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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.34123 & 34124 of 2015

&

M.P.Nos.1,1,2,2,3 & 3 of 2015

Narasu's Spinning Mills, HTSC No.100,
R.C.Chettypatty Post, Omalur Taluk,
Salem District,
Repd. by its Manager
G.Panneerselvam.

... Petitioner in WP.No.34123 of 2015

T.R.K.Textile (India), Private Ltd., HTSC No.436
Door No.3/150, Sukkittipalayam Road,
Olapalayam (Post), Kangayam, Erode
Repd., by its Authorized Signatory
A.Rathinakumar

... Petitioner in WP.No.34124 of 2015

Vs.

- 1.The Chairman
Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO),
144, Anna Salai,
Chennai-600002.
- 2.Chief Financial Controller / Revenue
TANGEDCO,
144, Anna Salai,
Chennai-600002.
- 3.The Superintending Engineer,
TANGEDCO,
Mettur Electricity Distribution Circle,
Mettur Dam.
- 4.The Tamilnadu Electricity Regulatory Commission
Through its Secretary,
No.19A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600008.

... Respondents in both WPs



Prayer : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, Calling for the records of the 2nd respondent contained in impugned letters 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.

In both WPs

For Petitioner : Mr.M.Sarvanan Kumar

For Respondents : Mr.L.Jai Vekatesh
for TANGEDCO [R1 to R3]
No appearance [R4]

O R D E R

These writ petitions have been filed aggrieved by the withdrawal of the concession of the deemed demand charges extended to the petitioners by the respondents.

2. This issue was considered by the learned Single Judge of this Court and similar impugned orders were quashed by this Court. Aggrieved by the same, the respondents have preferred an appeal and the same is pending in W.A.Nos.2539 & 2540 of 2018.

3. The Division Bench, while entertaining the writ appeal, directed the concerned parties to pay 50% of the demand made pursuant to the issuance of the impugned order. The relevant portions in the order passed by the Division Bench are 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



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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 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. In the light of the above order passed by the Division Bench, the petitioners have been paying the 50% deemed demand charges. Hence, these writ petitions are disposed of with a direction to the petitioners to continue to pay 50% of the demand made towards the deemed demand charges till the writ appeal is disposed of by the Division Bench. It is also made clear that the payment made by the petitioners will be subject to the result of the writ appeals and petitioners shall abide by the final orders passed by the Division Bench while disposing of the writ appeals.

5. These writ petitions are disposed of accordingly. 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



To

- 1.The Chairman
Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO),
144, Anna Salai,
Chennai-600002.
- 2.The Chief Financial Controller / Revenue
TANGEDCO,144, Anna Salai,
Chennai-600002.
- 3.The Superintending Engineer,
TANGEDCO,
Mettur Electricity Distribution Circle,
Mettur Dam.
- 4.The Secretary,
The Tamilnadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600008.

W.P.No.34123 & 34124 of 2015
&
M.P.Nos.1,1,2,2,3 & 3 of 2015

MT (CO)
PR (09/02/2022)