



W.P(MD)Nos.13019 & 13020 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.10.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.13019 & 13020 of 2014

and

M.P(MD)Nos.1,1,2,2,3 & 3 of 2014

M/s.Nachammai Cotton Mills Limited (0006),
HTSC No.059094610006,
Represented by its General Manager
S.Srinivasan.

... Petitioner
(In W.P(MD)No.13019 of 2014)

M/s.Nachammai Cotton Mills B Unit (0089),
HTSC No.059094610089,
Represented by its General Manager
S.Srinivasan.

... Petitioner
(In W.P(MD)No.13020 of 2014)

Vs.

1.Tamil Nadu Generation and
Distribution Corporation Limited,
(TANGEDCO),
144, Anna Salai,
Chennai-600 002.

2.The Chief Financial Controller/Revenue,
TANGEDCO,
144, Anna Salai,
Chennai-600 002.



W.P(MD)Nos.13019 & 13020 of 2014

3.The Superintending Engineer,
TANGEDCO,
Sivagangai Electricity Distribution Circle,
Sivagangai.

4.Tamil Nadu Electricity Regulatory Commission,
Through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008.

... Respondents
(In both cases)

COMMON PRAYER: 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 impugned circular issued by the 2nd respondent in Lr No/CFC/FC/DFC/AAO.HT/AS.3/REV/D.No.115/13 dated 29.07.2013 quash the same and forbear the respondents 1 to 3 from in any manner levying, demanding and/or collecting demand Charges without applying deemed demand concept as envisaged in order no.2 dated 15.05.2006 issued by the 4th respondent from the petitioner for procuring energy from open access sources including CPP and third party sources.

For Petitioner : Mr.N.Sudalaimuthu
(In both cases)

For Respondents : Mr.S.Deena Dhayalan
Standing Counsel
(In both cases)



W.P(MD)Nos.13019 & 13020 of 2014

COMMON ORDER

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The present writ petitions have been filed challenging the circular dated 29.07.2013, under which, the Grid Availability Charges and Deemed Demand Charges were made.

2. A batch of Writ Petitions arising a similar issue was allowed by this Court in favour of the consumers, which are now pending in Writ Appeals in W.A.Nos.2539 and 2540 of 2018. While the Writ Appeals are pending, this Court in a batch of Writ Petitions in W.P(MD) Nos.14476 of 2013 etc., has passed an order on 26.02.2020. In paragraph No.7 of the said order, the learned Single Judge has passed an interim order pending Writ Appeal. Paragraph No. 7 of the order reads as follows:-

“7. Considering the submissions of either side and in light of the facts coupled with the interim order passed by the Division Bench, these writ petitions are disposed of with the following directions:

(i) The petitioners are directed to pay 50% of the deemed demand charges, if not paid so far and continue to pay the same till the disposal of the Writ Appeal.



W.P(MD)Nos.13019 & 13020 of 2014

(ii) The petitioners are also liable to pay the balance deemed demand charges, if the writ appeal filed by the TANGEDCO is allowed.

(iii) Needless to say that the petitioners are also entitled to get similar refund, if any, if the first respondents in the Writ Appeals succeed, subject to the orders/ observations of the Division Bench.

(iv) It is open to the petitioners to take recourse to any suitable action in the manner known to law, in the interregnum.

3. The learned counsel appearing on either side admitted that the petitioner is also similarly placed, in which, as that of the respondents in the Writ Appeals.

4. In view of the above said facts, the following order is passed:

(i) The petitioners are directed to pay 50% of the deemed demand charges, if not paid so far and continue to pay the same till the disposal of the Writ Appeal.



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W.P(MD)Nos.13019 & 13020 of 2014

(ii) The petitioners are also liable to pay the balance deemed demand charges, if the writ appeal filed by the TANGEDCO is allowed.

(iii) Needless to say that the petitioners are also entitled to get similar refund, if any, if the first respondents in the Writ Appeals succeed, subject to the orders/ observations of the Division Bench.

(iv) It is open to the petitioners to take recourse to any suitable action in the manner known to law, in the interregnum.

5. In view of the the above said directions, both the Writ Petitions stand disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

31.10.2022

Index : Yes / No
Internet : Yes / No
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W.P(MD)Nos.13019 & 13020 of 2014

WEB COPY

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W.P(MD)Nos.13019 & 13020 of 2014

R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)Nos.13019 & 13020 of 2014

Dated:
31.10.2022