IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.20255 & 20256 of 2012 and
M.P.Nos.2, 2, 3 & 3 of 2012

Tvl.Talent Steel Industries (P) Ltd.,
Rep. By the Director,
43, Vivekananda Road,
Ram Nagar, Coimbatore - 641 009.
... Petitioner in both Wps

Vs

1. The State of Tamil Nadu
   Rep. By the Secretary,
   Department of Energy,
   Fort St. George, Chennai - 600 009.

2. The Chairman and Managing Director,
   Tamil Nadu Electricity Generation and
   Distribution Corporation Limited,
   114 (Old 800), Anna Salai,
   Chennai - 600 002.

3. The Chief Finance Controller,
   Tamil Nadu Electricity Generation and
   Distribution Corporation Limited,
   114 (Old 800), Anna Salai,
   Chennai - 600 002.

4. The Superintending Engineer,
   Tamil Nadu Electricity Generation and
   Distribution Corporation Limited,
   Coimbatore Electricity Distribution
   Circle (North),
   Coimbatore - 641 012. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus calling for the records of the second respondent in No.CFC/FC/Rev/AAO/E.Tax/D/No. /12 dated 26.06.2012 and the consequential demand of the fourth respondent in Lr.No.SE/CEDC/N/CBE/DFC/AO/Rev/HT/ A2/F/HT SC.No.199/D/12 dated 10.07.2012 and quash the both as illegal and direct the respondent to follow the provision of Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 for recovery in HT SC 199.

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus calling for the records of the second respondent in No.CFC/FC/Rev/AAO/E.Tax/D/No. /12 dated 26.06.2012 and the consequential demand of the fourth respondent in Lr.No.SE/CEDC/N/CBE/DFC/AO/Rev/HT/A2 /F/HT SC.No.180/D/12 dated 10.07.2012 and quash the both as illegal and direct the respondent to follow the provision of Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 for recovery in HT SC 180.

In both WPs

For Petitioners	:	Mr.S.Rajesh
For 1st Respondent	:	Mr.T.Venkatesh Kumar Special Government Pleader
For Respondents 2 to 4	:	Mr.L.Jai Venkatesh Standing Counsel for TANGEDCO

COMMON ORDER

The relief sought for in these writ petitions is to call for the records of the 2nd respondent dated 26.06.2012 and the consequential demand of the 4th respondent dated 10.07.2012 and quash the same.

2. It is brought to the notice of this Court that a batch of Special Leave petitions are pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court has passed an interim order dated 31.08.2012, restraining the respondents from taking any coercive steps for disconnecting supply of electricity subject to the petitioner paying all the charges/dues except the tax calculated on the basis of maximum demand.

3. This Court had an occasion to deal with a similar issue in WP No.19104 of 2020 and final orders were passed on 17.02.2021. The relevant portions in the order are extracted hereunder :~

> "5. Mr.N.Damodaran, learned Standing Counsel, who took notice on behalf of the respondents would submit that by following the orders of the Hon-ble Supreme Court, a Division Bench of this Court has disposed of issue on the following terms:~
>
> 'In view of the issue raised in the present writ appeal / writ petition being settled against the appellant / petitioner in terms of the Division Bench judgment in W.P.Nos. 159 of 2008 etc. (Batch)

decided on 15.06.2012 and thereafter, the Hon'ble Supreme Court having entertained the Special Leave Appeals against the said judgment bearing Special Leave Appeal (Civil) Nos. 24685 to 24719 of 2012 dated 31.08.2012, with an interim direction restraining the respondent from taking any coercive steps for disconnecting the supply of electricity to the premises of the petitioner therein, subject to that petitioner paying all the charges / dues except tax calculated on the basis of maximum demand, it is agreed that the present writ appeal and writ petition be disposed of in terms aforesaid, with the agreement that the ultimate fate of the matter before the Hon'ble Supreme Court would also govern the present appellant and the writ petitioner and the same interim order would continue to enure for the benefit of the writ appeal and writ petitioner during the pendency of the Special Leave Appeals.

2. Writ Appeal and Writ Petition, accordingly, stand disposed of. No costs. Consequently, W.A.M.P.No. 969 of 2004 stands closed."

6. On the issue of collecting tax on maximum demand charges from the petitioner in the High Tension Service Connection, the Hon'ble Supreme Court and a Division Bench of this Court has already issued a direction, restraining the respondents from taking any coercive steps for disconnecting supply of electricity to the premises of the petitioner subject to the petitioner paying all the charges / dues except tax calculated on the basis of maximum demand."

4. The above order will also enure to the benefit of the petitioner. In view of the same, both the present writ petitions are disposed of in terms of the interim order passed by the Hon'ble Supreme Court and the subsequent Hon'ble Division Bench order passed in W.A No.547 of 2004 dated 02.06.2015. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Secretary,
   State of Tamil Nadu,
   Department of Energy,
   Fort St. George, Chennai - 600 009.

2. The Chairman and Managing Director,
   Tamil Nadu Electricity Generation and
   Distribution Corporation Limited,
   114 (Old 800), Anna Salai, Chennai - 600 002.

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   Chennai - 600 002.

4. The Superintending Engineer,
   Tamil Nadu Electricity Generation and
   Distribution Corporation Limited,
   Coimbatore Electricity Distribution Circle (North),
   Coimbatore - 641 012.

+1cc to Government Pleader SR. No.5660

W.P.Nos.20255 & 20256 of 2012

PCH (CO)
PR (11/02/2022)