IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.25020 OF 2011
AND
M.P.NOS.1 AND 2 OF 2011

M/s.India Pistons Limited,
Huzur Gardens, Sembiam,
Chennai - 600 011.
Rep. by its Group Technology Director,
Dr.R.Mahadevan. ... Petitioner

.Vs.

1. The Chairman,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Anna Salai, Chennai.

2. The Superintending Engineer,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Chengelpet Electricity Distribution Circle,
Chengelpet. ... Respondents

PRAYER:-

The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent Board with respect to the impugned dated 30.09.2011 bearing reference SE/CEDC/CGL/DFC/RCS/AS/F.(Quota)/D.853/11, dated 30.09.2011 pertaining to HT A/c 305 belonging to the petitioner and quash the same and direct the respondents to treat the petitioner as an ordinary consumer by re-fixing the demand and energy quota applicable to HT A/c 305 belonging to the petitioner without deducting power procured from the captive sources or third party sources and by only applying 20% power cut (at present) to the base demand and base energy applicable to the petitioner at various periods.

For Petitioner : M/s.Krishna Srinivasan
For M/s.S.Ramasubramaniam
Associates

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel

O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent Board with respect to the impugned dated 30.09.2011 bearing reference SE/CEDC/CGL/DFC/RCS/AS/F.(Quota)/ D.853/11, dated 30.09.2011 pertaining to HT A/c 305 belonging to the petitioner and quash the same and direct the respondents to treat the petitioner as an ordinary consumer by re-fixing the demand and energy quota applicable to HT A/c 305 belonging to the petitioner without deducting power procured from the captive sources or third party sources and by only applying 20% power cut (at present) to the base demand and base energy applicable to the petitioner at various periods.

2. The petitioner is engaged in the manufacture of ring blanks and white goods. For running his industry, he required continuous and uninterrupted power supply. But, due to the declared power cut at 20% from 17.09.2010, he has procured power from the Captive Sources to meet its requirements of base demand and base energy of 1218 KVA and 381400 units in order to carry on its manufacturing activities.

3. The respondents arrived at the demand and energy quota by first reducing the power procured from the Captive Sources (monthly average based on three consecutive months) from the base demand and base energy and then imposing the power cut (as may be applicable at relevant times). From May, 2010, the petitioner had ceased to procure power from Captive Sources. Even after that, the demand and the energy quota applicable to the petitioner was determined without reducing the monthly average of the power procured from the Captive Sources from the base demand and base energy allotted to the petitioner.

4. The issue of high demand was the subject matter in a batch of Writ Petitions. While such Writ Petitions were pending, the respondents issued a Memo dated 11.02.2011 modifying and clarifying the Memo issued on 17.09.2010. As per Memo dated

17.09.2010, they have first reduced the Captive Power from the base demand and energy and then applied the power cut and arrived at the demand and energy quota applicable to each consumers. But the power cut is to be applied to the base demand and enery and the resultant will be demand and energy quota. There should be no reduction of Captive or third power in cases where consumers have ceased to avail power from the Captive Sources.

5. Again, Memo dated 11.02.2011 was issued, wherein it was stated that (a) the base energy will be the average of any three consecutive months during the period as per the choice of the consumer and to the advantage of the consumer and (b) similarly, the base demand will be the demand recorded in any from during the base period as opted by the consumer limited to the sanctioned demand. However, instructions were issued for fixing quota containing the Memo dated 17.09.2010 which remains unaltered.

6. This Court, in W.P.No.691 of 2011 and bath of Writ Petitions, passed a final order on 28.02.2011, wherein it is mentioned as follows:-

> "16. If a consumer opts out of wheeling agreement and becomes an ordinary consumer, A and E referred in the memo dated 17.11.2008 shall be deemed to be the base energy and base demand".

As per the above paragraph, if a consumer opts out of wheeling agreement and becomes an ordinary consumer, any demand shall be based on the base energy and base demand. But, the respondent sent the Bill for the month of April dated 30.04.2011 pertaining to HT A/c 1084 belonging to the petitioner demanding high amount contrary to the order passed by this Court in W.P.No.691 of 2011 and batch dated 28.02.2011 requested the respondent therein to re-fix the energy quota by only applying 20% power cut to the base energy as per the orders of this Court.

7. The issue has already been considered and decided by this Court and it will squarely apply to the case of the petitioner herein. The petitioner is drawing only base energy and any demand made by the respondents shall be in conformity with the order passed by this Court in W.P.No.691 of 2011, dated 28.02.2011 in respect of similarly placed persons. Therefore, this Court is inclined to set aside the impugned Bill dated

30.09.2011 pertaining to HT A/c 305 and accordingly, the same is set aside. The respondents are directed to re-fix the demand as per the order passed in W.P.No.691 of 2011, dated 28.02.2011.

In the result, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Anna Salai, Chennai.

2. The Superintending Engineer,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Chengelpet Electricity Distribution Circle,
Chengelpet.

+1cc to M/s.S.Ramasubramaniam, Advocate, S.R.No.8217
+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.8540

W.P.NO.25020 OF 2011 AND
M.P.NOS.1 AND 2 OF 2011

SR-II(CO)
PBS/24/02/2022