.,
Represented by its Chairman & Managing Director,
No.144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Erode Electricity Distribution Circle,
948, E.V.N.Road,
Erode - 638 009.
3. The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Udumalpet.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent comprised in his impugned letter Lr. No. A/ Cs/ Br/ AO/ HT/A5/F. HTSC.382/D/796/2014 dated 10.7.2014 and quash the same as arbitrary, illegal and contrary to the provisions of the Electricity Act 2013 Tariff Orders and the Energy Wheeling Agreements entered into between the petitioner and the respondents.

For Petitioner : Mr.Rahul Balaji

For Respondents : No appearance



ORDER

The issues raised in the present writ petition on hand are no more res integra and already considered and decided with elaborate findings by this Court in a batch of writ petitions, decided on 17.08.2021 in W.P.Nos.8634 of 2019 & etc., batch and the relevant paragraphs are extracted hereunder:

"36.The facts of the present case will also attract the principles of promissory estoppel. The 2nd respondent who issued the Circular Memo on the approval and order of the 1st respondent, had given an assurance to all group captive consumers, who entered into an energy wheeling agreement during the period from 01-04-2016 to 31-03-2017, the manner in which the banking of wind energy, maintenance of banking account and adjustment of banked wind energy for captive use will be dealt with. This was acted upon by TANGEDCO and the captive users and bills were raised accordingly and payments were also made. The captive users had also arranged their affairs in line with the Circular Memo in force. The captive users cannot at a later point of time be informed that their current consumption bills are revised by relying upon a subsequent Circular Memo and superceded letters of the 3rd respondent and such an action on the part of the 4th respondent is certainly vitiated by the principles of promissory estoppel.

37.It is also noticed that in some of the writ petitions viz., W.P.Nos.11294 and 34444 of 2019, it pertains to the period prior to 01-04-2016, wherein, the bills are sought to be revised through the impugned proceedings bills issued by the 4th respondent. In all these cases, the 2nd respondent's Circular Memo dated 25-06-2015, was in force and it was implemented by the 4th respondent in letter and spirit and adjustments were permitted accordingly. None of the reasons cited by the 4th respondent in the impugned proceedings through which the bills are sought to be revised, will justify the demand. Therefore, the demand made by the 4th respondent whereby, a concluded payment is sought to be revived, cannot be sustained.

38.In the light of the above discussion, this Court is of the considered view that the demand made by the 4th respondent from the petitioners, by virtue of the respective impugned letter is held to be unsustainable in law and accordingly, all the impugned letters are quashed.



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39. In the result, all the writ petitions are allowed and if any payments have been made by any of the petitioner on the basis of the impugned letter issued by the 4th respondent, the same is liable to be reimbursed or in the alternative adjusted in the future bills. Any consequential benefits to which the petitioners are entitled to, if any, will enure in their favour by virtue of quashing the impugned letters issued by the 4th respondent.

40. All the writ petitions are allowed with the above directions. No costs. Consequently, all the connected miscellaneous petitions are closed."

2. In view of the orders passed by this Court cited supra, the case of the petitioner is also to be considered and consequently, the impugned orders passed by the 2nd respondent in proceedings in Lr. No. A/ Cs/ Br/ AO/ HT/A5/F. HTSC.382/D/796/2014 dated 10.7.2014 is quashed and the writ petition stands allowed in terms of the order passed in W.P.No.8634 of 2019 & etc., batch. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

1. Tamil Nadu Generation and Distribution Corporation Ltd.,
Represented by its Chairman & Managing Director,
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948, E.V.N.Road,
Erode - 638 009.
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Udumalpet Electricity Distribution Circle,
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W.P.No.19190 of 2014

SR(CO)

RLP(13/12/2021)