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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2021

C O R A M

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.33830 of 2017

and

W.M.P.Nos.37494 to 37496 of 2017

M/s. Jeppiaar Furnace and Steels Pvt.Ltd.,
H.T.Sc.No.473,
Survey No.34,35,36 and 37,
Kunnavakkam Village,
Panrutti Post, Kancheepuram District- 631 604,
rep. By its Authorized Signatory,
Mr.V.Sekar Salamon.

...Petitioner

Vs

1. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Corporation
Limited,
(TANGEDCO),
144, Anna Salai, Chennai - 600 002.

2. Chief Financial Controller/Revenue, (Accounts Branch)
TANGEDCO,
144, Anna Salai, Chennai - 600 002.

3. The Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary,
No.19A, Rukmani Lakshmipathy Salai,
Egmore, Chennai - 600 008.

4. The Superintending Engineer,
TANGEDCO Ltd.,
Chengalpet Electricity Distribution Circle,
Chengalpet.

...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 second respondent contained in impugned letter CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.115/13 dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.



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For Petitioner : Mr.K.Seshadri
For R1, 2 & 4 : Mr.L.Jai Venkatesh
Standing Counsel

ORDER

This writ petition has been filed seeking to quash the impugned order passed by the second respondent, dated 29.07.2013.

2.At the outset, the learned counsel appearing for the petitioner would submit that the similar issue involved in this Writ Petition was considered by the learned single Judge of this Court and the orders impugned therein were quashed by this Court. Aggrieved by the same, the respondents have preferred Appeals being W.A.Nos.2539 & 2540 of 2018 before the Hon'ble Division Bench, wherein, interim orders were passed, directing the consumers to pay 50% of the demand made pursuant to the issuance of the impugned orders. The relevant portions of the order passed by the Division Bench are extracted hereunder:

"6.This court has carefully considered the rival submissions and also perused the materials placed. In the light of the stand taken by the Tamilnadu Electricity Regulatory Commission in the counter affidavit in paragraph No.14 in W.P.No.28256 of 2014 etc., batch of writ petitions, coupled with the decision of the said Commission, vide the order dated 31.03.2016 in R.A.No.6 of 2013, this Court is of the considered view that prima facie case has been made out for grant of interim orders.

7. Hence, there shall be an order of interim stay as prayed for till 17.12.2018. It is also brought to the notice of this Court by the learned Advocate General that during the pendency of the writ petitions interim stay has been granted subject to the condition that the writ petitioners pay 50% of the amount demanded within a stipulated time.

8. Therefore, in the light of the above facts and circumstances, and reasons assigned above, this Court is of



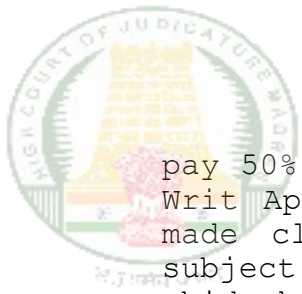
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the considered view that the same arrangement shall continue till the disposal of the writ appeals for the reason that appellant in the event of success in these appeals may not be able to recover it and there may be possibility of respondents / writ petitioners to wind up operations due to vagaries of business or other reasons. Therefore, without prejudice to the rights and contentions, the first respondents / writ petitioners shall continue to pay 50% of the demand made as per the impugned orders / demand, the subject matter of challenge in the writ petitions, within a period of two weeks from the date of each demand. It is also made clear that the amount collected by virtue of the interim order in the writ petitions as well as in these writ appeals, by the appellant is also subject to the result of these writ appeals, and if the appellant fails, they are liable to refund the Deemed Demand Charges already collected from the first respondents / writ petitioners. Call on 17.12.2018.

2.1 The learned counsel submits that, in the light of the above order passed by the Division Bench, the petitioner has been paying the 50% deemed demand charges. Therefore, the learned counsel submits that, the present Writ Petition may be disposed of, directing the petitioner to pay 50% of the demand made towards the deemed charges till the Writ Appeals are disposed of by the Division Bench and the petitioner would abide by whatever decision is taken in the Writ Appeals. The learned counsel furthermore submitted that this Court also, in the light of the interim order passed by the Division Bench, disposed of Writ Petitions, involving similar issue and he also produced a copy of the order, dated 16.11.2021 passed in one such Writ Petition viz., W.P.No.26613 of 2017 for reference and prayed that the present Writ Petition may be disposed on the same lines.

3.The learned Standing Counsel for the respondent-TANGEDCO has no objection in following the earlier order passed by this Court, in W.P.No.26613 of 2017, dated 16.11.2021.

4.In the light of the above, the present Writ Petition standis disposed of, by directing the petitioner to continue to



pay 50% of the amount as demanded in the impugned order till the Writ Appeals are disposed of by the Division Bench. It is also made clear that the payment made by the petitioner will be subject to the result of the Writ Appeals and petitioner shall abide by the final orders to be passed by the Division Bench in those Writ Appeals. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To:

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4. The Superintending Engineer,
TANGEDCO Ltd.,
Chengalpet Electricity Distribution Circle,
Chengalpet.

+1cc to Mr.K.Seshadri, Advocate, S.R.No.68397

W.P.No.33830 of 2017

GSM(CO)
RGA(06/01/2022)