



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.04.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH
W.P.Nos.25023 of 2019 & 3605 of 2020
&
W.M.P.Nos.24595 of 2019 & 4236 & 4237 of 2020

1.M/s.Tirumala Milk Products (P) Ltd.,
Rep by its Manager-Legal, Mr.S.Mukundh
Old No.1418/2A1 & 2B1,
No.75/8,200 Feet Ring Road,
Thirumalai Nagar Extension,
Near Retteri Junction,
Madhavaram,
Chennai - 600 099. ...Petitioner in W.P.No.25023 of 2019

Vs.

1. Tamil Nadu Electricity Board
Represented by its Chairman,
NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.
 2. TANGEDCO
Thiruvannamalai Electricity Distribution Circle,
Thiruvannamalai.
 3. The Assistant Audit Officer,
AP1/Audit Branch, TANGEDCO,
Villupuram.
 4. The Junior Engineer (South),
O&M/TNEB/TEDC
Vandavasi - 604 408.
 5. The Assistant Electrical Engineer (E & B),
E & B Souther, Tamil Nadu Electricity Board,
Vandavasi - 604 408.
- ...Respondents in W.P.No.25023 of 2019

Prayer in W.P.No.25023 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records culminated in Letter 76/vu.me.po/e and ba/south/va/vasi/variyanthani/2019 dated 05.08.2019 passed by the 5th respondent and quash the same as unsustainable in law.



In W.P.No.25023 of 2019

For Petitioner

For Respondents

: Mr.G.Abraham Prabhu

: Ms.Keerthana Shenoi for

Mr.L.Jai Venkatesh.

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Mr.Athif Akhtar

...Petitioner in W.P.No.3605 of 2020.

Vs.

1. Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO),
Gingee, Tamil Nadu.
3. The Assistant Engineer,
Villupuram Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO),
Gingee, Tamil Nadu.
4. M/s.Dodla Dairy Ltd
Registered Office:
No.8-2-293/82/A, Plot No.270-Q,
Road No.10-C, Jubilee Hills,
Hyderabad
Telangana - 500 033
Factory at:No:2/21, Iffath Rice Mill,
Kavarai Village,
Gingee, Tamil Nadu.

...Respondents in W.P.Nos.3605 of 2020.

Prayer in W.P.No.3605 of 2020: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent relating to the demand of Rs.2,68,992/- raised in the letter K.N/U.M.P/E.N.P/E&P/C.B/V.M/K:Auditor/A.N.246/2019 dated 28.11.2019 issued by the 3rd respondent and quash the same as illegal and forbear the 1st to 3rd respondents, their subordinates, men and agents from in any manner levying and/or collecting electricity charges under Low Tension Tariff V (Commercial) for the Petitioner's Low Tension Service Connection No.494-008-20.



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In W.P.No.3605 of 2020.

For Petitioner: Mr.Vadiraj Anirudh for
M/s.S.Ramasubramaniam and Associates.

For Respondents:Ms.Keerthana Shenoi for
Mr.L.Jai Venkatesh

COMMON ORDER

The petitioners are engaged in manufacturing and marketing of milk and milk products. The lis in these writ petitions relates to the service connection obtained by them from Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO). They challenge the demands raised by the respondents based upon audit proceedings.

2. The rival claims qua the petitioners and the respondents are whether the cold storage units utilised by the petitioners are liable to be classified under Low Tension III B or Low Tension V. This issue is no longer res integra insofar as several identically placed manufacturers had approached the Tamil Nadu Electricity Regulatory Commission (in short 'Commission') in TA No.1 of 2020 for resolution of this very issue.

3. By order dated 02.02.2021, the Commission has held in paragraphs 7.10, 7.12 and 7.13 as under:-

"7.10. the moot question herein is whether the cold storage units have to be classified under LT-III-B or LT-V. Though the dispute has arisen due to conversion of tariff of respondent No.1 service from LT tariff III-B to LT-V as a result of TANGEDCO's internal communication vide

U.O.No.CFC/reg.Cell/FC/SE/RC/F.Tariff clarification/D.17/19,dt.19.01.2019, it is an admitted fact by both the parties that still many services for cold storage are under LT III-B only.

7.12. In view of the above, considering the importance of Cold storage in preserving the food and agricultural products and in resolving the industrial codification issue in line with the tariff categorized in respect of Cold storage units under HT category, we conclude that the 'Cold Storage Units' are entitled to be classified under LT category and accordingly, shall be classified under LT-III B only.

7.13. TANGEDCO is , therefore, directed to rework the



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billing of the 'Cold Storage Units" under LT III B from 11.08.2017 and if it is found that therein any excess billing, the same may be refunded to the consumer by way of adjustment in the ensuing bills in equal installments commensurate with the bi-monthly/monthly CC bills. Ordered accordingly."

4. In view of the aforesaid order of the Commission that remains unchallenged till date, the ratio of the same is applicable on all fours to the petitioners as well. Incidentally, the order of the Commission has also been taken note of by a learned single Judge of this Court in W.P.Nos.27039 & 27128 of 2019, in the case of identically placed Dairy Manufactures, wherein the learned single Judge while setting aside impugned orders therein, has remanded the matter back to the first respondent, i.e., the authorities of TANGEDCO for fresh consideration.

5. In the interests of uniformity, the same direction is issued in the present matter as well. Let notice be issued to the petitioners and orders passed after hearing them, within a period of eight (8) weeks from today, in line with the orders of the Commission.

6. These Writ Petitions are allowed. Consequently connected writ miscellaneous petitions are also closed. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nst/sl

To

1. Tamil Nadu Electricity Board
Represented by its Chairman,
NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.
2. TANGEDCO
Thiruvannamalai Electricity Distribution Circle,
Thiruvannamalai.
3. The Assistant Audit Officer,
AP1/Audit Branch, TANGEDCO,
Villupuram.
4. The Junior Engineer (South),
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Vandavasi - 604 408.



5. The Assistant Electrical Engineer (E & B),
E & B Souther, Tamil Nadu Electricity Board,
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6. Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
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Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
Gingee, Tamil Nadu.

8. The Assistant Engineer,
Villupuram Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
Gingee, Tamil Nadu.

+1 cc to Mr.L.Jai Venkatesh, Advocate Sr.NO.24424

+1 cc to Mr.M/s.S.Ramasubramaniam, Advocate Sr.NO. 24240

W.P.Nos.25023 of 2019 & 3605 of 2020

&

W.M.P.Nos.24595 of 2019 & 4236 & 4237 of 2020

MT(CO)

A.SK(04/05/2022)