



Writ Petition Nos.28993 to 29000 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19/10/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition Nos.28993 to 29000 of 2008

a n d

M.P.Nos.1 and 2 of 2008

Prashanth Textiles Limited
No.1-12 Thondamuthur Road
Rangasamy Nagar
Sundapalayam P.O., Vedapatti
Coimbatore 641 007.

...

Petitioner in W.P.No.
28993 and 28994 of 2008

CRI Pumps Private Limited
rep. By its Chairman
Coimbatore.

...

Petitioner in W.P.No.
28995 and 28996 of 2008

Aquasub Engineering
rep. By its Managing Partner
Coimbatore.

...

Petitioner in W.P.No.
28997 and 28998 of 2008

Kothari Plantations and
Industries Limited
rep. By its President
Madurai 625 020.

...

Petitioner in W.P.Nos.
28999 and 29000 of 2008



Writ Petition Nos.28993 to 29000 of 2008

Vs

WEB COPY

1. The Government of Tamil Nadu
rep. By its Secretary to Government
Energy Department, Fort St. George
Chennai.
 2. The Tamil Nadu Electricity Board
rep. By its Chairman
Anna Salai
Chennai.
 3. The Superintending Engineer Coimbatore District
Circle/Metro
Tamil Nadu Electricity Board
Tatabad
Coimbatore 641 012.
- ... First and second
respondents in all the
writ petitions.
- ... Respondent in
W.P.Nos.28993 and 28994 of 2008
- The Superintending Engineer, TNEB
Coimbatore Electricity Distribution Circle/Metro
Coimbatore 641 012.
- ... Respondent in
W.P.Nos.28995 and 28996 of 2008
- The Superintending Engineer
Coimbatore Electricity Distribution Circle (North)
Tatabad
Coimbatore 641 012.
- ... Respondent in
W.P.Nos.28997 and 28998 of 2008
- The Superintending Engineer, TNEB
Madurai Electricity Distribution Circle
K. Pudur
Madurai 625 007.
- ... Respondent in



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W.P.Nos.28999 and 29000 of 2008

WEB COPY

PRAYER in W.P.Nos.28993, 28995, 28997 and 28999 of 2008 : Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of declaration declaring the provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 38 of 2007 to be illegal, void and ultra vires.

PRAYER in W.P.Nos.28994, 28996, 28998 and 29000 of 2008 : Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to refund or adjust against the future bills of the petitioner's unit in respect of their HT service connections, the Electricity Tax levied on maximum demand levied under the provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, as amended by the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2007 (Act No.38 of 2007).

For Petitioners	...	Mr.N.L.Rajah Senior Counsel for Mr.Arun Anbumani
For respondents	...	Mr.P. Sathish Additional Government Pleader for R.1.



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Mr.Abul Kalam
Standing Counsel
for R.R.2 and 3.

COMMON ORDER

Writ Petition Nos.28993, 28995, 28997 and 28999 of 2008 have been filed to declare the provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 38 of 2007.

2. Writ Petition Nos.28994, 28996, 28998 and 29000 of 2008 have been filed to direct the respondents to refund or adjust against the future bills of the petitioner's unit in respect of their HT service connections, the Electricity Tax levied on maximum demand levied, under the provisions of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, as amended by the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2007 (Act No.38 of 2007).

3. Heard Mr.N.L.Rajah, learned Senior Counsel for the petitioners, Mr.P.Sathish, learned Additional Government Pleader for the first respondent and Mr.Abul Kalam, learned Standing Counsel for the respondents 2 and 3.



4. The learned counsel appearing for the petitioners submitted that electricity generation tax is not applicable to them, as they are exempted under Section 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, in short, "the Act".

5. Learned counsel for the petitioners brought to the notice of this Court that in a batch of cases in W.P.No.16041 of 2012, a similar challenge had been made as in the present writ petitions and this Court, by its order, dated 09.07.2021, considering the provisions of the above said Act, held that since the appeal remedy was provided under Section 10 of the Act before the competent authority, the writ petition was not maintainable. However, liberty was granted to the writ petitioners, to file an appeal, under Section 10 of the Act, before the competent authority, within a period of six weeks, from the date of receipt of a copy of the order, in a prescribed format, by complying with the provisions of the Act and the Rules and if any such appeals are received by the appellate authority, the same shall be entertained and the delay in filing the appeals, if any, may be condoned, by taking into account the pendency of the writ petitions before the High Court, and accordingly, deal with the issues and grounds raised on merits.



Hence, the learned counsel submitted that the same order may be passed in these writ petitions also.

6. In the said batch of cases in W.P.No.16041 of 2012, this Court, by its order, dated 09.07.2021, in Paragraph14, passed the following order :

"14. In view of the facts and circumstances, the petitioners are at liberty to file an appeal under Section 10 of the Act before the competent authority within the period of six weeks from the date of receipt of a copy of this order in a prescribed format by complying with the provisions of the Act and the Rules. If any such appeal is received by the appellate authority under Section 10 of the Act, the said appeal shall be entertained and the delay in filing the appeal, if any, may be condoned, by taking into account the pendency of the writ petition before the High Court and accordingly, deal with the issues and grounds raised on merits and in accordance with law by affording opportunity to the petitioners and pass orders as expeditiously as possible. The petitioners are at liberty to raise all the factual as well as the legal grounds before the appellate authority in the manner known to law."



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Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

N. SATHISH KUMAR, J

mvs.

To

1. The Secretary to Government
Government of Tamil Nadu
Energy Department, Fort St. George
Chennai.
2. The Chairman
Tamil Nadu Electricity Board
Anna Salai
Chennai.
3. The Superintending Engineer Coimbatore District
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