IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.10629 of 2017
and
W.M.P.Nos.11565 & 11566 of 2017

KKP Textiles Private Limited,
HTSC No.257 (Old HTSC No.159),
88, Salem Road,
Namakkal - 637 001.
represented by its Managing Director
P.Nallathambi ...Petitioner

..Vs..

1. State of Tamil Nadu,
Rep.by the Secretary to Government,
Energy Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The TANGEDCO,
Rep.by its Chairman,
No.144 Anna Salai,
Chennai - 600 002.

3. The Chief Engineer / Commercial,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.

4. The Superintending Engineer,
Mettur Electricity Distribution Circle,
TANGEDCO,
Mettur Dam.

5. The Superintending Engineer,
Namakkal Electricity Distribution Circle,
TANGEDCO,
Namakkal. ...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his impugned demand notice dated 08.08.2016 bearing Lr.No.SE/NEDC/NKL/DFC/HT/AS/Asst/F:HT 159/2016 and quash the same as illegal, arbitrary, without the authority of law and consequently direct the respondents to grant tariff concession to the petitioner industry by following the procedure laid down by the Hon'ble Supreme Court in its Judgment dated 16.05.2008 passed in Civil Appeal No.3940 of 2008.

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.Abdul Kalam
Standing Counsel

ORDER

This Writ Petition has been filed, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his impugned demand notice dated 08.08.2016 bearing Lr.No. SE/NEDC/NKL/DFC/HT/AS/ Asst/F:HT 159/2016 and quash the same as illegal, arbitrary, without the authority of law and consequently direct the respondents to grant the tariff concession to the petitioner industry by following the procedure laid down by the Hon'ble Supreme Court in its Judgment dated 16.05.2008 passed in Civil Appeal No.3940 of 2008.

2. The petitioner has come forward with the plea that in pursuance to the issuance of G.O. Ms. No. 29 Energy (A2) Department dated 31.01.1995 they were enthused to establish the industry, with a view to get tariff concession as mentioned therein and ultimately they have set up the industry, but due to some reason or other giving power connection was delayed beyond 14.02.1997, which resulted in refusal by the respondents in extending infancy benefit made available as tariff concession as ordered by the Government, in G.O.Ms.No.29 Energy (A2) Department dated 31.01.1995.

3. The Learned Counsel for the petitioner would submit that the petitioner has set up an industry, (i.e.), a Spinning Mill with a capital investment of around Rs.1.5 Crores and made an application 13.03.1995 itself for a maximum demand of 500 KVA of supply of electrical energy under the category of "High Tension" which was also registered by the 4th respondent on 25.04.1995. The said application was kept pending for more than 10 months without assigning any reason by the respondents. Later, vide the communication dated 20.02.1996, the 3rd respondent sanctioned the demand of 500 KVA and pursuant to the same, the petitioner also paid EMD of Rs.1,50,000/- on 22.02.1996. Thereafter, the petitioner vide communication dated 11.03.1996, expressed its readiness to avail power after completion of civil works and having installed equipment at the site. While so, there was no response from the respondents despite the petitioner approaching them periodically and, in the meanwhile, the tariff concession Notification issued in G.O.Ms.No.29 dated 31.01.1995 was withdrawn by the Government vide G.O.Ms.No.17 dated 14.02.1997.

4. Later, vide letter dated 24.01.1997. the 4th respondent granted no objection certificate to install generator and start production activities. In such circumstances, since the respondents have delayed in sanctioning the power supply, the petitioner being left with no other option, started their industry on 26.01.1997 itself with the help of generators after conducting inaugural pooja. Thereafter, on 12.02.1997, CEIG Certificate was also issued for commissioning all the equipment and machineries and thereby, actual commercial production started from 13.02.1997 onwards. However, the petitioner continuously approached the respondents for grant of power supply, which ultimately happened on 07.06.1997 and the respondents provided the power supply.

5. Therefore, according to the petitioner, the petitioner had already set up the industry well prior to 14.02.1997, having invested substantial sum and erected imported machineries in the year 1996 itself and also expressed its readiness, even on 11.03.1996 itself and as such, the petitioner is entitled to receive the Tariff concession. The Learned Counsel also relied upon the judgment of the Hon'ble Supreme Court dated 16.05.2008 in Civil Appeal Nos.3940 to 4084 of 2008.

