



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP NO.29004 OF 2018

AND

WMP NOS.33913, 33914, 33909 OF 2018

- 1 M/s.Sri M.S.T.Smelters P Ltd
HTSC No.303, Pappankadu, Karukkampalayam Village,
Morur, Sankari Taluk, Salem,
Rep. by its Manager N.S.Suresh ..Petitioner

Vs

- 1 The Tamil Nadu Electricity Regulatory Commission
Rep. by its Secretary,
No.19A , Rukmani Lakshmipathy salai, Egmore,
Chennai 600 008.
- 2 The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144 Anna Salai chennai - 600 002.
- 3 The Chief Financial Controller/Revenue,
TANGEDCO No.144, Anna Salai,
Chennai -600 002.
- 4 The Superintending Engineer
Namakkal Electricity distribution circle
TANGEDCO Namakkal.
- .. Respondents

Prayer :-

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the impugned memo No.CFC/REV/FC/REV/DFC/AAO/HT/D207/18 dated 02.04.2018 issued by the 3rd Respondent and consequential Lr.No.SE/NEDC/ NKL/DFC/HT./F.HT SC No.303/D. 365 /2018 dt.12.10.2018 issued by the 4th Respondent Quash the same as illegal arbitrary and against the provisions of Electricity Act 2003 and the Tariff order No. T.P. No.1 of 2017 dated 11.08.2017 issued by the 1st Respondent.



WEB COPY

For Petitioner : Mr.R.S.Pandiyaraj
For Respondents : Mr.Abdul Kalam
Standing Counsel

O R D E R

This writ petition has been filed challenging the impugned memo issued by the 3rd respondent dated 02.04.2018 and the consequential letter issued by the 4th respondent dated 12.10.2018.

2. Heard the learned counsel for the petitioner and the learned Standing counsel appearing on behalf of the respondents.

3. The issue that is involved in the present writ petition is squarely covered by the earlier order passed by this Court in a batch of writ petitions in WP. No. 20954 of 2018 and batch dated 03.01.2019. While allowing the writ petitions, the similar memo and consequential letter were set aside. As against the said order, the TANGEDCO filed an Appeal in W.A. No. 1241 etc. of 2019. The Appeals were disposed of by an order dated 17.07.2019 and the relevant portions in the order are extracted hereunder :-

5. In view of the fact that all the issues raised in the present litigation before this Court can very well be decided by the Appellate Tribunal, namely, APTEL, under the provisions of the Electricity Act, 2003, we refrain from expressing any opinion on the rival contentions. We, therefore, relegate the parties to the said Appellate Forum, namely, Appellate Tribunal for Electricity (APTEL). If the Respondents-writ petitioners-Industrial Units intend to challenge the order of TNERC, dated 13.03.2018, before APTEL, they are given liberty to file appeals against the said order even now. If such appeals are filed within three months from today, without raising any objection as to limitation, we request the learned APTEL to entertain such Appeals and decide the same on merits, along with Appeal No.356 of 2017, filed by TASMA.

6. In view of the urgency of the matter and the issues involved before APTEL affecting large number of Industrial Units, to avoid any further confusion, we request the learned APTEL to decide the pending appeals, if any filed as stated above, and Appeal No.356 of 2017 within a period of six months from today, after giving an opportunity of hearing to all the parties concerned.



WEB COPY

7. We make it clear, that, in the meanwhile, the Appellant- TANGEDCO will not insist upon the Respondents-Industrial Units for any recovery of the dues on account of the alleged Clarification issued by TNERC on 13.03.2018, nor the Respondents-Industrial Units shall be entitled to any refund or adjustment in this regard of the amounts already paid by them in pursuance of the order, dated 13.03.2018. All these inter se Billing and Recovery or Refund will abide by the final orders, to be passed by APTEL within six months, as indicated above.

5. Pursuant to the above order, the matter is now pending before the APTEL and the same is evident from the daily order that has been produced before this Court dated 05.07.2021.

6. In view of the above, there shall be a direction to the respondents not to insist for any recovery of dues on account of the alleged clarification issued by TNERC on 13.03.2018 and the petitioner will also not be entitled for any refund or adjustment in this regard for the amount already paid by them. All these shall await the final orders to be passed by APTEL in the pending proceedings.

7. This writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rka/sha

To

- 1 The Tamil Nadu Electricity Regulatory Commission
Rep. by its Secretary,
No.19A , Rukmani Lakshmipathy salai, Egmore,
Chennai 600 008.
- 2 The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144 Anna Salai chennai - 600 002.



3 The Chief Financial Controller/Revenue,
TANGEDCO No.144, Anna Salai,
Chennai -600 002.

4 The Superintending Engineer
Namakkal Electricity distribution circle
TANGEDCO Namakkal.

+lcc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.46190

+lcc to Mr.Abdul Kalam, Standing Counsel TNED, S.R.No.46635

WP No.29004 of 2018
and WMP Nos.33913, 33914, 33909, of 2020

KSM(CO)
PM/05/10/2021