



W.P(MD)No.18342 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18342 of 2013

Raju Spinning Mills Private Limited,
Unit-B, HTSC No.173,
Padikasuvaithanpatty Village,
Vaithiyalingapuram Post,
Srivilliputhur Taluk,
Represented by its Manager,
K.Muthulingam

... Petitioner

Vs.

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

2.The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Represented by its Chairman and Managing Director,
144, Anna Salai, Chennai-600 002.

3.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle / Metro,
The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Virudhunagar.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in his impugned Notice Lr.No. SE/VEDC/VDR/AO/Rev/AS/A2/F. BOAB SPL AUDIT/2012, dated 27.09.2012 and quash the same towards the levy of excess / penalty for alleged excess demand and energy quota for the period from 05/2010 to 06/2010 as illegal, arbitrary, without the authority of law and against the orders of the first respondent made in Sou Motu Proceedings No.1 of 2009, dated 28.10.2009, D.R.P.No.14 of 2010, dated 14.03.2011 and Hon'ble APTEL in Appeal Nos.51 and 56 of 2012, dated 12.12.2012 and consequently, direct the third respondent to give refund / adjustment of the amount illegally collected from the petitioner.

For Petitioner : M/s.RM.Loganathan

For Respondents : M/s.S.Deenadhayalan
Standing Counsel

ORDER

The present Writ Petition has been filed challenging a impugned notice issued by the third respondent herein, under which, a demand was raised towards the short levy amount of Rs.13,73,541/-.



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2. According to the learned Counsel for the petitioner, the amount demanded in the impugned order has already been paid. Depending upon the result of the proceedings pending before the Tamil Nadu Electricity Regulatory Commission (TNERC), the petitioner is entitled to get back the amount from the respondent herein.

3. According to the learned Counsel for the petitioner, the issue was decided in favour of the customers by the Hon'ble Supreme Court.

4. Per Contra, the learned Standing Counsel for the respondents contended that the decision of the Hon'ble Supreme Court relates only to the power of the Electricity Board to refix the energy demand quota. The crucial date for fixing the energy demand has to be clarified only by the Tamil Nadu Electricity Regulatory Authority. Hence, a clarification has been sought for, relating to the period between 2008 to 2010. Since the said issue is pending before the Tamil Nadu Electricity Regulatory Committee, the respondent Board is directed not to precipitate the matter and not to execute and not to implement the penalty imposed in the impugned order in the writ petition.



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5. A similar order has been passed by this Court in a batch of writ petitions in *W.P(MD)No.11143 to 11145 and 11364 to 11366 of 2013, dated 21.12.2021* and M.P(MD)No.2 of 2019, is pending before Tamil Nadu Electricity Regulatory Committee.

6. In view of the above said discussion, the respondents are directed not to enforce the demand orders in the writ petition till final orders are passed by Tamil Nadu Electricity Regulatory Committee in M.P.(MD)No.2 of 2019. However, after the disposal of the review petition, the respondents are at liberty to initiate appropriate action in accordance with law depending upon the result of the said review petition.

7. With the above said observation, the writ petition stands disposed of. There shall be no order as to costs.

20.09.2022

Index : Yes / No
Internet : Yes / No
btr



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R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.18342 of 2013

20.09.2022