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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.16894 of 2017
and W.M.P.Nos.18359 to 18361 of 2017

Guruvayurappan Textiles (P) Ltd B Unit,
HTSC No.125,
Puspathur Village, Palani Taluk,
Dindigul,
rep. by its Manager M.Rajkumar

...Petitioner

Vs

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

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

3.The Superintending Engineer,
Dindigul Electricity Distribution Circle,
TANGEDCO, Dindigul.

4.Tamil Nadu Electricity Regulatory Commission,
Through its Secretary,
No.19A, Rukmani Lakshmipathy Salai,
Egmore, Chennai - 600 008. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, prayed for the issuance of Writ of Certiorari, calling for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.HT/AS.3/ REV/D.No.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.

For Petitioner : Mr.R.S.Pandiaraj
For R1 to R3 : Mr.L.Jai Venkatesh
Standing Counsel

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ORDER

This writ petition has been filed aggrieved by the withdrawal of the concession of the deemed demand charges extended to the petitioner by the respondents.

2. This issue was considered by the learned single Judge of this Court and similar impugned orders were quashed by this Court. Aggrieved by the same, the respondents have preferred an appeal and the same is pending in W.A.Nos.2539 & 2540 of 2018.

3. The Division Bench while entertaining the writ appeal directed the concerned parties to pay 50% of the demand made pursuant to the issuance of the impugned order. The relevant portions in 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 the considered view that the same arrangement shall continue till the disposal of the writ appeals for the

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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 challege 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.

4. In the light of the above order passed by the Division Bench, the petitioner has been paying the 50% deemed demand charges. Hence, the writ petition is disposed of with a direction to the petitioner to continue to pay 50% of the demand made towards the deemed demand charges till the writ appeal is 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 passed by the Division Bench while disposing of the writ appeals.

5. The writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

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GPL(CO)
SP(27/12/2021)

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