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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.21143 OF 2017

AND

W.M.P.NOS.22012 & 22013 OF 2017

M/s.Sudharsan Exports,
HTSC.No.214,
Represented by its Authorised Signatory
S.Kamalprasath

... Petitioner

Versus

1. Tamil Nadu Electricity Regulatory
Commission
Rep. by its Secretary
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai - 600 008.
2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
TANGEDCO,
Tirupur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records of the third respondent impugned demand notice Lr.No. SE/TEDC/TPR/DFC/AO/AAO/HT/F. review/D.6820 dated 10.07.2017 and quash the same as illegal and contrary to the first respondent's order No.3 of 2006 dated 15.05.2006, Tariff Order No.1 of 2009 dated 20.03.2009 and order dated 31.03.2016 in S.M.P.No.1 of 2014.



For Petitioner : Mr.S.P.Parthasarthy
For Respondents : Mr.L.Jai Venkatesh
Standing Counsel

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ORDER

This Writ Petition has been filed, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the third respondent impugned demand notice Lr.No. SE/TEDC/TPR/DFC/AO/AAO/HT/F. Review/D.6820 dated 10.07.2017 and quash the same as illegal and contrary to the first respondent's order No.3 of 2006 dated 15.05.2006, Tariff Order No.1 of 2009 dated 20.03.2009 and order dated 31.03.2016 in S.M.P.No.1 of 2014.

2.It is the case of the petitioner that, the petitioner's wind mills are generating powers throughout the day in three slots viz., normal hours, peak hours and off peak hours(night hours), as categorized by the respondents. However, the quantum of energy units generated from the mill would be varying depending upon the availability of wind during the timings of each slots. The respondent Board is also permitted adjustment of wind energy slot-wise and if there is any surplus energy, such energy is also kept under banking with the respondent Board for future adjustment. While so, the third respondent has issued a demand notice dated 10.07.2017, demanding the petitioner a sum of Rs.40,71,867/-, towards short levy for the financial year 2014-2015, for the alleged excess consumption of energy. Thereafter, during the the personal hearing which conducted on 01.07.2017, the petitioner raised his objection. Without considering the objection raised by the petitioner, the third respondent issued the impugned demand notice dated 10.07.2017.

3.The learned counsel for the petitioner would submit that, the petitioner has never exceeded the limit fixed by the respondent Board and the petitioner has paid electricity consumption charges without any default. But, the third respondent vide demand notice dated 10.07.2017, demanding the petitioner a sum of Rs.40,71,867/-, towards short levy of excess demand and energy charges for the financial year 2014-2015, for the alleged excess consumption of energy.

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 TANGEDCO 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 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/TEDC/TPR/DFC/AO/AAO/HT/F. review/D.6820 dated 10.07.2017, issued by the third respondent is hereby quashed and the Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

7.Further, at the time of admission, this Court directed the petitioner to pay 50% of the demand made by the third respondent. If any such amount was paid as per the order of this Court dated 08.08.2017, the respondents shall adjust the said deposit made by the petitioner in the future electricity charges.

Sd/-
Assistant Registrar(CS-III)

//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,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai 600 002.
 3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
TANGEDCO, Tirupur.
- +1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.63390

W.P.No.21143 of 2017
and W.M.P.Nos.22012 & 22013 of 2017

SSI (CO)
RLP (27/12/2021)