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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No. 9431 of 2011
and
MP.No.1 of 2011

Lakshman Ganessan Processing (P) Ltd., HTSC No.43]
S.F.No.348, Thottipalayam Village,
Angeripalayam - Tirupur - 641603,
rep. its Authorised Signatory, P.Sampath

...Petitioner

Vs.

1. Tamil Nadu Electricity Regulatory
Commission rep. By its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai - 600 008.
2. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupur.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his Notice SE/TEDC/TPR/DFC/AAO/HT/AS/F. Peak Hour Penalty /D052/11 dated 18.03.2011 and quash the same in so far as it relates to levy of penalty for exceeding quota during evening peak hour as illegal, arbitrary, without the authority of law.

For Petitioner	:	Mr.S.P.Parthasarathy for Mr.R.S.Pandiyaraj
For Respondents	:	Mr.L.Jai Venkatesh, Senior Counsel



O R D E R

The respondent / Electricity Board imposed excess charges on the excess consumption during peak hour period on the consumers like the petitioner. The imposition of the peak hour charges has been challenged before this Court, which was later transferred to the Electricity Regulatory Commission. The Electricity Regulatory Commission has upheld the collection of excess charges on excess consumption during peak hour. The relevant portion of the order dated 04.05.2010 passed by the Electricity Regulatory Commission, which reads as follows:-

"Para 11.7 para 3.9 of the order of the commission in RPN0.2 of 2008 explicitly states as follows,

It must be borne in mind that excess demand charges and excess energy charges are liable in addition to the penalty of drastic reduction of electricity supply to 5% (or 10%) during the following 48 hrs as the case may be for violation of restriction and control measures."

2. Upon an appeal, the Appellate Tribunal for Electricity (APTEL) has quashed the order of the Electricity Regulatory Commission and restricted the respondent / Electricity Board from collecting excess charges and held that the levy of excess charges prior to 04.05.2010 is not sustainable, against which, the respondent / Electricity Board has preferred an appeal before the Hon'ble Supreme Court in Civil Appeal Nos.1090 - 1099 of 2011 and the Hon'ble Supreme Court vide order dated 04.02.2011 granted an interim order, on condition that the Electricity Board furnish a bank guarantee to the tune of Rs.75,00,00,000/- within two weeks. The said order of the Hon'ble Supreme Court, reads as follows:-

"The appellant is hereby directed to furnish Bank Guarantee of a Nationalised Bank in favour of the Registrar (Judicial) of the Supreme Court in the sum of Rupees seventy five crores within two weeks. On furnishing such Bank Guarantee, impugned judgment is stayed."

3. Since the issue involved in the present writ petition is subjudice before the Hon'ble Supreme Court, this present writ petition is disposed of subject to the out come of the civil appeals pending before the Hon'ble Supreme Court. The respondent / Electricity Board is directed to maintain status-



quo till such time. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kkn

To:-

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Tirupur.

+1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.9140

W.P.No. 9431 of 2011
and
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GPL (CO)
SU (25/02/2022)