

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.06.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.7478 of 2021 and
W.M.P.Nos.7999 and 8001 of 2021

Jaya Sakthi Casting India Pvt. Ltd.,
Rep. by its Authorized Signatory M.Ramesh
HTSC No.0433
SF No.3/1, 3/2A & 3/3 Pudupalayam Village,
SF No.431/4B Punchai Palathozhuvu
Chennimalai, Perundrai, .. Petitioner

Vs.

1. The Chariman,
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,
Erode Electricity Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation Limited,
TANGEDCO, Erode.
4. Tamil Nadu Electricity Regulatory 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, praying for the issuance of Writ of Certiorari calling for the records of the 2nd respondent contained in impugned letter No.CFC/FC/DFC/AAO.HT/AS.3/REV/D.No.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.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.Abul Kalam,
Standing Counsel

O R D E R

This writ petition has been filed aggrieved by the withdrawal of concession of the deemed demand charges extended to the petitioners by the respondents under the impugned circular dated 29.07.2013 issued by the second respondent.

2 The issue raised in this writ petition was considered by another learned Single Judge and the same impugned orders were quashed by this Court. Aggrieved by the same, the respondents have preferred an appeal and the same is pending before the Division Bench of this Court in W.A.Nos.2539 and 2540 of 2018.

3 The Division Bench, while entertaining the writ appeals, directed the concerned parties to pay 50% of the deemed demand made pursuant to the issuance of the impugned circular. The relevant portion of the order passed by the Division Bench is extracted hereunder:

"6. This court has carefully considered the rival submissions and also perused the materials placed. In the light of the stand taken by the Tamilnadu Electricity Regulatory Commission in the counter affidavit in paragraph No.14 in W.P.No.28256 of 2014 etc., batch of writ petitions, coupled with the decision of the said Commission, vide the order dated 31.03.2016 in R.A.No.6 of 2013, this Court is of the considered view that prima facie case has been made out for grant of interim orders.

7. Hence, there shall be an order of interim stay as prayed for till 17.12.2018. It is also brought to the notice of this Court by the learned Advocate General that during the pendency of the writ petitions interim stay has been granted subject to the condition that the writ petitioners pay 50% of the amount demanded within a stipulated time.

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 reason that the 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 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 learned counsel appearing for the petitioner submits that the petitioner has been paying the 50% deemed demand charges to the respondents as directed by the Division Bench without committing any default. He would submit that since the petitioner is not a party to the writ appeals, the same order can be passed in favour of the petitioner also.

5 The learned standing counsel appearing for the respondents has also not raised any serious objection if such a direction is issued by this Court.

6 For the foregoing reasons, this writ petition is disposed of by directing the petitioner to continue to pay the 50% of deemed demand charges till the writ appeals referred to supra are disposed of by the Division Bench. It is also made clear that the payment made by the petitioner will be subject to the result of the writ appeals and the petitioner shall abide by the final orders passed by the Division Bench while disposing of the writ appeals. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

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TANGEDCO, Erode.
4. The Secretary,
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No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

+1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.39127

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BR(CO)
SB(25/07/2022)