



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.8196 of 2014

and

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

WEB COPY

Palani Vijay Cottspin (P) Limited,
203, Lakshmipuram, Palani,
Dindigul District.
(HTSC No.059094500299)
represented by its Executive Director,
R.Pitchaimani

... Petitioner

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.

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

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the second respondent contained in impugned letter CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.115/13, dated 29.07.2013 and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003.

For Petitioner :Mr.N.Sudalaimuthu
For Respondents :Mr.S.Deenadhayalan

ORDER

This Writ Petition has been filed challenging the impugned circular of the second respondent, dated 29.07.2013 relating to deemed demand benefit.



2.It is now represented by the learned Standing Counsel for the respondents that earlier, the learned Single Judge of this Court had quashed the impugned circular and thereafter, aggrieved by the said order, Writ Appeals were filed before the Honourable Division Bench of this Court in W.A.No.2539 and 2540 of 2018, wherein, the consumers were directed to pay 50% of the demand. The said direction reads as follows:

"8. Therefore, in the light of the above facts and circumstances, and reasons assigned above, this Court is of the considered view that the same arrangement shall continue till the disposal of the writ appeals for the reason that appellant in the event of success in these appeals may not be able to recover it and there may be possibility of respondents / writ petitioners to wind up operations due to vagaries of business or other reasons. Therefore, without prejudice to the rights and contentions, the first respondents / writ petitioners shall continue to pay 50% of the demand made as per the impugned orders / demand, the subject matter of challenge in the writ petitions, within a period of two weeks from the date of each demand. It is also made clear that the amount collected by virtue of the interim order in the writ petitions as well as in these writ appeals, by the appellant is also subject to the result of these writ appeals, and if the appellant fails, they are liable to refund the Deemed Demand Charges already collected from the first respondents / writ petitioners."

3.The learned Standing Counsel would also submit that the Writ Appeals are still pending. By order, dated 26.02.2022, in W.P.(MD) No.14476 of 2013 batch, the learned Single Judge had also taken into consideration the aforementioned Division Bench's order and has also issued similar conditions as imposed by the Honourable Division Bench of this Court.

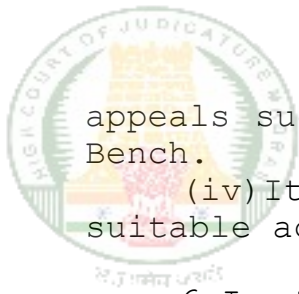
4.The learned Counsel for the petitioner has also accepted the statement made by the learned Standing Counsel for the respondents.

5.Accordingly, after recording the statement made by the respective Counsels, as was done in the earlier cases, the following directions are issued by this Court:

(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.

(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 respondents 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.

6. In terms of the aforesaid direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Cmr

To

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

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+1 CC to M/s.N.SUDALAIMUTHU, Advocate (SR-9581[F] dated 02/03/2022)

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-9807[F] dated 03/03/2022)

Order made in
W.P.(MD)No.8196 of 2014
02.03.2022

SB(CO)

TR(16.03.2022) 3P 7C