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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-01-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.4861 of 2016

And

WMP Nos.4219 and 4220 of 2016

K.G.Fabriks Ltd., HT SC No.237,
Plot No.FF-1, Sipcot Industrial,
Growth Centre, Perundurai,
Erode - 638 052 District Represented by
its Manager K.Prabakar Raj. .. Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Energy Department,
Fort St. George, Chennai - 600 009.

2.The Chairman and Managing Director,
TANGEDCO Ltd.,
144, Anna Salai, Chennai - 600 002.

3.The Superintending Engineer,
TANGEDCO Ltd.,
Erode Electricity Distribution Circle,
Erode. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbering the second and third respondents from demanding and collecting the tax on maximum demand charges from the petitioner in H.T.Sc.No.237, as per the orders of the Hon'ble Supreme Court of India, New Delhi on 31.08.2012 in SLP (C) No.24993 of 2012 and 25522 of 2012 etc., Batch in M/s.Sri Krishna Alloys and Etc., vs. Union of India and others etc.

For Petitioner : Mr.S.P.Parthasarathy

For Respondent-1 : Ms.N.Senthil Selvi,
Government Advocate.

For Respondents-2 and 3 : Mr.L.Jai Venkatesh,
Standing Counsel for TANGEDCO.



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ORDER

This writ petition has been filed for the issue of Writ of Mandamus forbearing the respondents 2 and 3 from demanding and collecting tax on maximum demand charges from the petitioner.

2. It is brought to the notice of this Court that a batch of Special Leave petitions are pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court has passed an interim order dated 31.08.2012, restraining the respondents from taking any coercive steps for disconnecting supply of electricity subject to the petitioners paying all the charges/dues except the tax calculated on the basis of maximum demand.

3. This Court had an occasion to deal with a similar issue in WP No.19104 of 2020 and final orders were passed on 17.02.2021. The relevant portions in the order are extracted hereunder :-

"5. Mr.N.Damodaran, learned Standing Counsel, who took notice on behalf of the respondents would submit that by following the orders of the Hon'ble Supreme Court, a Division Bench of this Court has disposed of issue on the following terms:-

"In view of the issue raised in the present writ appeal / writ petition being settled against the appellant / petitioner in terms of the Division Bench judgment in W.P.Nos. 159 of 2008 etc.(Batch) decided on 15.06.2012 and thereafter, the Hon'ble Supreme Court having entertained the Special Leave Appeals against the said judgment bearing Special Leave Appeal (Civil) Nos. 24685 to 24719 of 2012 dated 31.08.2012, with an interim direction restraining the respondent from taking any coercive steps for disconnecting the supply of electricity to the premises of the petitioner therein, subject to that petitioner paying all the charges / dues except tax calculated on the basis of maximum demand, it is agreed that the present writ appeal and writ petition be disposed of in terms aforesaid, with the agreement that



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the ultimate fate of the matter before the Hon'ble Supreme Court would also govern the present appellant and the writ petitioner and the same interim order would continue to enure for the benefit of the writ appeal and writ petitioner during the pendency of the Special Leave Appeals.

2. Writ Appeal and Writ Petition, accordingly, stand disposed of. No costs. Consequently, W.A.M.P.No. 969 of 2004 stands closed."

6. On the issue of collecting tax on maximum demand charges from the petitioner in the High Tension Service Connection, the Hon'ble Supreme Court and a Division Bench of this Court has already issued a direction, restraining the respondents from taking any coercive steps for disconnecting supply of electricity to the premises of the petitioner subject to the petitioner paying all the charges / dues except tax calculated on the basis of maximum demand."

4. The above order will also enure to the benefit of the petitioners. In view of the same, the present writ petition is disposed of in terms of the interim order passed by the Hon'ble Supreme Court and the subsequent Hon'ble Division Bench order passed in W.A No.547 of 2004 dated 02.06.2015. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Secretary to Government,
State of Tamil Nadu,
Energy Department,
Fort St. George,
Chennai - 600 009.



2.The Chairman and Managing Director,
TANGEDCO Ltd.,
144, Anna Salai,
Chennai - 600 002.

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3.The Superintending Engineer,
TANGEDCO Ltd.,
Erode Electricity Distribution Circle,
Erode.

+1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.5940

WP 4861 of 2016

GPL (CO)
SB(11/02/2022)