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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.9424, 9425, 9426, 9427 & 9428 of 2015
and M.P.Nos.1,1,1,1,1,2,2,2,2 & 2 of 2015

Anugraha Valve Castings Limited.,
HTSC No.125,
39/1, Sengoda Goundan Pudhur,
Arasur, Coimbatore - 641653
Repd., by its Managing Director
R. Baskaran. ... Petitioner in W.P.No.9424 of 2015.

Anugraha Valve Castings Limited- Unit-V.,
HTSC No.116,
S.F.No.307,S.G.Pudur
Arasur, Coimbatore - 641407
Repd., by its Managing Director
R. Baskaran. ... Petitioner in W.P.No.9425 of 2015.

Anugraha Valve Castings Limited- Unit-IV.,
HTSC No.473,
S.F.No.578,579A,
Annur-Karumathapatti Road,
Sokkampalayam Post,
Kanjapalli Village, Sulur Taluk,
Coimbatore - 641653
Repd., by its Managing Director
R. Baskaran. ... Petitioner in W.P.No.9426 of 2015.

M/s.Cauvery Boards (P) Ltd.
HTSC No.35
Nagarpalyam,
Gobichettipalayam - 638 452
Rep by its Managing Director
Mr. A.Nandakumaar ...Petitioner in W.P.No.9427 of 2015.

Southern Cotspinners Coimbatore P. Ltd,
HTSC No.283,
S.F.No.311/1,
Nagamanickenpalayam,
Pattanam (Po),Ondipudur (Via),
Coimbatore-641016
Rep. by its Managing Director
Mr.S.V. Devarajan. ...Petitioner in W.P.No.9428 of 2015.



Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)
Represented by its Chairman and Managing Director
144 Anna Salai Chennai-600002.
2. The Superintending Engineer
Coimbatore Electricity Distribution Circle -South,
TANGEDCO, Tatabad, Coimbatore 641 012.
3. Central Electricity Authority (CEA)
Represented by its Chairperson
6th Floor Sewa Bhawan R.K.Puram New Delhi-110066.
4. Tamil Nadu Electricity
Regulatory Commission (TNERC),
Represented by its Secretary,
19-A, Rukmini Lakshmipathy Salai, (Marshall's Road),
Egmore, Chennai-600008. ...Respondents in all W.Ps.

PRAYER in W.P.No.9424 of 2015 : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the impugned notice Lr. No. SE/CEDC/S/AEE.GI/AEG2/F.Harmonics/D.No.647/15 dt 25.3.2015 quash the same and forbear the 1st and 2nd respondents their men officers agents servants representatives and/or any one claiming through or under them and/or or any other person from in any manner insisting on harmonic control and levying demanding and/or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.125 either through the CC Bills or in any other manner who is connected with 11 KV supply line.

PRAYER in W.P.No.9425 of 2015: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the impugned notice Lr. No. SE/CEDC/S/AEE.GI/AEG2/F.Harmonics/D.No.647/15 dt 25.3.2015 quash the same and forbear the 1st and 2nd respondents their men officers agents servants representatives and/or any one claiming through or under them and/or or any other person from in any manner insisting on harmonic control and levying demanding and/or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.116 either through the CC Bills or in any other manner who is connected with 11 KV supply line.

PRAYER in W.P.No.9426 of 2015: Writ Petition filed Under Article



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226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the impugned notice Lr.No.SE/CEDC/N/CBE/DFC/AO/REV/AAO/HT/F.Harmonics/D.1182/15 dt 11.3.2015 quash the same and forbear the 1st and 2nd respondents their men officers agents servants representatives and/or any one claiming through or under them and/or or any other person from in any manner insisting on harmonic control and levying demanding and/or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.473 either through the CC Bills or in any other manner who is connected with 22 KV supply line.

PRAYER in W.P.No.9427 of 2015: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the impugned notice Lr. No. SE/GEDC/AEE.GL/FA/F.Harmonics/D.No.743/15 dt 11.3.2015 quash the same and forbear the 1st and 2nd respondents their men officers agents servants representatives and/or any one claiming through or under them and/or or any other person from in any manner insisting on harmonic control and levying demanding and/or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.35 either through the CC Bills or in any other manner who is connected with 11 KV supply line.

