



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WP NOS.15245 AND 15246 OF 2015
AND MP NOS.1 AND 2 OF 2015

WP NO.15245 / 2015

M/s.Shri Pariyur Amman Kraft
Papers Pvt. Ltd., [HTSC No.364]
Plot No.D13 to D15 & D26 to D28
SIPCOT, Perundurai - 638 052.
Erode District.
Rep. by its Managing Director
K.M.Shanmuga Perumal

... Petitioner

Vs.

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

2.The Superintending Engineer
TANGEDCO Ltd.,
Erode Electricity Distribution Circle
Erode - 9.

3.Central Electricity Authority (CEA)
Rep. by its Chairperson
6th Floor, Sewa Bhawan,
R.K.Puram, New Delhi - 110 066.

4.Tamil Nadu Electricity Regulatory
Commission (TNERC)
Rep. by its Secretary
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road) Egmore,
Chennai - 600 008.

... Respondents

PRAYER: Writ Petition filed Under Article 226 of the
Constitution of India, to issue a writ of Certiorarified



Mandamus, to call for the records of the 2nd respondent in the impugned letter bearing No.Lr.No.SE/EEDC/ED/AEE/DEV/JE/CI II/F.Harmonics/R 679/13 dated 03.09.2013 ending with the order of the 2nd respondent in Lr.No.SE/EEDC/A/CS.BR/HT/A5/F.HTSC.364 Harmonics/D.398/2015 dated 13.05.2015 and quash the same and forbear the 1st and 2nd respondents, their men, officers, agents, servants, representatives and / or anyone claiming through or under them and / or any other person from in any manner insisting on harmonic control and levying, demanding and / or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.364 either through the CC Bills or in any other manner who is connected with 11 KV supply line.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondents : Mr.M.Abdul Kalam
1, 2 and 4

For Respondent 3: Mr.K.Ramanamoorthy
Central Government Standing Counsel

WP NO.15246 / 2015

M/s.Shri Vaikunth Paper & Board
(P) Ltd., (HTSC No.90)
SF No.225, Ikkaraithathapalli,
Sathy - 638 401.
Erode District.

Rep. by its Managing Director S.Ramakrishnan ... Petitioner

Vs.

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

2.The Superintending Engineer
TANGEDCO Ltd.,
Gobi Electricity Distribution Circle
Gobichettipalayam.

3.Central Electricity Authority (CEA)
Rep. by its Chairperson
6th Floor, Sewa Bhawan,
R.K.Puram, New Delhi - 110 066.



4.Tamil Nadu Electricity Regulatory
Commission (TNERC)

Rep. by its Secretary

19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road) Egmore,
Chennai - 600 008.

... Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in the impugned letter bearing No.Lr.No. SE / GEDC/ AAE.GL / FA/F.Harmonics/D.No.700/15 dated 20.02.2015 ending with the order of the 2nd respondent in Lr.No.SE/G/DFC/HT/AS2/F.Harmonics com. Charges/D.No.140/2014 dated 12.05.2015 and quash the same and forbear the 1st and 2nd respondents, their men, officers, agents, servants, representatives and / or anyone claiming through or under them and / or any other person from in any manner insisting on harmonic control and levying, demanding and / or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.90 either through the CC Bills or in any other manner who is connected with 11 KV supply line.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondents : Mr.M.Abdul Kalam
1, 2 and 4

For Respondent 3: Mr.K.Ramanamoorthy
Central Government Standing Counsel

COMMON ORDER

The impugned demand notice passed by the second respondent dated 13.05.2015 and 12.05.2015 respectively, are sought to be quashed in these writ petitions and a further direction is also sought to forbear the 2nd respondent from in any manner levying, demanding and/or collecting surcharges for not providing the harmonic controls from the petitioners, who are connected with 11 KV supply line.

2.The relief sought for in the present writ petitions is similar to the relief sought for by the writ petitioners in a batch of writ petitions in W.P.NO.25 OF 2015 [M/S.S.PALANIYANDI MUDALIAR MEMORIAL HOSPITAL VS. TANGEDCO] ETC. AND BATCH, which was decided by this Court on 05.06.2017.



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above."

A conjoint reading of the above said provisions show that a person such as, Generating Company including captive generating plant or Transmission Licensee or Distribution Licensee or Bulk Consumer, whose electrical plant is connected to the grid at voltage level 33 kv and above. Therefore, it is clear that the above said Regulations are applicable to only those consumers whose electrical plant is connected to the Grid at the voltage level of 33kv and above, hence, the petitioners, who are connected to the Grid at voltage level of 11kv/22kv supply lines, cannot be made applicable under the said Regulations.

26. Again, to be more clear, it is also pertinent to refer to Section 34 of the Electricity Act, 2003, dealing with the Grid Standards, which is given as under:-

"34. Grid Standards.----- Every transmission licensee shall comply with such technical standards, of operation and maintenance of transmission lines, in accordance with the Grid Standards, as may be specified by the Authority."

It is clear from the above that Section 34 of the Electricity Act, 2003, mandates every transmission licensee to comply with such technical standards of operation and maintenance as may be specified by the Authority, which means, as per Section 2(6) of the Act, the Central Electricity Authority (CEA) is the Authority as referred to in sub-section (1) of Section 70. Thus, the CEA, established under Section 70 and whose functions are set forth in Section 73, has the exclusive powers under Section 73(d) of the Act. It is also pertinent to extract Section 73(d) of the Act, which is given as under:-

"(d) specify the Grid Standards for operation and maintenance of transmission lines."

