



W.P(MD)Nos.14741 to 14743 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.14741 to 14743 of 2012

and

M.P(MD)Nos.2,2,2,3,3 and 3 of 2012

M/s.Power Hollow Blocks & Fly Ash Bricks,
Represented by its Proprietor,
Dhanapal.

... Petitioner
(In W.P(MD)No.14741 of 2012)

M/s.Mona Fly Ash Bricks,
Represented by its Proprietor,
David.

... Petitioner
(In W.P(MD)No.14742 of 2012)

M/s.Amirtha Fly Ash Bricks,
Represented by its Proprietor,
Dhanapaul.

... Petitioner
(In W.P(MD)No.14743 of 2012)

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Environment and Forest Department,
Fort St.George,
Chennai-600 009.



W.P(MD)Nos.14741 to 14743 of 2012

2.The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Represented by its Chairman Cum
Managing Director,
No.144, Anna Salai,
Chennai-2.

3.The Chief Engineer/Civil Designs,
3rd Floor, Eastern Wing,
NPKRR Maaligai,
144, Anna Salai,
Chennai-2.

4.The Chief Engineer,
Tuticorin Thermal Power Station,
Tuticorin-628 004.

... Respondents
(In all cases)

PRAYER in W.P(MD)No.14741 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Lr.No.CE/CD/SE/CD/EE/AEE/F, TTPS-Free/SCC/D. 1020/12 dated 18.04.2012 on the file of the 3rd Respondent and quash the same as illegal and consequently forbearing the Respondent Nos.2 to 4 from collecting or demanding any amount on the guise of service charge for supply of fly ash instead free of cost to M/s Power Hollow Blocks & Fly Ash Bricks in conformity with G.O Ms. No. 248, Industries (MIB I) Department dated 22.09.1997 as amended by G.O.Ms.No.629, Industries (MIB I) Department, dated 29.07.1999 and Memorandum issued by the Ministry of Environment and Forests, Union of India, dated 18.03.2011.



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PRAYER in W.P(MD)No.14742 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Lr.No.CE/CD/SE/CD/EE/AEE/F, TTPS-Free/SCC/D. 1834/12 dated 29.09.2012 on the file of the 3rd Respondent and quash the same as illegal and consequently forbearing the Respondent Nos.2 to 4 from collecting or demanding any amount on the guise of service charge for supply of fly ash instead free of cost to our M/s.Mona Fly Ash Bricks in conformity with G.O.Ms.No.248, Industries (MIB I) Department dated 22.09.1997 as amended by G.O. Ms. No. 629, Industries (MIB I) Department, dated 29.07.1999 and Memorandum issued by the Ministry of Environment and Forests, Union of India, dated 18.03.2011.

PRAYER in W.P(MD)No.14743 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Lr.No.CE/CD/SE/CD/EE/AEE/F, TTPS-Free/SCC/D. 1830/12 dated 29.09.2012 on the file of the 3rd Respondent and quash the same as illegal and consequently forbearing the Respondent Nos.2 to 4 from collecting or demanding any amount on the guise of service charge for supply of fly ash instead free of cost to our M/s.Amirtha Fly Ash Bricks in conformity with G.O.Ms.No.248, Industries (MIB I) Department dated 22.09.1997 as amended by G.O.Ms.No.629, Industries (MIB I) Department, dated 29.07.1999 and Memorandum issued by the Ministry of Environment and Forests, Union of India, dated 18.03.2011.



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For Petitioner : Mr.J.David Ganesan
for M/s.Jeyapaul Associates
(In all cases)

For R1 : Mr.N.Muthu Vijayan
Special Government Pleader
(In all cases)

For R2 - R4 : Mr.S.Deenadhayalan
Standing Counsel
(In all cases)

ORDER

All the writ petitions have been filed challenging an order passed by the third respondent herein, under which the petitioners/Companies were directed to pay a sum of Rs.300/-(Rupees Three Hundred only) per tonne towards service charges plus taxes and duties for the fly ash utilization.

2. A perusal of the impugned orders indicates that fly ash utilization allotment order was issued for the petitioners for the year 2012-13. According to the learned Standing Counsel appearing for the respondents 2 to 4, every year the amount is being enhanced and as of now, they are collecting at the rate of Rs.600/-(Rupees Six Hundred only) per tonne. Since the petitioners are utilizing the fly ash for commercial purposes, the same cannot be considered to be unreasonable.



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The learned Standing Counsel had further contended that they are not charging it for the product, but they are charging for the services rendered by the respondent Corporation for collection of the fly ash and delivering the same through pipelines to the allottees.

3. In view of the above said facts, I find that the impugned order relates to the period 2012-13 and the said period has expired. The petitioners would have received allotment order for the future years also, which they have not chosen to challenge. Hence, no further orders are required in the writ petitions. All the Writ Petitions are closed. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.08.2022

Index : Yes / No
Internet : Yes / No
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To

The Secretary,
The State of Tamil Nadu,
Environment and Forest Department,
Fort St.George,
Chennai-600 009.



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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)Nos.14741 to 14743 of 2012

Dated:
17.08.2022