IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.1157 of 2018
and
W.M.P.No.1439 of 2018

RSM Autokast Ltd, HTSC No.480,
SF No.141, Kuppepalayam Village,
Sarkar, Samakulam Via,
Coimbatore - 641 029,
Represented by its Managing Director,
K.Ilango. ... Petitioner

Versus

1.The TANGEDCO,
Represented by its Chairman,
144, Anna Salai, Chennai - 600 002.

2.The Accounts Officer/Revenue,
The Superintending Engineer Office,
Coimbatore North Electricity Distribution Circle,
TANGEDCO, Coimbatore.

3.Central Electricity Authority,
Represented by its Chairperson,
6th Floor, Sewa Bhawan, R.K.Puram,
New Delhi - 110 066.

4.Tamil Nadu Electricity Regulatory
Commission, Represented by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore,
Chennai - 600 008. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent's impugned CC bills dated 01.01.2018 issued by 2nd respondent insofar as it relates to the levy of Harmonic compensation charges to a tune of Rs.13,90,970/- in Serial No.15, quash the same as illegal, arbitrary, without the authority of law and against Tariff Order dated 20.06.2013 issued by the 3rd respondent and consequently direct the 2nd respondent to carry out an inspection of the factory of the petitioner to ascertain the levels of harmonic dumping and impose any charges in respect of Harmonic dumping strictly in accordance with law.

For Petitioner : Mr.R.S.Pandiyaraj

For R1 & R2 : Mr.Abul Kalam
Standing Counsel

For R3 : Mr.T.V.Krishnamachari
SPCCG

*****

O R D E R

This Writ Petition has been filed by the petitioner, seeking to quash the impugned CC bills dated 01.01.2018 issued by the second respondent insofar as it relates to the levy of Harmonic compensation charges to a tune of Rs.13,90,970/- in Serial No.15, as illegal, arbitrary, without the authority of law and against Tariff Order, dated 20.06.2013 issued by the 3rd respondent and consequently, to direct the 2nd respondent to carry out an inspection of the factory of the petitioner to ascertain the levels of harmonic dumping and impose any charges in respect of Harmonic dumping strictly in accordance with law.

2. Mr.R.S.Pandiyaraj, learned counsel appearing for the petitioner submits that, as per the terms of the Tariff Order passed by the third respondent/Central Electricity Authority (CEA), Industries/Companies, which are connected to the power supply of 33 kv and above, are required to install the equipment called 'Harmonic Filters', for which purpose, the respondent-TANGEDCO have to conduct inspection and take measurements with regard to the harmonic distortion levels and within three months period from the date of communication of such notice with regard to the first measurement, the Industry/Company have to take steps for installation of the equipment, failing which, compensation charges would be levied. Since the petitioner-Company is connected to the power supply of 33 kv, they are required to install the said equipment.

2.1 The learned counsel for the petitioner submits that the respondent-TANGEDCO conducted such inspection and took the first measurement on 23.11.2017. Since the test undertaken by the respondent-TANGEDCO is not valid, the petitioner informed the same to the respondent-TANGEDCO on 04.12.2017, and the respondent-TANGEDCO conducted a retest on 19.12.2017, since the same was also contrary to the regular harmonics test conducted by the petitioner along with its supplier on various dates, i.e. 02.12.2017 and 20.12.2017, the petitioner, vide letter, dated 21.12.2017, requested the respondent-TANGEDCO for recheck, and on 28.12.2017, the respondent-TANGEDCO carried out another inspection, which clearly showed that the harmonic level is well within the limits prescribed by CEA Regulation. Thereafter, the petitioner was not put on with any notice pursuant to the second inspection done on 19.12.2017. All of a sudden, for no fault of the petitioner, the second respondent issued a show cause notice, dated 01.01.2018, demanding Rs.13,90,970/-, harmonic compensation charges for the month of December, 2017, to which, the petitioner submitted a detailed reply, dated 03.01.2018, raising objections. However, the second respondent, without even giving any valid reason, confirmed the demand raised in the impugned show cause notice, dated 01.01.2018. Therefore, the learned counsel contended that the impugned demand notice is illegal and contrary to the Tariff Order passed by the third respondent and is liable to be set aside.

2.2. Further, the learned counsel submitted that, when a challenge was made by the petitioner, who was similarly placed like that of the petitioner herein, by way of filing W.P.No.23736 of 2018, this Court, vide order, dated 06.12.2021, allowed the Writ Petition and set aside the order passed by the respondent-TANGEDCO. Therefore, the learned counsel for the petitioner submits that said decision is applicable to the present facts of the case also and produced the said decision before this Court for perusal.

3. Mr.T.V.Krishnamachari, learned counsel appearing for the third respondent submits that no order can be granted against the third respondent, as they are only formal party. Therefore, he submits that the writ petition may be dismissed against the third respondent.

4. Heard the learned counsel appearing for the petitioner, Mr.Abul Kalam, learned Standing Counsel for the respondent-TANGEDCO, and Mr.T.V.Krishnamachari, learned Senior Panel Counsel for Central Government for the third respondent and perused the materials placed on record.

5. Admittedly, the compliance of installation of harmonic filters has to be within a period of three months from the date of receipt of communication from the respondent-TANGEDCO

with regard to the first measurement. In the present case, the petitioner has installed the equipment on itself and conducted the harmonic test, which was also confirmed by the respondent MRT Team on earlier occasions, i.e., on 26.09.2015 and 08.03.2017. Again, the respondent MRT Team had carried out inspection in the petitioner's premises, i.e, 23.11.2017, 19.12.2017, and 28.12.2017. Since the first measurement taken in the petitioner's premises on 23.11.2017, is not proper and valid, second measurement was done on 19.12.2017, and the same was redone on 28.12.2017. As per the second measurement, which was redone on 28.12.2017, the harmonic level is well within the limits prescribed by CEA Regulation. Therefore, it is clear that, there is no harmonic distortion and the harmonics levels are well with in the prescribed limit prescribed by CEA. That apart, pursuant to the second measurement, which was redone on 19.12.2017, the petitioner has not even been issued with any three months' notice. Thus, in the absence of any three months' notice pursuant to the second measurement, done on 19.12.2017, the petitioner cannot be slapped with the impugned demand, as the same is in violation of CEA Regulations.

6. Therefore, this Court is of the view that the impugned notice dated 01.01.2018, illegal and contrary to the CEA Regulations, and the same is liable to be quashed.

7. Accordingly, this Writ Petition is allowed and the impugned demand notice dated 01.01.2018 issued by the second respondent is quashed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

sp

To

1.The Chairman,
TANGEDCO,
144, Anna Salai, Chennai - 600 002.

2.The Accounts Officer/Revenue,
The Superintending Engineer Office,
Coimbatore North Electricity Distribution Circle,
TANGEDCO, Coimbatore.

3.The Chairperson,
Central Electricity Authority,
6^{th} Floor, Sewa Bhawan, R.K.Puram,
New Delhi - 110 066.

4.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore,
Chennai - 600 008.

+1cc to Mr.R.S.Pandiyaraj, Advocate SR.No.4650
+1cc to Mr.T.R.Krishnamachari, Advocate SR.No.4473

W.P.No.1157 of 2018

JPL(CO)
CB(09/03/2022)