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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.16941 of 2017

and

W.M.P.Nos.18396 to 18398 of 2017

M/s.Sriee Balamurugan Paper Boards  
HTSC No.336  
S.F.No.96/2A & 2B, Yenipalikkadu,  
Southapuram Post, Pallipalayam,  
Tiruchengode Taluk, Namakkal.  
Represented by its Managing Partner  
B.Ravikumar

...Petitioner

Vs

- 1.Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)  
10th Floor, 144, Anna Salai, Chennai 600 002.  
Represented by its  
Chairman and Managing Director
- 2.The Director-Distribution,  
TANGEDCO,  
10th Floor, Anna Salai, Chennai 600 002.
- 3.The Chief Financial Controller-Revenue  
TANGEDCO,  
7<sup>th</sup> Floor, 144, Anna Salai, Chennai 600 002.
- 4.Tamilnadu Electricity Regulatory Commission,  
19-A, Rukumini Lakshmipathy Salai,  
Egmore, Chennai 600 008.  
Represented by its Secretary.
- 5.The Superintending Engineer,  
Mettur Electricity Distribution Circle,  
TANGEDCO,  
Mettur Dam.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, prayed for the issuance of Writ of Certiorarified Mandamus calling for the records of the 3<sup>rd</sup>



respondents Memo.No.CFC/FC/REV/AS.3/D.325/17, dated 15.03.2017 and the consequential and further proceedings in (i) Memo.No.CFC/REV/FC/REV/AS.3/F.CGP/D.203/17, dated 18.03.2017; (ii) Circular Memo No.CFC/REV/FC/REV/AS.3/F.CGP/D.329/17 Dated 30/31.03.2017; (iii) Lr.No.CFC/REV/FC/REV/DFC/AO.4/F.CGP Status/D.259/2017 dated 31.03.2017; (iv) Memo.No.CFC/REV/FC/FC/REV/F.CGPStatus/D.334/17 dated 07.04.2017; issued by the 2nd respondent (v) Memo.No.CFC/REV/FC/REV/AS.3/F.CGP/D.338/17, dated 15.04.2017 (vi) Memo.No.CFC/REV/FC/REV/AS.3/F.CGP/D.340/17, dated 15.04.2017 issued by the 3rd respondents and L.R.NO.SE/-MEDC/DFC/AOR/AAO/AS/HT/F.CGP Status/D.No.250/2017 dated 05.05.2017 issued by the 5<sup>th</sup> respondent and quash the same as being contrary to law and direct the respondents to strictly comply with the statutory provisions of Electricity Act 2003, Electricity Rules, 2005 and the binding judgments of the Hon'ble APTEL, in the matter of determination and verification of status of the Captive Generating Plants by approaching the Tamilnadu Electricity Regulatory Commission for directions and determination of the status of the Captive Generating Plants as stipulated under the provisions of Electricity Rules, 2005 and confirmed by the binding judgments of the Hon'ble APTEL.

For Petitioner : Mr.S.P.Parthasarthy

For R1, 2, 3 & 5 : Mr.L.Jai Venkatesh  
Standing Counsel

#### ORDER

This writ petition was filed, challenging the various circulars/memos mentioned above, issued by the 3<sup>rd</sup> respondent/The Chief Financial Controller-Revenue of the TANGEDCO.

2. When the matter is taken up for hearing, the learned counsel for the petitioner submits that initially, a similar issue was under challenge before the Appellate Tribunal for Electricity, New Delhi. The said Tribunal has passed the following order :

#### "17. Summary of Findings:-

Based on issue-wise discussion & analysis, stated supra, we sum up our findings as under:-

17.1 Issue No.1:- We hold that the second Respondent/TANGEDCO can be entrusted with the exercise of collecting & verifying



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data for the purpose of verification of captive plant status only. However, any coercive action to be initiated against the CGP /captive users regarding its captive status or for recovery of CSS, as per law, it shall be decided by the first Respondent / State Commission.

17.2 Issue No.2:- We hold that for the purpose of granting open access for captive purpose, the document as recorded at Para 11.3 shall be adequate/sufficient. Needless to mention that these documents, as specified therein, are within the framework of TNERC Grid Connectivity & Intra State Open Access Regulations, 2014 and also do not violate the provisions of Rule 3 of the Electricity Rules, 2005.

17.3 Issue No.3:- We hold that as per provisions stipulated under the Rule 3 of the Electricity Rules, 2005, the SPV & AOP are two distinct entities and cannot be equated at par for computation of annual power consumption for determining the captive status.

17.4 Issue No.4:- We hold that the verification for determining ownership & consumption for CGP /captive users under Rule 3, being an independent exercise, has to be done on annual basis, at the end of financial year.

Judgment of Appeal No.131 of 2020 17.5 Issue No.5:- We hold that the directions contained in Paras 6.6.3 and 7.8.2 of the impugned order passed by the State Commission are in disregard to Rule 3 of the Electricity Rules and hence, cannot be sustained.

17.6 Issue No.6:- We hold that as per settled principles of law, there cannot





5. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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SD/-  
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

jd/sp  
To

- 1.The Chairman and Managing Director,  
Tamil Nadu Generation and Distribution  
Corporation Limited (TANGEDCO),  
10<sup>th</sup> Floor, 144, Anna Salai,  
Chennai 600 002.
- 2.The Director-Distribution,  
TANGEDCO,  
10th Floor, Anna Salai,  
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- 3.The Chief Financial Controller-Revenue  
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- 4.The Secretary,  
Tamilnadu Electricity Regulatory Commission,  
19-A, Rukumini Lakshmipathy Salai,  
Egmore, Chennai 600 008.
- 5.The Superintending Engineer,  
Mettur Electricity Distribution Circle,  
TANGEDCO,  
Mettur Dam.

+lcc to Mr.R.S.Pandiyaraj, Advocate Sr.64656

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srg 20/12/2021