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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.16613 & 16614 of 2015
and M.P.Nos.1,1, 2 & 2 of 2015

1. Vedagiri Paper & Boards (P) Ltd. HTSC No.276
No.25 Mudhali Thottam,
Veerappanchatram Post, Erode 638 004
Rep by its Authorized Signatory,
R. Rajendran

... Petitioner in W.P.No.16613 of 2015.

2. Rajaguru Spinning Mills Pvt. Ltd. HTSC No.079
3/249 Sankari Main Road
Vediyarasmalayam Pallipalayam Erode 638 008
Rep. by its Authorized Signatory
T. Selvaraj

... Petitioner in W.P.No.16614 of 2015.

Vs.

1. The TANGEDCO,
Rep by its Chairman,
No.800, Anna Salai,
Chennai 600002.

2. The Chief Engineer - Commercial
TANGEDCO
144 Anna Salai, Chennai 600002

3. The Chief Financial Controller-Revenue
TANGEDCO
144 Anna Salai
Chennai 600002.

4. The Superintending Engineer
Erode Electricity Distribution Circle
TANGEDCO
Erode.

...Respondents 1 to 4 in boths WPs

5. The Accounts Officer,
Erode Electricity Distribution Circle,
TANGEDCO,
Erode.

...R5 in WP No.16614 of 2015



6. Central Electricity Authority

Rep by its Chairperson

6th Floor, Sewa Bhawan, R.K.Puram,

New Delhi 110 066.

...R5 in W.P.No.16613 of 2015

& R6 in WP No.16614 of 2015

7. Tamil Nadu Electricity

Regulatory Commission (TNERC),

Represented by its Secretary,

19-A, Rukmini Lakshmipathy Salai

(Marshall's Road), Egmore,

Chennai-600008.

....R6 in W.P.No.16613 of 2015

& R7 in WP No.16614 of 2015

PRAYER in W.P.No.16613 of 2015 : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondents impugned notice bearing Lr. No. SE/ EEDC/ A/CS.BR.HT/A4/F.HTSC 276 Harmonics/D.500/2015 dt 25.5.2015 quash the same as illegal arbitrary without the authority of law and against the provisions of the CEA (Technical Standards for Connectivity to the Grid) Regulations 2007 and consequently forbearing the 2nd and 4th respondent from in any manner levying demanding and/or collecting surcharges for not providing the harmonic controls from the petitioner who is connected with 22 KV supply line.

PRAYER in W.P.No.16614 of 2015: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondents impugned notice bearing Lr. No. SE/ EEDC/ A/CS.BR.HT/A1/F.HTSC 79 Harmonics/D.446/2015 dt 15.5.2015 and impugned CC bill dt 30.5.2015 issued by the 5th respondent in so far as it relates to the levy of Harmonic Compensation Charges tune of Rs. 3 41 858/- in Serial No.14 (Add/Less Adjustment Charges) quash the same as illegal arbitrary without the authority of law and against the provisions of the CEA (Technical Standards for Connectivity to the Grid) Regulations 2007 and consequently forbearing the 2nd and 4th respondent from in any manner levying demanding and/or collecting surcharges for not providing the harmonic controls from the petitioner who is connected with 22 K supply line.

In both WPs

For Petitioners: Mr.M.Saravanakumar

For Respondents : Mr.L.Jaivenkatesh

for TANGEDCO [R1 to R5]

Mr. P.Saravanan [R6]

No Appearance[R7]



COMMON ORDER

The impugned demand notices passed by the 4th respondent dated 15.05.2015 and 25.05.2015 are sought to be quashed in the present writ petitions and a further direction is also sought to forbear the 2nd and 4th respondent from in any manner levying demanding and/or collecting surcharges for not providing the harmonic controls from the petitioners who are connected with 22 K 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 v. TANGEDCO], etc. and batch, which was decided by this Court on 05.06.2017.

3. The relevant paragraphs of the said order are extracted hereunder :

"24. In view of the above, since the harmonics have several undesirable effects and affects power quality, on 21.02.2007, the Central Electricity Authority (CEA) introduced a new Regulation and accordingly, its Technical Standards for Connectivity to the Grid Regulations, 2007, came for enforcement. Applicability of the Regulations is provided in Regulation 3, which reads as under:

"3. Applicability of the Regulations -
These Regulations shall be applicable to all the users, requesters, Central Transmission Utility and State Transmission Utility."

It is clear from the above that the said Regulation is applicable only to four categories, namely, Users, Requesters, Central Transmission Utility and State Transmission Utility.

25. In this context, let me find out the meaning given under the CEA Regulations, 2007, for Users and Requesters. Section 2(34) defines the meaning of "User", which is given as under:-

"2(34)-- User means a person such as, a Generating Company including captive generating plant or Transmission Licensee (other than the Central Transmission Utility and State Transmission Utility) or Distribution Licensee or Bulk Consumer, whose electrical plant is connected to the grid at voltage level 33kv and above."

Section 2(25) defines the meaning of "Requester", which is given as under:-

"2(25)-- Requester means a person, such as



"This is reference to your letter dated 07.08.2015 on the above subject. It is to inform that almost 305 case are filed in the Hon'ble Court by the petitioners having grievances similar to this case. It is to submit that:

(ii) Further any consumer who is connected below 33kv to the distribution system is not governed by the Grid Standards for connectivity to the Grid.

Therefore, only systems which can directly affect the Grid are covered under such Standards and as such the present petition for the consumers connected at 33kv or above which are defined as Bulk Consumer shall be covered for Harmonic Compensation."

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

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(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 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,



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tampering, distress or damage to electrical plat, 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 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



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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 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."



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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 are also similar to that of the cases cited supra, and the petitioners are also entitled to the relief. Accordingly, the impugned demand notices are quashed and the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

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Sub Assistant Registrar

shr/ska

To

1. The TANGEDCO
The Chairman,
No.800, Anna Salai,
Chennai -600002.
2. The Chief Engineer - Commercial
TANGEDCO
144 Anna Salai, Chennai 600002
3. The Chief Financial Controller-Revenue
TANGEDCO
144 Anna Salai
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4. The Superintending Engineer
Erode Electricity Distribution Circle
TANGEDCO
Erode.

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5. The Chairperson
Central Electricity Authority
6th Floor, Sewa Bhawan, R.K.Puram,
New Delhi 110 066.
6. The Secretary,
Tamil Nadu Electricity
Regulatory Commission (TNERC),
19-A, Rukmini Lakshmipathy Salai
(Marshall's Road), Egmore,
Chennai-600008.
7. The Accounts Officer,
Erode Electricity Distribution Circle,
TANGEDCO,
Erode.

+2ccs to Mr.RS.Pandiyaraj, Advocate SR.No.5945

W.P.Nos.16613 & 16614 of 2015
and M.P.Nos.1,1, 2 & 2 of 2015

JPL(CO)
GMY(16/02/2022)