6. On the other hand, the Learned Standing Counsel appearing for the respondents would submit that though the petitioner confirmed their readiness in their letter dated 11.03.1996 and also that they received CEIG Certificate issued by the Electrical Inspector, Coimbatore on 12.12.1997 and that they were ready to avail supply, the benefit of G.O.Ms.No.29 dated 31.10.1995 has been seized of by the reason of its withdrawal by the Government and as such, the High Tension Industry set up on or after 15.02.1997 is not entitled for the Tariff Concession. He pointed out that the petitioner industry was provided with High Tension Service Connection only on 07.06.1997 and thereby, the petitioner has commenced the commercial production from 09.11.2000 onwards only, which is much later after the cut-off date of 14.02.1997 and the stipulation prescribed by the Hon'ble Supreme Court that the industries should have started commercial production before 14.02.1997 has not been fulfilled by the petitioner. Therefore, the petitioner is not entitled to the relief and hence, he sought for dismissal of the Writ Petition.

7. Heard the learned counsel appearing for the petitioner and also the learned standing counsel appearing for the respondents and perused the materials available on record.

8. The Government issued G.O. Ms. No.29 of Energy (A2) Department dated 31.01.1995, by which, a policy decision was taken to grant tariff concession to the industries which are set up to avail high tension of electricity service connection from the Respondents' Electricity Board. It was ordered

therein that such tariff concession would be extended to them for the first three years from the date of availing the high-tension service connection. Subsequently, another Notification was issued in G.O. Ms. No.17, Energy (A2) Department dated 14.02.1997 clarifying that such concession could be granted only to those who have set up industries on or before 14.02.1997 alone. According to the petitioner, they have set up and established their industry even before the cut-off date and therefore they are entitled to such concession. Therefore, if the petitioner has established that they set up their industry on or before 14.02.1997, they are eligible for tariff concession.

9. The Hon'ble Supreme Court, in the connected batch of cases passed a judgment in the case of "Tamil Nadu Electricity Board and another vs. Status Spinning Mills Limited and another" reported in (2008) 5 MLJ 1267 (SC), wherein in Para No.42 and 45, it was specifically held that such concession would be applicable not only to those who had started commercial production before 14.02.1997, but also had applied and were otherwise ready to take electrical connections having deposited the amount demanded by the Electricity Board. The relevant portion of the judgment of the Hon'ble Supreme Court as found in paragraphs 43 and 44, is extracted as under:

> "43. The proviso is an exception to the main clause whereas all industries which were set up on or after 15th February become wholly ineligible for any tariff concession but those who had set up prior thereto shall continue to avail themselves of the said tariff concession. Legally, those who had not become consumer of electrical energy, but were the potential consumers, they had not only applied for it but they were and, in fact, some of them has also been gone into commercial production. Once they have set up the high tension industries and who had gone up for commercial production must be held to have set up the high tension industries. Once they have set up the high tension industries after 31st March, 1995, they became entitled to the benefit of concessional tariff for a period three years. Such concession was to be availed by them from the date of grant of service connection. If they had already been granted service connection, they would continue to avail themselves of the said tariff concession. However, the difficulty arises only in cases where despite applying for grant of electrical communication, actual service connection had not been granted. If a literal interpretation of the proviso is taken recourse to, the same may result in an anomaly in the sense that in one case, connection may be granted in one day and in another case,

connection may not be granted for a long time. Because of the acts of discrimination on the part of the officers of the Board or the State, the entrepreneurs would suffer. It is in the aforementioned limited sense, the doctrine of promissory estoppel will have application. If doctrine of promissory estoppel applies, the right accrued in terms thereof cannot be withdrawn with a retrospective effect. [See Mahabir Vegetable Oils (P) Ltd. (supra) Southern Petrochemical Industries Co. Ltd. (supra)]

"44. However, the difficult arises only in cases where despite applying for grant of electrical connection, actual service connection had not been granted. If a literal interpretation of the proviso is taken recourse to, the same may result in an anomaly in the sense that in one case, connection may be granted in one day and in another case, connection may not be granted for a long time. Because of the acts of discrimination on the part of the officers of the Board or the State, the entrepreneurs would suffer. It is in the aforementioned limited sense, the doctrine of promissory estoppel will have application. If doctrine of promissory estoppel applies, the right accrued in terms thereof cannot be withdrawn with a retrospective effect (See. Mahabir Vegetable Oils (P) Ltd., and Souther Petrochemical Industries Co., Ltd.,)."

