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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.No.27459 of 2021

and

W.M.P.Nos.28976, 28977 & 28978 of 2021

Sri Karpagam Mills India (P) Limited,
HTSC No.290
3, Samian Thottam, Udayampalayam,
Chinnavadedampatti (Post),
Coimbatore - 641 006, repd. by its
Authorized Signatory P.Murugesan

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 144 Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
TANGEDCO,
Coimbatore North Electricity Distribution Circle,
Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records of the 2nd respondent's impugned notice bearing Lr.No.SE/CEDC/N/CBE/DFC/AO/R/AAO/HT-15/F.ASC/D.872/2021 dated 02.12.2021 insofar levy of BPSC at 1.5% per month (i.e., 18% per year) alone on additional surcharge for the past period from 04.2021 to 10.2021 and quash the same as arbitrary, illegal and violative of order dated 24.04.2008 in Writ Appeal Nos.3075 to 3078 of 2003 and order dated 18.06.2019 in W.P.No.33517 & 33518 of 2004 passed by this Court and consequently direct the 2nd respondent to permit the petitioner to pay the past period arrears of additional surcharge of Rs.29,63,477/- with BPSC at 1% per month(i.e., 12% per year) in 10 equal monthly instalments along with their regular CC charges.



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For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel

O R D E R

This writ petition has been filed seeking for issuance of a Writ of Mandamus to call for the impugned notice bearing Lr.No.SE/ CEDC/ N/ CBE/ DFC/ AO/ R/ AAO/ HT-15/ F.ASC/ D.872/2021 dated 02.12.2021 insofar levy of BPSC at 1.5% per month (i.e., 18% per year) alone on additional surcharge for the past period from 04.2021 to 10.2021 and quash the same and for the consequential direction to the 2nd respondent to permit the petitioner to pay the past period arrears of additional surcharge of Rs.29,63,477/- with BPSC at 1% per month (i.e., 12% per year) in 10 equal monthly instalments along with their regular CC charges.

2. The case of the petitioner is that the petitioner is a company registered under the Companies Act, 1956. The petitioner is having a HT service connection bearing No.290 under the 2nd respondent. The State Commission (TNERC) has approved a levy of 70 paise per unit as Additional Surcharge vide its order dated 15.04.2021 in MP.No.18 of 2020 and thereby, authorized the respondent/TANGEDCO to collect the said levy from the Open Access Consumers when they source power from Third Party Routes alone from 16.04.2021 to 30.09.2021 for a period of six months. Aggrieved by the said order, some Industrial Associations preferred an appeal before the Appellate Tribunal in Appeal No.177 of 2021. The APTEL has passed final order dated 15.11.2021 in the said appeal permitting TANGEDCO to collect the additional surcharge @ 70 paise per unit from 16.04.2021 to 30.09.2021 by dismissing the appeal. Now, the 2nd respondent has issued the demand letter to the petitioner, dated 02.12.2021 informing the petitioner that he should pay additional surcharge for the period from 04.2021 to 09.2021 along with BPSC charges calculated at 1.5% p.m. (i.e., 18% per year) in one lump sum. It is submitted that the respondent vide the impugned notice has threatened the petitioner that their HT service connection will be disconnected if the impugned amount of Rs.29,63,477/- which includes GST on ASC at 18%, BPSC at 1.5% p.m. (i.e., 18% per year) on the ASC for the period from 05.2021 to 30.10.2021, is not paid within 15 days from the date of receipt of the notice. Hence, the petitioner has approached this Court under Article 226 of the Constitution of India.



3. The learned counsel appearing for the petitioner submitted that since the petitioner is financially struggling due to COVID-19 Pandemic, production loss, slow market scenario and recession, the petitioner may be permitted to pay arrears of additional surcharge of Rs.29,63,477/- in six Equated Monthly Installments.

4. The learned counsel appearing for the respondents/TNEB has also agreed the request of the petitioner to pay the arrears of additional surcharge of Rs.29,63,477/- in six Equated Monthly Installments.

5. Considering the submission of the learned counsels appearing on either side, this Court directs the petitioner to pay arrears of additional surcharge of Rs.29,63,477/- to the respondents in six Equated Monthly Installments (EMI) i.e. Rs.4,93,913/- per installment on or before 5th of every succeeding English Calendar month, commencing from February, 2022.

6. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 144 Anna Salai, Chennai - 600 002.
2. The Superintending Engineer,
TANGEDCO,
Coimbatore North Electricity Distribution Circle,
Coimbatore.

+lcc to M/s.R.S.Pandiyaraj, Advocate Sr.68942

W.P.No.27459 of 2021
and
W.M.P.Nos.28976, 28977 & 28978 of 2021

pmk[co]
srg 08/02/2022