27. In view of the above legal



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the Central Electricity Authority, New Delhi, issued a clarification on 26.08.2015 with regard to applicability of Part IV of CEA Regulations, 2007. Relevant portion of the said communication is extracted below:

"This has reference to the Part IV of the CEA (Technical Standards for Connectivity to the Grid) Regulations, 2007. It is clarified that:

(iii) The condition of voltage and current harmonic as prescribed under Part IV is applicable only to the consumers which are defined as bulk consumers and drawing power at 33kv and above.

(iv) For the purpose of bulk consumer means a consumer who avails supply at voltage of 33kv or above.

Therefore, Part IV of CEA Regulations is applicable only to consumers drawing power at 33kv or above and any consumer who is drawing power below 33kv shall not be covered under Part IV of CEA (Technical Standards for Connectivity of the Grid) Regulations, 2007."

From the above said communications of the Chief Engineer (Legal) as well as the Secretary of the Central Electricity Authority, New Delhi, it is crystal clear that the consumers connected with 11kv/22kv supply lines are placed outside the scope and purview of the Part IV of the CEA Regulations, 2007, and that it has further categorically clarified that 11kv/22kv supply lines consumers are not subjected to harmonic control norms, however, 33kv and above supply lines consumers are alone directed to comply with harmonic control norms. Thus, the impugned demands issued by the respondent/TANGEDCO directing the petitioners, who are admittedly connected with 11kv/22kv supply lines, are against the CEA Regulations, 2007.

32. Further, it is also pertinent to note that the CEA, who is the competent authority to declare the harmonic distortion levels, has not declared harmonic distortion levels to the consumers connected with



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11kv/22kv either through the CEA Regulations, 2007, or by any other relevant provisions. Therefore, until the CEA prescribes any standard of harmonics for 11kv/22kv supply lines consumers and makes them also obligatory for harmonic controls, no obligation can be cast upon the 11kv/22kv supply lines consumers for compliance.

33. Taking support from Sections 50, 86 and 181 of the Act read with Regulation 4(1) (iv) of the Tamil Nadu Electricity Supply Code, learned Additional Advocate General sought to sustain the impugned order levying harmonic charges on the 11kv/22kv supply line consumers. In this context, let me extract below the above said provisions:

50. The Electricity Supply Code :- The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for nonpayment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

"Section 86 - Functions of State Commission.-

(1) The State Commission shall discharge the following functions, namely:--

(a) determine the tariff for generation, supply transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State: Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or



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licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity;

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of subsection (1) of section 79;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary;

(k) discharge such other functions as may be assigned to it under this Act." Section 50 of the Act dealing with the Electricity Supply Code statutorily provides for the cases, inter alia, with regard to the tampering of electric lines or meter and method of collection of electricity charges. Similarly, Section 86 of the Act empowers the State Commission to determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk and retail within the State. But, till date, it has not provided for setting up of standards for harmonics charges. Therefore, neither Section 50 nor Section 86 of the Act supports respondent TANGEDCO in the matter of levying of harmonic



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charges on the 11kv/22kv supply line consumers.

34. Likewise, Section 181 gives power to the State Commission to make Regulations consistent with the Act and Rules to carry out the provisions of this Act. By exercising such power, the Tamil Nadu Electricity Regulatory Commission had issued the Tamil Nadu Electricity Supply Code, wherein the Regulation 4(1)(iv) of the Tamil Nadu Electricity Supply Code, which is extracted below, deals with additional charges for harmonic dumping.

"4.Charges recoverable by the Licensee
- The charges, recoverable by the Licensee from the consumers are:-

xxxx

(1). Tariff related charges, namely,
- (iv). Additional charges for harmonics dumping

Where any equipment installed by a consumer generates harmonics, the consumer shall provide adequate harmonic suppression units to avoid dumping of harmonics into Licensee's distribution system and the Licensee is at liberty to provide suitable metering equipment to measure the harmonic level pursuant to such harmonic. Where the consumer fails to provide such units, he shall be liable to pay compensation at such rates as the Commission may declare from time to time."

In view of Regulation 4(1)(iv) of the Tamil Nadu Electricity Supply Code, although the State has got power to direct the consumers to install harmonic filters irrespective of their voltage connection as stated by learned Additional Advocate General for the TANGEDCO, the same cannot be sustained in view of non-specification of any standard of harmonics for 11kv/22kv/supply line consumers by the CEA, who, being an Apex Body as per Section 73(d) of the Act, has exclusive powers to specify the Grid Standards for operation and maintenance of transmission lines.

35. Thus, for all the reasons stated above, the impugned demands are quashed. Consequently, the writ petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are also closed. "



4. In view of the fact that the case of the petitioners is also similar to that of the cases cited supra, and the petitioners are also entitled to the relief. Accordingly, the impugned demand notice dated 13.05.2015 and 12.05.2015 respectively, are quashed and the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

TK

To

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

2. The Superintending Engineer
TANGEDCO Ltd.,
Erode Electricity Distribution Circle
Erode - 9.

3. The Superintending Engineer
TANGEDCO Ltd.,
Gobi Electricity Distribution Circle
Gobichettipalayam.

4. The Chairperson
Central Electricity Authority (CEA)
6th Floor, Sewa Bhawan,
R.K.Puram, New Delhi - 110 066.

5. The Secretary
Tamil Nadu Electricity Regulatory
Commission (TNERC)
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road) Egmore,
Chennai - 600 008.

WP NOS.15245 & 15246 OF 2015

RSV(CO)
GN(03/03/2022)