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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.2566 of 2018  
and  
W.M.P.No.3160 of 2018

Sri Jagannatha Spinners HTSC No.357,  
S.F.No.573/1, B1, B2,B3,  
Moopiripalayam Village,  
Kaduvaettipalayam Post, Coimbatore - 641 659.  
Represented by its Authorized Signatory  
A.Vimalraj

... Petitioner

Versus

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

2.The Tamil Nadu Generation and  
Distribution Corporation Ltd.(TANGEDCO),  
144, Anna Salai, Chennai - 600 002.  
Represented by its Chairman.

3.The Superintending Engineer,  
Coimbatore South Electricity,  
Distribution Circle,  
TANGEDCO, TNEB, Coimbatore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records of the 3<sup>rd</sup> respondent's impugned notice bearing Lr.No.SE/CEDC/South/Cbc/DFC/AO/ Rev/AAO/HT/AS/F.Audit/D.No.50/17 dated 08.01.2018 issued by the 3<sup>rd</sup> respondent, quash the same as illegal, arbitrary and without authority of law and against Electricity Act, 2003.



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For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.Abul Kalam  
Standing Counsel

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## O R D E R

This Writ Petition has been filed by the petitioner seeking to quash the impugned notice, dated 08.01.2018 issued by the 3<sup>rd</sup> respondent, as illegal, arbitrary and without authority of law and against Electricity Act, 2003.

2. Mr.R.S.Pandiyaraj, learned counsel appearing for the petitioner submits that the issue involved in this Writ Petition is no longer res integra and the same is squarely covered by the order passed by this Court, in W.P.No.4308 of 2017, dated 25.11.2021 and he also produced the copy of the order for reference. The relevant portion of the order is extracted hereunder :-

"2.The case of the petitioner is that, the petitioner Mill is involved in the manufacture of yarn having High Tension Electricity Supply in H.T.Sc.No.131. The Government of Tamilnadu through Electricity Department have restricted the consumption of power on 22.10.2008. Based on the direction of the Government, the second respondent imposed 40% power cut to H.T Industrial and commercial consumers. Subsequently, the fourth respondent used to revise the quota from time to time depending upon the availability of power and the petitioner has been limiting their consumption with the quota fixed. The petitioner has never violated the quota fixed by the fourth respondent. While so, the fourth respondent has issued the impugned demand notice dated 25.11.2016 for a sum of Rs.77,68,469/- towards incorrect fixation of excess demand and energy charges for the period between 10/2013 and 06/2015.

3.The learned counsel for the petitioner would submit that, initially, the petitioner was allowed to consume 80% of energy and subsequently, the fourth respondent revised the



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quota periodically. The petitioner has never exceeded the limit fixed by the fourth respondent and the petitioner has paid electricity consumption charges without any default. But, the fourth respondent vide demand notice dated 25.11.2016, demanding the petitioner a sum of Rs.77,68,468/-, towards incorrect fixation of excess demand and energy charges for the period from 10/2013 to 06/2015, for the alleged excess consumption of energy. The fourth respondent without providing any opportunity to the petitioner, has straight away issued the impugned demand notice dated 25.11.2016.

4.The learned counsel for the petitioner would further submit that the similar issue has already decided by the Appellate Tribunal for Electricity confirming the order of the Tamilnadu Electricity Regulatory Commission that the respondent cannot claim for a demand when the consumer abided the quota fixed by the TANGECO as advance declaration. He has also produced the judgement of Appellate Tribunal for Electricity in Appeal No.117 of 2013 and prayed to allow the Writ Petition.

5.The learned Standing Counsel appearing for the respondents 2 to 4 submitted that the respondent Board will follow the order passed by the Appellate Tribunal for Electricity, for this petitioner also.

6.In view of the fact that, the similar issue has already decided by the Appellate Tribunal for Electricity and the said order was also implemented by the respondent, the impugned demand notice bearing Lr.No. SE/VREDC/VDR/AO/REV/AAO/HT/As.6/F.HT.SC.No.01/DNO ./2016 dated 25.11.2016, issued by the fourth respondent is hereby quashed and the Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed."

2.1. Therefore, the learned counsel prays that in view of the order passed by this Court in regard to an identical issue, similar order may be passed in the present Writ Petition as well.



3. Mr. Abul Kalam, learned Standing Counsel for the respondents submits that he has no objection in following the earlier order passed by this Court, in W.P.No.4308 of 2017, dated 25.11.2021.

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4. Thus, in the light of the earlier order passed by this Court, in W.P.No.4308 of 2017, dated 25.11.2021, this Court is of the view that the present Writ Petition can also be allowed on the same lines.

5. Accordingly, the Writ Petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

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

2. The Chairman,  
Tamil Nadu Generation and  
Distribution Corporation Ltd. (TANGEDCO),  
144, Anna Salai, Chennai - 600 002.

3. The Superintending Engineer,  
Coimbatore South Electricity,  
Distribution Circle,  
TANGEDCO, TNEB, Coimbatore.

+1cc to Mr. R. S. Pandiyaraj, Advocate SR.No.4649

W.P.No.2566 of 2018

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