



W.P(MD)No.2814 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.11.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.2814 of 2014

and

M.P(MD)Nos.1 to 3 of 2014

M/s.Govindaraja Mills Limited Unit-II,
Represented by its President,
S.Bharani Maheswaran,
EHTSC No.226,
Melakannamangalam, Tamilpadi (PO)-626 129,
Aruppukottai,
Virudhunagar District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to the Government,
Energy Department, Fort St. George,
Chennai-600 009.
- 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 Chief Financial Controller / Revenue,
Accounts Branch, Revenue Division,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai-600 002.



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

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

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 impugned circular issued by the third 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 4 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 fifth respondent from the petitioner for procuring energy from open access sources including CPP and third party sources.

For Petitioner : M/s.N.Sudalai Muthu

For R-1 : M/s.B.Saravanan
Additional Government Pleader

For R-2 to R-5 : M/s.S.Deenadhayalan
Standing Counsel



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ORDER

The present writ petition has 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



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and continue to pay the same till the disposal of the Writ Appeal.

(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 petitioner is 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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(ii) The petitioner is 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 petitioner is also entitled to get similar refund, if any, if the first respondent in the Writ Appeals succeed, subject to the orders / observations of the Division Bench.

(iv) It is open to the petitioner 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, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

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Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR, J.

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Order made in
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