10. It is contended on behalf of the petitioner that by virtue of the judgment of the Hon'ble Supreme Court, they are entitled to the tariff concession especially when they have set up the industry well before the cut-off date viz., 14.02.1997. It is evident from the interpretation given by the Hon'ble Supreme Court that the tariff concession can be extended to those who commenced commercial production before 14.02.1997 and also to those who have applied and were otherwise ready to take electrical connections before the said date. In other words, even those who have applied for service connection and are ready to avail the service connection, but not started the commercial production are also eligible to get tariff concession. Thus, the Hon'ble Supreme Court had interpreted the word "set up" in such a way that the benefit of tariff concession has to be extended for the best use of the consumers who have set up the industry in anticipation of the tariff concession.

11. According to the learned counsel appearing for the petitioner, if any one of the two conditions, as interpreted

by the Hon'ble Supreme Court are fulfilled, then the petitioner is eligible for extending the tariff concession. However, it is contended on behalf of the respondents that unless both the conditions are fulfilled namely, setting up the industry and commencing commercial production within the cut-off date, the petitioner is not eligible to the tariff concession.

12. For determining the eligibility of the petitioner, the word "set up" indicated in the Government Order requires to be interpreted. The word "set up" has to be liberally and harmoniously interpreted in the best interest of the consumers. This Court carefully perused the pleadings made by the petitioner in the Writ Petition. The petitioner set up an industry, i.e., a Spinning Mill with a capital investment of around Rs.1.5 Crores and made an application 13.03.1995 for a maximum demand of 500 KVA of supply of electrical energy put under the category of "High Tension". The said application was kept pending for more than 10 months without assigning any reason by the respondents. Later, vide communication dated 20.02.1996, the 3rd respondent sanctioned the demand of 500 KVA and pursuant to the same, the petitioner also paid EMD of Rs.1,50,000/- on 22.02.1996. Thereafter, the petitioner vide communication dated 11.03.1996, expressed its readiness to avail power after completion of civil works and having installed equipment at the premises. While so, there was no response from the respondents despite the petitioner approaching them periodically and despite expressing its readiness to avail power.

13. It is pertinent to note that the respondents had kept silent without taking any efforts to process the request of the petitioner, which expressed its readiness as early as on 11.03.1996 itself. For the reasons best known to the respondents, they had not taken any initiative despite receipt of communication of readiness from the petitioner. Since no response was forthcoming despite readiness expressed by the petitioner, by letter dated 19.01.1997, the petitioner requested to permit to install Generator to carry out the commercial production and pursuant to the same, by letter dated 24.01.1997, the 4th respondent has issued No Objection Certificate to install generator and start production activities. Further, on 12.02.1997 itself, the petitioner industry was issued with CEIG Certificate also. Consequently, the petitioner installed its own Captive Generator Sets and started commercial production from 13.02.1997 onwards.

14. Had the respondents responded in time well before the cut-off date, the petitioner would have certainly come under the zone of consideration for availing tariff concession. But due to the delay on the part of the respondents in providing the power supply, there is no justification on the part of the respondents to contend that the petitioner is not eligible to avail the tariff concession. In such event, the petitioner

cannot be penalized for the inaction on the part of the respondents in effecting electricity supply before the cut-off date. Therefore, the contention of the respondents that the petitioner did not commence commercial production before the cut-off date and thereby, they are not eligible for tariff concession cannot be countenanced. It has to be seen whether the petitioner did not commence production owing to the delay attributable on his part or the delay is on the part of the Board in effecting service connection. This is more so that this was not the intention of the Government in taking a policy decision to extend tariff concession. Had it been the intention of the Government, it could have excluded those who have not obtained power connection before 15.02.1997 by specifically stating that the concession would be extended only to those who have commenced commercial production before the cut-off date. It was merely stated that those who have set up the industries are entitled for the tariff concession, meaning thereby, those who have applied and are ready to take up the service connection are also entitled for the concession. This position was also confirmed by the Hon'ble Supreme Court in the extracted order quoted above. This alone would be the criteria for extending the tariff concession and the word "set up" has to be interpreted only in this way. Such consumers who were ready to take up the service connection by keeping intact all the infrastructural amenities can only be construed as pre-existing industries. By virtue of this position, the petitioner, who had set up a new industry with the electricity supply to be provided by the respondents, acquires a vested right. It is not in dispute that the petitioner has applied well before the cut-off date and having paid EMD, expressed its readiness and was anticipating to get power supply effected by the respondents by providing all the infrastructural facilities required for the same. In other words, the petitioner was ready to take the service connection that may be provided by the respondents. The anticipation of the petitioner in setting up industry by investing huge amount towards recruiting men, sourcing machineries, fixtures and other infrastructural amenities, on the basis of the concession announced by the Government to extend power tariff, is a legitimate expectation which cannot be denied by the respondents.

