



W.P.(MD).Nos.5877 and 5878 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.06.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).Nos.5877 and 5878 of 2012

and

M.P(MD)Nos.1 and 1 of 2012

M/s.Sri.N.P.P.Textiles (P) Ltd.,
Represented by its Director,
A.Gopalasamy

... Petitioner
(In both cases)

Vs.

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

2.The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai-600 002.

3.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Virudhunagar.

... Respondents
(In both cases)



W.P.(MD).Nos.5877 and 5878 of 2012

PRAYER in W.P(MD)No.5877 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 of the third respondent in the Bill No.254, dated 31-01-2012 issued for the petitioner's HT.SC.No.254 in so far as it relates to levy of penalty in the form of excess demand charges in Serial No.13(f) of the said bill and quash the same as illegal, arbitrary, without jurisdiction and authority of law, refund all amounts so collected from the petitioner and consequently forbear the second and third respondents from taking energy adjusted instead of energy available to the credit of the petitioner for the purpose of equivalent demand calculation till the power cut and load shedding are in force.

PRAYER in W.P(MD)No.5878 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 of the third respondent in the Bill No.168, 193 and 300, dated 31-01-2012 issued for the petitioner's HT.SC.No.168, 193 and 300 in so far as it relates to levy of penalty in the form of excess demand charges in Serial No.13(f) of the said bill and quash the same as illegal, arbitrary, without jurisdiction and authority of law, refund all amounts so collected from the petitioner and consequently forbear the second and third respondents from taking energy adjusted instead of energy available to the credit of the petitioner for the purpose of equivalent demand calculation till the power cut and load shedding are in force.



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For Petitioner : Mr.V.Sathurthi Raja
for Mr.S.Kadarkarai
(In both cases)
For Respondents : Mr.S.Deena Dhayalan
(In both cases)

ORDER

W.P(MD)No.5877 of 2012 has been filed to call for the records of the third respondent in the Bill No.254, dated 31-01-2012 issued for the petitioner's HT.SC.No.254 in so far as it relates to levy of penalty in the form of excess demand charges in Serial No.13(f) of the said bill and quash the same, refund all amounts so collected from the petitioner and consequently forbear the second and third respondents from taking energy adjusted instead of energy available to the credit of the petitioner for the purpose of equivalent demand calculation till the power cut and load shedding are in force.

2. W.P(MD)No.5878 of 2012 has been filed to call for the records of the third respondent in the Bill No.168, 193 and 300, dated 31-01-2012 issued for the petitioner's HT.SC.No.168, 193 and 300 in so



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far as it relates to levy of penalty in the form of excess demand charges in Serial No.13(f) of the said bill and quash the same, refund all amounts so collected from the petitioner and consequently forbear the second and third respondents from taking energy adjusted instead of energy available to the credit of the petitioner for the purpose of equivalent demand calculation till the power cut and load shedding are in force.

3. According to the learned counsels appearing on either side, the said issue was settled by the Appellate Tribunal for Electricity(APTEL). In this regard, Tamil Nadu Electricity Regulatory Commission has also passed an order on 04.05.2010 and the relevant portion of the said order reads as follows:

“Para 11.7 Para 3.9 of the order of the commission in RPNO.2 of 2008 explicitly states as follows:

It must be borne in mind that excess demand charges and excess energy charges are liable in addition to the penalty of drastic reduction of electricity supply to 5% (or 10%) during the following 48 hrs as the case may be for violation of restriction and control measures”.



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4. The Electricity Board has approached the Hon'ble Supreme Court challenging the order of APTEL, dated 11.01.2011. In the said Civil Appeals, the Hon'ble Supreme Court was pleased to pass an interim order on 04.02.2011 directing TANGEDCO to furnish Bank Guarantee of a Nationalised Bank in favour of Registrar(Judicial) of the Hon'ble Supreme Court. Now that the issue is pending before the Hon'ble Supreme Court at the instance of the respondent Board, the writ petition is disposed of directing the respondent Board to maintain status-quo as on today. Depending upon the outcome of the Civil Appeal Nos. 1090 to 1099 of 2011, the parties may seek their remedy in a manner known to law.

5. With the above said observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.06.2022

Index : Yes / No
Internet : Yes / No
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To

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

2.The Chairman,
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3.The Superintending Engineer,
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R.VIJAYAKUMAR ,J.

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Order made in
W.P.(MD).Nos.5877 and 5878 of 2012

23.06.2022