



W.P.Nos.17255 & 17256 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.01.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.17255 & 17256 of 2015 &
M.P.Nos.1, 2, 3 & 4 of 2015 (2 Nos.)

Terra Energy Limited
Represented by its Company Secretary,

Having its registered office at:

No.112, Eldarodo, Nungamabakkam High Road,
Chennai – 600 002.

Having its Factory at:

Thirumandankudi,
Papnasam (TK)
Thanjavur 612 301.

... Petitioner in W.P.No.17255 of 2015

Shree Ambika Sugars Limited
Formerly known as Auro Energy Limited
Rep by its Executive Director

Having its registered Office at,

No.112, Eldarodo, Nungamabakkam High Road,
Chennai – 600 034.

Having its Factory at:

Kottur, Tuhili,
Thiruvidamarudur,
Thanjavur 609 804

... Petitioner in W.P.No.17256 of 2015

Vs



W.P.Nos.17255 & 17256 of 2015

1. Tamil Nadu Generation and Distribution Corporation Limited,
Rep. by its Chairman, NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.

2. The Chief Finance Controller/Revenue,
TANGEDCO (Accounts Branch)
144, Anna Salai,
Chennai 600 002.

3. The Director (Finance),
TANGEDCO,
144, Anna Salai,
Chennai 600 002.

4. The Superintending Engineer,
Thanjavur Elec. Dist. Circle
No.1, Vallam Road,
Thanjavur – 613 007.

5. Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmi Pathy Salai,
Egmore, Chennai 600 008.

... Respondents in both W.P.s'

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari, calling for the records of the fourth respondent in the impugned demand notices Lr.SE/TEDC/TJR/DFC/AO/R/RCS/AS/A1/F.AG Audit/D 202/2015 & Lr.SE/TEDC/TJR/DFC/AO/R/RCS/AS/A1/F.AG Audit/D 203/2015 dated 25.05.2015 received from the 4th respondent and quash the same as being arbitrary and illegal.



W.P.Nos.17255 & 17256 of 2015

For Petitioner
in all W.P.'s : Mr.Rahul Balaji

For Respondent
in all W.P.'s : No appearance

COMMON ORDER

The petitioner in W.P.No.17255 of 2015 is before the National Company Law Tribunal (NCLT). In W.P.No.17255 of 2015 wherein the petitioner is Terra Energy Limited, learned counsel has filed vakalath for the liquidator Mr.Ramakrishna Sadasivan. As far as W.P.No.17256 of 2015 is concerned, the name of the Interim Resolution Professional Mr.Anurag Goel is printed in the cause list. However, notice does not appear to have been issued to him.

2. The challenge in these writ petitions is to a demand notice dated 25.05.2015 issued by the Superintending Engineer, Thanjavur Electricity Distribution Circle/R4. The genesis of the demand is a tariff order in T.P.No.1 of 2013 dated 20.06.2013 that provided for a levy of certain charges in relation to the startup power of a generator. The levy came to be challenged by a batch of consumers including this very petitioner in W.P.No.33118 of 2014.



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3. That batch of writ petitions was disposed by this Court on 27.08.2021 by way of a reference to the Tamil Nadu Electricity Regulatory Commission, Chennai and the conclusion of the Court is at paras 26 & 27 extracted below:

“26. The above discussion leads to the final phase of the order. This court is inclined to transfer all these Writ Petitions to the file of the Tamil Nadu Electricity Regulatory Commission, Chennai by setting out the following issues which requires clarification from TNERC in line with the tariff order passed by TNERC in TP No. 1 of 2013 dated 20.06. 2013.

a. Clarify whether, in case of drawl of start-up power by generators, whether the same should be charged at the rate of energy and energy equated demand charges or whether it should be charged on the basis of two-part tariff and how the charges are to be raised and recovered.

b. Whether, if the drawl of start-up power by generators are to be billed on the basis of two part tariff of 300 Rs./KVA/Month and 9.50 Rs./kWh, the demand charges should be pro-rated to actual hours of usage instead of calculating it for the entire month.

c. Whether, if the drawl of start-up power by generators are to be billed on the basis of two part tariff of 300 Rs./KVA/Month and 9.50 Rs./kWh, the demand charges are to be based on actual percentage of maximum demand or on the demand being fixed by TANGEDCO.

d. How different categories of generators are to be treated while determining the startup charges and ;

e. To issue appropriate orders under S.62(6) of the Act, in case of payments to be made to the generators/consumers since the petitioners have deposited charges in compliance with the conditional orders passed by this court.

27. The TNERC is directed to pass final orders within a period of 3 months from the date of receipt of copy of this order after issuing adequate publicity in line with the provisions extracted supra. This will enable all the



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stakeholders to give their inputs and it need not be confined only to the petitioners. The interim orders passed by this court during the pendency of these Writ Petitions, shall continue to be in force till final orders are passed by TNERC.”

4.In the interests of consistency, the same directions including the direction to continue the interim order passed during the pendency of those writ petitions, shall be taken to be passed in the present matter as well.

5.As the present writ petitions challenge subsequent demands emanating from the same levy, it is appropriate that the present writ petitions also join the batch which is stated to be still pending before the Commission. Let notice be issued by the Commission to Mr.Anurag Goel, seeing as no notice has been issued in the present writ petition.

6.These writ petitions are disposed as above. No costs. Consequently, connected miscellaneous petitions are closed.

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02.01.2023

Index : Yes / No

Speaking Order/Non-Speaking Order

Dr.ANITA SUMANTH, J.



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