15. As far as the impugned order is concerned, it is pertinent to note that while the petitioner industry satisfied all the requirements as per the G.O. and the dictum of the Hon'ble Supreme Court, the 4th respondent did not proceed further in the issue for the past 17 years. While so, when the petitioner approached the 5th respondent vide application dated 19.08.2015, seeking for reduction of 950 KVA from the total sanctioned load of 4950 KVA, to their shock and surprise of the petitioner, the 5th respondent vide letter dated 31.08.2015, informed the petitioner that the application for reduction of load will be processed only if the petitioner remits the arrears of tariff concession along with BPSC.

Aggrieved by the communication of the 5th respondent, the petitioner approached the 2nd respondent and submitted a detailed representation dated 20.08.2016 as to how the petitioner is entitled to the tariff concession. However, no response was forthcoming from the 2nd respondent. While so, the 4th respondent vide impugned proceedings dated 08.08.2016, confirmed the proceedings of the 5th respondent and directed the petitioner to remit the arrears of tariff concession, holding that the petitioner is eligible for tariff concession since the petitioner commenced the commercial production only from 18.04.1997 onwards.

16. A careful perusal of the above impugned communications, it is clear that according to the respondents, the petitioner Industry contains two Units, viz., Unit I and Unit II and the products manufactured in Unit I for which, tariff concession is not eligible, could have been shown as production in Unit II even for invoice dated 18.04.1997 and thereby, as per said invoice dated 18.04.1997, the petitioner started commercial production only from 18.04.1997 onwards and therefore, the petitioner as regards Unit-II also, not eligible to tariff concession and as such, the petitioner is liable to pay the arrears of tariff concession.

17. In fact, as regards the eligibility of the petitioner to the tariff concession in respect of petitioner Unit-I is concerned, it is brought to the knowledge of this Court that already, the petitioner moved this Court in W.P.No.18562 of 2014 claiming that they are entitled to tariff concession. Though by order dated 23.12.2014, the Learned Single Judge of this Court, dismissed the Writ Petition, holding that the petitioner is not entitled to the benefit of tariff concession, on appeal, by judgment dated 27.07.2016, a Division Bench of this Court, has set aside the order of the Learned Single Judge and held that the petitioner is entitled to the tariff concession. The relevant portion of the judgment of the Division Bench is extracted as under:

> "7. The contention of the Electricity Board is that the appellant had reported their readiness only by letter dated 12.3.1997 and not on 20.1.1997 i.e., after the cut of date for availing the tariff concession viz., 14.2.1997.
>
> "8. In this regard, it is apt to consider that the third respondent has sent a communication on 17.5.2014, as found from page 140 of the typed set of papers, enclosing a detailed report on tariff concession sought for by the appellant wherein the third respondent has recorded that the appellant had reported their readiness on 20.1.1997 viz.,

before the cut-off date i.e., prior to 14.2.1997. Such being the case, a conjoint reading of the certificates issued by the authorities to the effect that the appellant had started commercial production on 23.1.1997 itself and the report of the Superintending Engineer revealing that the appellant had reported their readiness on 20.1.1997 would establish that the formality of reporting readiness before the cut-off date to claim the tariff concession is duly complied with by the appellant, in view of the ratio laid down by the Apex Court. This aspect has not been properly considered by the learned Single Judge.

"9. In the circumstances, the order of the learned Single Judge is modified and held that there is due compliance of formalities by the appellant and it is for the respondent authorities to extend the tariff concession as per the ratio the Apex Court. The writ appeal is allowed."

18. Challenging the above judgment of the Division Bench of this Court, the respondents/TANGEDCO preferred an Appeal in SLP (C) No.29647 of 2017 before the Hon'ble Supreme Court and by order, dated 08.12.2017, the Hon'ble Supreme Court, dismissed the Special Leave Petition, holding that there was no ground to interfere with the judgment of the Division Bench. As such, it is clear that the petitioner industry as regards Unit-I is concerned, they are entitled to tariff concession.

