



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.4308 of 2017
and W.M.P.Nos.4504 & 4505 of 2017

Sri Raju Cotton Mills, HTSC No.131
1110-B, Cotton Market,
Srivilliputhur Road, Rajapalayam -17
by its Manager K.Muthulingam

...Petitioner

Vs

1.TheTamil Nadu electricity Regulatory
Commission rep by its Secretary
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road)
Egmore, Chennai - 600 008.

2.The Tamilnadu Generation and Distribution
Corporation Ltd (TANGEDCO)
144, Anna Salai, Chennai - 600 002
Represented by its Chairman

3.Director Finance,
The Tamilnadu Generation and Distribution
Corporation Ltd
144, Anna Salai, Chennai - 600 002.

4.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
TANGEDCO
Virudhunagar

... Respondents

Prayer Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorari, to call for the records of the third respondent's impugned Circular Memo CFC/R/FC/R/ DFC-R1/F. HTLT-RTI/D.30/2015, dated 03.02.2016 in so far as the para 3(iii) is concern and the consequential impugned demand notice bearing Lr.No. SE/VREDC/VDR/AO/REV/AAO/HT/As.6/F.HT.SC.No.01/DNO./2016 dated



25.11.2016 issued by the fourth respondent and quash the same as illegal, arbitrary and without authority of law and against the orders of the first respondent made in M.P.No.42 of 2008 dated 28.11.2008, suo motu proceedings No.1 of 2009 dated 28.10.2009 D.R.P No.13 and 14 of 2010 dated 14.03.2011 and R.A.No.4 of 2013 dated 25.02.2013.

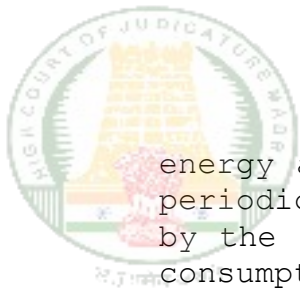
For Petitioner : Mr.S.P.Parthasarthy
For R1 : No Appearance
For R2 to R4 : Mr.L.Jai Venkatesh
Standing Counsel

ORDER

This Writ Petition has been filed, praying for the issuance of Writ of Certiorari, to call for the records of the third respondent's impugned Circular Memo CFC/R/FC/R/ DFC-R1/F. HTLT-RTI/D.30/2015, dated 03.02.2016 in so far as the para 3(iii) is concern and the consequential impugned demand notice bearing Lr.No. SE/ VREDC/ VDR/AO/ REV/ AAO/ HT/ As.6/F. HT.SC.No. 01/DNO./2016 dated 25.11.2016 issued by the fourth respondent and quash the same as illegal, arbitrary and without authority of law and against the orders of the first respondent made in M.P.No.42 of 2008 dated 28.11.2008, suo motu proceedings No.1 of 2009 dated 28.10.2009 D.R.P No.13 and 14 of 2010 dated 14.03.2011 and R.A.No.4 of 2013 dated 25.02.2013.

2.The case of the petitioner is that, the petitioner Mill is involved in the manufacture of yarn having High Tension Electricity Supply in H.T.Sc.No.131. The Government of Tamilnadu through Electricity Department have restricted the consumption of power on 22.10.2008. Based on the direction of the Government, the second respondent imposed 40% power cut to H.T Industrial and commercial consumers. Subsequently, the fourth respondent used to revise the quota from time to time depending upon the availability of power and the petitioner has been limiting their consumption with the quota fixed. The petitioner has never violated the quota fixed by the fourth respondent. While so, the fourth respondent has issued the impugned demand notice dated 25.11.2016 for a sum of Rs.77,68,469/- towards incorrect fixation of excess demand and energy charges for the period between 10/2013 and 06/2015.

3.The learned counsel for the petitioner would submit that, initially, the petitioner was allowed to consume 80% of



energy and subsequently, the fourth respondent revised the quota periodically. The petitioner has never exceeded the limit fixed by the fourth respondent and the petitioner has paid electricity consumption charges without any default. But, the fourth respondent vide demand notice dated 25.11.2016, demanding the petitioner a sum of Rs.77,68,468/-, towards incorrect fixation of excess demand and energy charges for the period from 10/2013 to 06/2015, for the alleged excess consumption of energy. The fourth respondent without providing any opportunity to the petitioner, has straight away issued the impugned demand notice dated 25.11.2016.

4.The learned counsel for the petitioner would further submit that the similar issue has already decided by the Appellate Tribunal for Electricity confirming the order of the Tamilnadu Electricity Regulatory Commission that the respondent cannot claim for a demand when the consumer abided the quota fixed by the TANGECO as advance declaration. He has also produced the judgement of Appellate Tribunal for Electricity in Appeal No.117 of 2013 and prayed to allow the Writ Petition.

5.The learned Standing Counsel appearing for the respondents 2 to 4 submitted that the respondent Board will follow the order passed by the Appellate Tribunal for Electricity, for this petitioner also.

6.In view of the fact that, the similar issue has already decided by the Appellate Tribunal for Electricity and the said order was also implemented by the respondent, the impugned demand notice bearing Lr.No. SE/VREDC/VDR/AO/REV/AAO/HT/As.6/F.HT.SC.No.01/DNO./2016 dated 25.11.2016, issued by the fourth respondent is hereby quashed and the Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To:

1.The Secretary

Tamil Nadu electricity Regulatory
Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road)
Egmore, Chennai - 600 008.

2.The Chairman, Tamilnadu Generation and Distribution
Corporation Ltd (TANGEDCO)
144, Anna Salai, Chennai - 600 002

3.The Director Finance,
Tamilnadu Generation and Distribution
Corporation Ltd
144, Anna Salai, Chennai - 600 002.

4.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
TANGEDCO
Virudhunagar

+1cc to Mr.R.S.Pandiyaraj, Advocate SR.No.61712

W.P.No.4308 of 2017
and W.M.P.Nos.4504 & 4505 of 2017

GPL(CO)
CB(17/12/2021)