



W.P.No.28743 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.10.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.28743 of 2023 and
WMP.Nos.28317 & 28320-of 2023

OPG Energy Private Ltd.,
Represented by its Authorised Signatory,
Sudhir Singh
No.8, Komal Road,
Maruthar Village Terizhandur Post,
Mayiladuthurai Nagapattinam-609 808.

... Petitioner

vs.

1. Tamil Nadu Electricity Regulatory Commission
Represented by its Secretary
4th Floor, SIDCO Corporate Office,
Guindy, Chennai-600 032.
2. Tamil Nadu Generation and Distribution Corporation Ltd
Represented by its Chairman & MD,
144, Anna Salai,
Chennai-600 002
3. The Superintending Engineer
NEDC/Nagapattinam Electricity Distribution Circle,
No.25, East Sattaiyappar Keela Street,
Nagapattinam – 611 001



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4. The Chief Engineer (PPP)
6th Floor, Eastern Wing
144, Anna Salai,
Chennai-600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records comprised impugned bills for the period commencing June 2022 to July 2023 issued by the 3rd respondent amounting to Rs.34,56,544/- (Rupees Thirty Four lakhs Fifty Six Thousand Five Hundred Forty Four Only) being the Open Access charges Bill issued by the 3rd Respondent in and by which the 3rd Respondent has levied Parallel Operation Charges on the Petitioner and quash the same as being arbitrary and illegal and consequently direct the 3rd Respondent to refund the sum of Rs.34,56,544/- (Rupees Thirty Four lakhs Fifty Six Thousand Five Hundred Forty Four Only) and any other sums collected from the petitioner towards Parallel Operation Charges together with interest and forbear the Respondents from levying parallel operation charges in respect of the petitioner's power plant. OPG Energy Private Ltd is a gas based Thermal Captive power plant having installed capacity of 17.5 MW and its HTSC No. is 069124450083.



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For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.Richardson Wilson (for R2 to R4)

ORDER

Mr.Rahul Balaji, learned counsel appearing for the petitioner and Mr.Richardson Wilson, learned counsel appearing for R2 to R4 would accede to the position that the very issue that arises for consideration in this matter being the levy of Parallel Operation Charges (POC) is pending before the Appellate Tribunal for Electricity (APTEL) New Delhi. Writ petitions filed along similar lines as the present have in fact been transferred to the APTEL for hearing along with those appeals.

2.It is brought to the notice of this Court that the APTEL does not have the machinery to take on its file, writ petitions that have been transferred and hence in order to facilitate a quick and seamless disposal of the matter, this petition is closed permitting the petitioner to file appropriate appeal before the APTEL challenging order in M.P.No.10 of 2018 dated 04.01.2019.

3.Though the limitation for filing of an appeal is within the 45 days from the date of receipt of the order of the Tamil Nadu Electricity Regulatory Commission in MP.No.10 of 2018 dated 04.01.2019, the learned counsel for



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the respondents conveys that the respondents will not contest the maintainability of the appeal to be filed by the petitioner. Hence appeal, if filed within a period of three (3) weeks from today will be entertained by APTEL without reference to limitation, but subject to other statutory conditions, if any.

4. There shall be an order of interim stay of the collection of the demand under the impugned order till disposal of the appeal to be filed before the APTEL. The petitioner is directed to file a memo confirming filing of the appeal within the time frame as stipulated, before the Registry of this Court. No costs. Connected miscellaneous petitions are closed.

03.10.2023

vs

Index : Yes/No

Speaking order

Neutral Citation : Yes

Note: Registry will place on record a copy of the memo as aforesaid.

To

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Dr.ANITA SUMANTH, J.

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