19. In such view of the matter, the impugned communication dated 08.08.2016 denotes specifically that the products manufactured in Unit I for which tariff concession is not eligible could have been shown as production in Unit II even for invoice dated 18.04.1997, cannot be sustained since by virtue of the judgment of the Division Bench and also based on the consequential order of the Hon'ble Supreme Court, the petitioner industry as regards Unit I has been held eligible for tariff concession.

20. As regards the Unit II of the petitioner industry is concerned, in respect of which the present impugned orders have been passed and challenged in the present Writ Petition, the same cannot be sustained for more than one reason. Firstly, the Unit II is on better footing than the Unit I, since the petitioner vide his representation dated 12.09.2015 along with the relevant records has explained to the 5th Respondent that the petitioner has remitted Earnest Money Deposit, Development Charges and Meter Caution Deposit as early as on 22.02.1996 and has provided their readiness by

letter dated 11.03.1996 to avail the supply with the Respondent. The Respondent has also vide his letter dated 24.01.1997, has granted 'no objection certificate' to install generator, on 26.01.1997 at the premises of the Petitioner and the Petitioner industry had also held inaugural pooja and took samples for commercial production. On 12.02.1997, the CEIG has issued the Safety Certificate for commissioning of all the equipment and machineries and the actual commercial production has started from 13.02.1997 onwards.

21. Therefore, the petitioner has already expressed its readiness vide the letter dated 11.03.1996 itself and since there was considerable delay in providing service connection which prompted the petitioner to commence commercial production by installing its own generator equipment and accordingly, the 4th respondent vide proceedings dated 26.01.1997 also issued No objection Certificate to the petitioner to install generator and accordingly, the petitioner installed generator and commenced commercial production on and from 13.02.1997 onwards. In this regard, it is worthwhile to refer to the decision of the Hon'ble Apex Court reported in (2008) 7 SCC 353 (cited supra) wherein, the following directions were given, which are found in paragraphs 52 and 53 as under:

> "52. We have noticed hereinbefore that some of the industries had even installed generators. They had to do it. They inevitable had to do it because the Board would not supply power. Would it not be too much to contend that even those industries have not been set up as they have not become consumers? We think that for the said purpose, the proviso has to be read down. It must be made applicable to them who not only had started commercial production before the said date, namely 14.2.1997 but also had applied and were otherwise ready to take electrical connections having deposited the amount asked for. Those hard cases, even according to Mr.Ganguli, should be brought within the purview of the proviso. We, therefore, hold:
>
> 1. As the concession had been granted by the State, it had the power to withdraw the same.
> 2. It is not a case where in view of the doctrine of promissory estoppel, the State could not have in law amended the schedule.

3. In view of existence of public interest the doctrine of promissory estoppel would have no application.
4. Even otherwise the appellants having not preferred appeals against the judgment of the Division Bench of the High Court, the said questions cannot be permitted to be raised before us.
5. Proviso appended to the main provision should be read down as stated in paras 44 and 45 supra.
6. In view of our findings aforementioned, we have not gone into the merit of the matter involved in each case separately.

"53. We direct accordingly. The matters would now be examined by the appropriate authority of the Board, as directed by the High Court in individual cases. The appeals are allowed with the aforementioned directions. No costs."

22. The Hon'ble Supreme Court further directed that considering the fact that they were not dealing with each case separately, the matters were to be examined by the appropriate authority of the second respondent Board. In so far as the petitioner is concerned, as evident from the facts set out herein above and the judgment of the Hon'ble Supreme Court, it was entitled to the tariff concession as it has fully satisfied the two tests laid down by the Hon'ble Supreme Court viz., that of having been ready to take electrical connection and of having commenced commercial production. In fact, the Hon'ble Supreme Court has specifically held that the Board should not take advantage of its own delays and deny benefit of tariff concession to such of those industries which had commenced production prior to the cut-off date.

23. Since the Petitioner industry has satisfied all the requirements as per the order of the Hon'ble Supreme Court, the 4th Respondent did not proceed further in issue for the past 17 years. While so, the Petitioner approached the 5th Respondent vide their application dated 19.08.2015 for reduction 950KVA from the total sanctioned load of 4950 KVA in their HTSC No.257. To the shock and surprise of the petitioner, the 5th Respondent vide his letter dated 31.08.2015 has stated the Petitioner's application for reduction of load will be processed only if the Petitioner remits a sum of Rs.93,13,600/- along with BPSC till date towards tariff concession arrears. The 5th Respondent has alleged that the Petitioner has started commercial production only on 18.04.1997 and therefore the Petitioner had not satisfied the requirements to avail tariff concession as set out under the G.Os for the relevant period. This finding is

wholly and completely contrary to the express findings of the Hon'ble Supreme Court as also of this Hon'ble Court.

