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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.6437 of 2019

&

W.M.P.Nos.7248, 7252 & 7253 of 2019

M/s.Sri M.S.T.Smelters (P) Ltd.,
HTSC No.303,
Pappankadu Karukkampalayam Village,
Morur, Sankari Taluk,
Represented by its Managing Director,
G.Venkatesh

...Petitioner

Vs.

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

2.The Chief Financial Controller/Revenue
TANGEDCO
144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer,
TANGEDCO,
Namakkal, Electricity Distribution Circle,
Namakkal.

4.The Tamil Nadu Electricity Commission,
Through its Secretary
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent contained in impugned letter CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.115/13 dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.



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For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.Madhusudanan
for Mr.Abul Kalam

O R D E R

Mr.Madhusudanan for Mr.Abul Kalam, learned counsel for the respondents relies upon earlier decisions of this Court that have been followed, by me in other matters including in W.P.Nos.3938 of 2020 and batch, (order dated 11.03.2022), extracted below;

"2. The petitioners challenge a Circular that has been passed by the 2nd respondent i.e., Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) on 29.07.2013. Identical challenges were considered by this Court in a batch of writ petitions in W.P.Nos.5916 to 5918 of 2014 etc. batch and, by order dated 14.09.2018, a learned Single Judge of this Court accepted the contentions of the petitioners and quashed the Circular. As against the aforesaid, TANGEDCO appears to have filed writ appeals in W.A.Nos.2539 and 2540 of 2018.

3. Pending writ appeals, an interim arrangement was arrived at by the Division Bench of this Court, by order dated 19.11.2018, to the following effect:-

"8. Therefore, in the light of the above facts and circumstances, and reasons assigned above, this Court is of the considered view that the same arrangement shall continue till the disposal of the writ appeals for the reasons that appellant in the event of success in these appeals may not be able to recover it and there may be possibility of respondents / writ petitioners to wind up operations due to vagaries of business or other reasons. Therefore, without prejudice to the rights and contentions, the first respondents / writ petitioners shall continue to pay 50% of the demand made as per the impugned orders / demand, the subject matter of challenge in the writ petitions, within a period of two weeks from the date of each demand. It is also made clear that the amount collected by virtue of the interim order in the writ petitions as well as in these writ appeals, by the appellant is



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also subject to the result of these writ appeals, and if the appellant fails, they are liable to refund the Deemed Demand Charges already collected from the first respondents / writ petitioners. Call on 17.12.2018."

4. The writ appeals are stated to be pending. Identical writ petitions filed by similarly placed petitioners have come to be disposed following the order passed in WP (MD) Nos.9253 to 9255 of 2014 etc. batch dated 05.02.2020.

5. In the interests of uniformity and consistency, the following directions are passed in the matter as well:

"(i) The petitioners are directed to pay 50% of the deemed demand charges, if not paid so far and continue to pay the same till the disposal of the writ appeal.

(ii) The petitioners are also liable to pay the balance deemed demand charges, if the writ appeal filed by the TANGEDCO is allowed.

(iii) Needless to say that the petitioners are also entitled to get similar refund, if any, if the first respondents in the writ appeals succeed, subject to the orders / observations of the Division Bench.

(iv) It is open to the petitioners to take recourse to any suitable action in the matter known to law, in the manner known to law, in the interregnum."

2. In light of the above, this writ petition stands disposed, as are the connected writ miscellaneous petitions. There shall be no order as to costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

nst/sl



To

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

2.The Chief Financial Controller/Revenue
TANGEDCO, 144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer, TANGEDCO,
Namakkal, Electricity Distribution Circle,
Namakkal.

4.The Secretary,
Tamil Nadu Electricity Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

+1cc to Mr.R.S.Pandiyaraj, Advocate SR. No. 23544

W.P.No.6437 of 2019 &
W.M.P.Nos.7248, 7252 & 7253 of 2019

RR (CO)
PR (25/04/2022)