PRAYER in W.P.No.9428 of 2015: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the impugned notice Lr. No. SE/CEDC/M/CBE/AEE-GL/AE/F.Harmonics/D.No.349/14-15 dt 11.3.2015 quash the same and forbear the 1st and 2nd respondents their men officers agents servants representatives and/or any one claiming through or under them and/or or any other person from in any manner insisting on harmonic control and levying demanding and/or collecting charges and compensation for harmonics dumping from the petitioner for their HT SC No.283 either through the CC Bills or in any other manner who is connected with 11 KV supply line.

For Petitioner : Mr.M.Saravanakumar

For Respondents: Mr.M.Abdukalam
for TANGEDCO [R1 & R2]

Mr.T.L.Thirumalaisamy [R3]
CGSC For R3

No Appearance[R4]



COMMON ORDER

The impugned demand notices passed by the 2nd respondent, dated 25.03.2015 in W.P.Nos.9424 & 9425 of 2015 and 11.03.2015 in W.P.Nos.9426 to 9428 of 2015, are sought to be quashed in the present writ petitions and a further direction is also sought to forbear the 1st and 2nd respondent from in any manner levying demanding and/or collecting surcharges for not providing the harmonic controls from the petitioners who are connected with 11 K supply line in W.P.Nos.9424, 9425, 9427 & 9428 of 2015 and with 22 K supply line in W.P.No.9426 of 2015 .

2. The relief sought for in the present writ petition is similar to the relief sought for by the writ petitioners in a batch of writ petitions in W.P.No. 25 of 2015 [M/s.S.Palaniyandi Mudaliar Memorial Hospital v. TANGEDCO], etc. and batch, which was decided by this Court on 05.06.2017.

3. The relevant paragraphs of the said order are extracted hereunder :

"24. In view of the above, since the harmonics have several undesirable effects and affects power quality, on 21.02.2007, the Central Electricity Authority (CEA) introduced a new Regulation and accordingly, its Technical Standards for Connectivity to the Grid Regulations, 2007, came for enforcement. Applicability of the Regulations is provided in Regulation 3, which reads as under:

"3. Applicability of the Regulations -
These Regulations shall be applicable to all the users, requesters, Central Transmission Utility and State Transmission Utility."

It is clear from the above that the said Regulation is applicable only to four categories, namely, Users, Requesters, Central Transmission Utility and State Transmission Utility.

25. In this context, let me find out the meaning given under the CEA Regulations, 2007, for Users and Requesters. Section 2(34) defines the meaning of "User", which is given as under:-

"2(34)-- User means a person such as, a Generating Company including captive generating plant or Transmission Licensee (other than the Central Transmission Utility and State Transmission Utility) or Distribution Licensee or Bulk Consumer, whose electrical plant is connected to the grid at voltage level 33kv and above."

Section 2(25) defines the meaning of "Requester", which is given as under:-



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"2(25)-- Requester means a person, such as a Generating Company including captive generating plant or Transmission Licensee (excluding Central Transmission Utility and State Transmission Utility) or Distribution Licensee or Bulk Consumer, who is seeking connection of his new or expanded electrical plant to the Grid at voltage level 33kv and above."

A conjoint reading of the above said provisions show that a person such as, Generating Company including captive generating plant or Transmission Licensee or Distribution Licensee or Bulk Consumer, whose electrical plant is connected to the grid at voltage level 33 kv and above. Therefore, it is clear that the above said Regulations are applicable to only those consumers whose electrical plant is connected to the Grid at the voltage level of 33kv and above, hence, the petitioners, who are connected to the Grid at voltage level of 11kv/22kv supply lines, cannot be made applicable under the said Regulations.

26. Again, to be more clear, it is also pertinent to refer to Section 34 of the Electricity Act, 2003, dealing with the Grid Standards, which is given as under:-

"34. Grid Standards.----- Every transmission licensee shall comply with such technical standards, of operation and maintenance of transmission lines, in accordance with the Grid Standards, as may be specified by the Authority."