24. It is seen that the Petitioner vide his representation dated 12.09.2015 along with the relevant records has explained to the 5th Respondent that the petitioner has remitted Earnest Money Deposit, Development Charges and Meter Caution Deposit on 22.02.1996 itself and has provided his readiness letter on 11.03.1996 itself to avail the supply with the Respondent. The Respondent has also vide his letter dated 24.01.1997, has granted 'no objection certificate' to install generator, on 26.01.1997 at the premises of the Petitioner and the Petitioner industry had also held inaugural pooja and took samples for commercial production. On 12.02.1997, the CEIG has issued the Safety Certificate for commissioning of all the equipment and machineries and the actual commercial production has started from 13.02.1997 onwards. It is also seen from the records placed before this Court that the Petitioner was directed to file additional documents by the 5th Respondent, vide his letter dated 25.09.2015 which directed the Petitioner to furnish further additional documents and the Petitioner vide his letter dated 30.09.2015 submitted the records sought by the 5th Respondent. Again on 16.11.2015 the 5th Respondent directed the Petitioner to submit RG1 Register, for the relevant period and the Petitioner has submitted that same on 16.11.2015. It is seen that once again the 5th Respondent vide his letter dated 06.01.2016 sought clarification on the sales invoice dated 26.01.1997 and the Petitioner has also explained that the same was a trail/sample production on inaugural pooja held on 26.01.1997.

25. While the facts are placed so before this Court, the 5th Respondent vide the impugned demand notice dated 08.08.2016 has held that the Petitioner industry has failed to prove that commercial production on the ground that the Petitioner industry has not started before 14.02.1997 and the records produced by the Petitioner are pertaining to KKP Textiles Unit I and not KKP Textiles Unit II. The 5th Respondent further demanded a sum of Rs.3,74,67,389/- towards alleged tariff concession arrears and there was instruction to remit the same within 15 days, from the date of the notice failing which the same would be included in the CC bills of the Petitioner's other service connections and consequently disconnected for the default in payment of the said amount. It is further mentioned that the Petitioner's application for reduction of load will be processed only if the impugned amount is remitted.

26. All the actions of the 5th Respondent are wholly and completely contrary to the categoric findings of the Hon'ble Supreme Court as also of this Court and hence, this Court is

of the view that the petitioner is entitled to the tariff concession as it has fully satisfied two tests laid down by the Hon'ble Supreme Court viz., i) having been given readiness letter on 11.03.1996 and ii) having commenced commercial production before the cut of date. Therefore, this Court has no hesitation to hold that the impugned demand made against the Petitioner is illegal and arbitrary. Accordingly, the impugned demand notice raised against the Petitioner in letter dated 08.08.2016 bearing Lr.No.SE/NEDC / NKL/DFC/HT/AS/Asst/F:HT 159/2016 of the 5th Respondent is liable to be set aside, as such a demand violates the principles of natural justice and the proposition laid down in the judgment of the Hon'ble Supreme Court in Civil Appeal No. 3940 to 4084 of 2008 dated 16.05.2008.

27. Accordingly, the writ petition stands allowed and the impugned demand notice dated 08.08.2016 bearing Lr.No.SE/NEDC/NKL/DFC/HT/AS/Asst/F:HT 159/2016 issued by the 3rd respondent is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

jd /sp

To

1. The Secretary to Government,
State of Tamil Nadu,
Energy Department,
Secretariat, Fort St.George,
Chennai - 600 009.

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

3. The Chief Engineer / Commercial,
TANGEDCO,
144, Anna Salai,
Chennai – 600 002.

4.The Superintending Engineer,
Mettur Electricity Distribution Circle,
TANGEDCO,
Mettur Dam.

5.The Superintending Engineer,
Namakkal Electricity Distribution Circle,
TANGEDCO,
Namakkal.

+1cc to Mr.R.S.Pandiyaraj, Advocate SR. No.61594

W.P.No.10629 of 2017 and
W.M.P.Nos.11565 & 11566 of 2017

AD (CO)
PR (27/12/2021)