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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.NO.7047 OF 2016
AND W.M.P.NOS.6259 & 6260 OF 2016

M/s.TENNECO AUTOMOTIVE INDIA (P) Ltd
Represented by its Plant Finance Controller
Mr.R.Sankar, S/o.T.S.Ramakrishnan
Having Office at
Plot No.122, SIPCOT Industrial Complex
Hosur-635 126.

... Petitioner

Vs.

1. Tamil Nadu Generation
and Distribution Corporation Ltd
Rep. by its Chairman and Managing Director
144 Anna Salai, Chennai-2.
2. The Superintending Engineer
Krishnagiri Electricity Distribution Circle,
Krishnagiri-2.
3. The Deputy Financial Controller
Tamil Nadu Generation and Distribution Corporation Ltd.
Krishnagiri Circle,
Krishnagiri.
- 4 Central Electricity Authority(CEA)
Represented by its Chairperson,
6th Floor, Sewa Bhavan, R.K.Puram,
New Delhi-110 066.
5. Tamil Nadu Electricity Regulatory Commission (TNERC)
Represented by its Secretary,
19A, Rukmini Lakshmipathy Salai (Marshall's Road)
Egmore, Chennai-600008.

... Respondent



PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records leading to the issuance of the Letter Lr.No.SE/KEDC/KGI/ DFC/AO/ AAO-HT/AS/ RCS-HT/ F.Harmonics/ D.192/2016 dated 12.1.2016 issued by the 2nd respondent and the CC Bill dated 3.1.2016 issued by the 3rd respondent and quash the same and consequentially direct the 1st and 2nd respondents their men officers agents servants representatives or any one claiming through or under them or any other person not to insist on installation of harmonic control equipment and/ or to levy to demand or to collect compensation charges for harmonic dumping from the petitioner for their HT SC No.60 either through CC Bills or in any other manner.

For Petitioner : Mr.C.R.Ajith

For Respondent : Mr.L.Jaivenkatesh [R1 to R3]
for TANGEDCO
Mr.T.L.Thirumalaisamy [R4]
No appearance [R5]

O R D E R

The impugned demand notice passed by the 2nd respondent dated 12.01.2016 and CC Bill dated 03.01.2016 are sought to be quashed in the present writ petition and a further direction is also sought to direct the 1st and 2nd respondents not to insist on installation of harmonic control equipment and/ or to levy to demand or to collect compensation charges for harmonic dumping from the petitioner for their HT SC No.60 either through CC Bills or in any other manner.

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



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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 Body, is the appropriate authority on the issue of Grid Standards and to ensure both National Grid Code and State Grid Code are consistent and there cannot be any inconsistencies of different standards at the State level. This is purely for the purpose of ensuring uniform operation across the country. It is also an admitted fact that the National Grid Code and the State Grid Code do not have any provision with regard to harmonics.

28. In this context, it is relevant to refer to Clause 3 of Part IV of the CEA Regulations, 2007, which is given as under:-

"3. Voltage and Current Harmonics --

(1) The total harmonic distortion for voltage at the connection point shall not exceed 5% with no individual harmonic higher than 3%.

(2) The total harmonic distortion for



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crystal clear that the consumers connected with 11kv/22kv supply lines are placed outside the scope and purview of the Part IV of the CEA Regulations, 2007, and that it has further categorically clarified that 11kv/22kv supply lines consumers are not subjected to harmonic control norms, however, 33kv and above supply lines consumers are alone directed to comply with harmonic control norms. Thus, the impugned demands issued by the respondent/TANGEDCO directing the petitioners, who are admittedly connected with 11kv/22kv supply lines, are against the CEA Regulations, 2007.

32. Further, it is also pertinent to note that the CEA, who is the competent authority to declare the harmonic distortion levels, has not declared harmonic distortion levels to the consumers connected with 11kv/22kv either through the CEA Regulations, 2007, or by any other relevant provisions. Therefore, until the CEA prescribes any standard of harmonics for 11kv/22kv supply lines consumers and makes them also obligatory for harmonic controls, no obligation can be cast upon the 11kv/22kv supply lines consumers for compliance.

33. Taking support from Sections 50, 86 and 181 of the Act read with Regulation 4(1)(iv) of the Tamil Nadu Electricity Supply Code, learned Additional Advocate General sought to sustain the impugned order levying harmonic charges on the 11kv/22kv supply line consumers. In this context, let me extract below the above said provisions:

50. The Electricity Supply Code :- The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for nonpayment thereof, 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.-



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(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 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



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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 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,



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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 petitioner is also similar to that of the cases cited supra, and the petitioner is also entitled to the relief. Accordingly, the impugned demand notice and CC Bill are quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

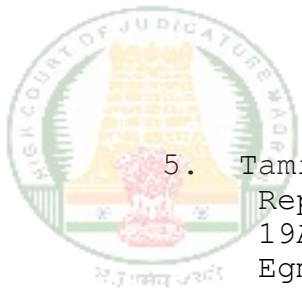
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Sub Assistant Registrar

shr/ska

To

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+1cc to Mr.C.R.Ajith, Advocate, S.R.No.5516

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PL (CO)
PM/17/02/2022