It is clear from the above that Section 34 of the Electricity Act, 2003, mandates every transmission licensee to comply with such technical standards of operation and maintenance as may be specified by the Authority, which means, as per Section 2(6) of the Act, the Central Electricity Authority (CEA) is the Authority as referred to in sub-section (1) of Section 70. Thus, the CEA, established under Section 70 and whose functions are set forth in Section 73, has the exclusive powers under Section 73(d) of the Act. It is also pertinent to extract Section 73(d) of the Act, which is given as under:-

"(d) specify the Grid Standards for operation and maintenance of transmission lines."

27. In view of the above legal position, the Central Electricity Authority (CEA), being an Apex



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restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

"Section 86 - Functions of State Commission.-

(1) The State Commission shall discharge the following functions, namely:--

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State: Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity;

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with



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the Grid Code specified under clause (h) of subsection (1) of section 79;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary;

(k) discharge such other functions as may be assigned to it under this Act."

Section 50 of the Act dealing with the Electricity Supply Code statutorily provides for the cases, inter alia, with regard to the tampering of electric lines or meter and method of collection of electricity charges. Similarly, Section 86 of the Act empowers the State Commission to determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk and retail within the State. But, till date, it has not provided for setting up of standards for harmonics charges. Therefore, neither Section 50 nor Section 86 of the Act supports respondent TANGEDCO in the matter of levying of harmonic charges on the 11kv/22kv supply line consumers.

34. Likewise, Section 181 gives power to the State Commission to make Regulations consistent with the Act and Rules to carry out the provisions of this Act. By exercising such power, the Tamil Nadu Electricity Regulatory Commission had issued the Tamil Nadu Electricity Supply Code, wherein the Regulation 4(1)(iv) of the Tamil Nadu Electricity Supply Code, which is extracted below, deals with additional charges for harmonic dumping.

"4.Charges recoverable by the Licensee -
The charges, recoverable by the Licensee from the consumers are:-

xxxx

(1). Tariff related charges, namely, -

(iv). Additional charges for harmonics dumping

Where any equipment installed by a consumer generates harmonics, the consumer shall provide adequate harmonic suppression units to avoid dumping of harmonics into Licensee's distribution system and the Licensee is at liberty to provide suitable metering equipment to measure the harmonic level pursuant to such harmonic. Where the consumer fails to provide such units, he shall be liable to pay compensation at such rates as



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the Commission may declare from time to time."

In view of Regulation 4(1)(iv) of the Tamil Nadu Electricity Supply Code, although the State has got power to direct the consumers to install harmonic filters irrespective of their voltage connection as stated by learned Additional Advocate General for the TANGEDCO, the same cannot be sustained in view of non-specification of any standard of harmonics for 11kv/22kv/supply line consumers by the CEA, who, being an Apex Body as per Section 73(d) of the Act, has exclusive powers to specify the Grid Standards for operation and maintenance of transmission lines.

35. Thus, for all the reasons stated above, the impugned demands are quashed. Consequently, the writ petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are also closed. "

4. In view of the fact that the case of the petitioners is also similar to that of the cases cited supra, and the petitioners are also entitled to the relief. Accordingly, the impugned demand notices are quashed and the writ petitions are allowed. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(CS-VI)

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Sub Assistant Registrar

shr/ska

To

1. The Chairman,
TANGEDCO
No.800, Anna Salai,
Chennai -600002.
2. The Superintending Engineer,
Chengalpattu Electricity Distribution Circle,
TANGEDCO
Chengalpattu.
3. The Deputy Financial Controller,
Chengalpattu Electricity Distribution Circle
TANGEDCO
Chengalpattu.



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4. The Secretary,
Tamil Nadu Electricity
Regulatory Commission (TNERC),
19-A, Rukmini Lakshmipathy Salai (Marshall's Road),
Egmore, Chennai-600008.

+1cc to M/s.T.L.Thirumalaisamy, Advocate, S.R.No.5723

+3cc to M/s.R.S.Pandiyaraj, Advocate, S.R.No.5943

W.P.Nos.9424, 9425, 9426, 9427 & 9428 of 2015
and M.P.Nos.1,1,1,1,1,2,2,2,2 & 2 of 2015

RGN(CO)
SB(15/02/2022)