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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HON.BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.4212, 4213. 4215. 4210 and 4219 of 2022

SEI Phoebus Private Limited,
Flat No.6J, Centrury Plaza,
560-562, Anna Salai – Teynampet,
Chennai - 18, Rep. by its Authorised Signatory,
Mr.T.Swaminathan.

....Petitioner in W.P.No.4212 of

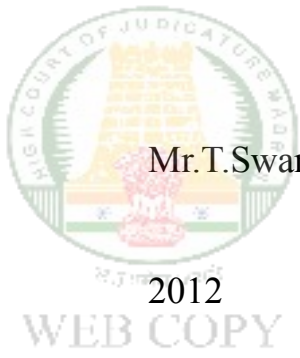
2012

SEI Kathiravan Power Private Limited,
Flat No.6J, Centrury Plaza,
560-562, Anna Salai – Teynampet,
Chennai - 18, Rep. by its Authorised Signatory,
Mr.T.Swaminathan.

....Petitioner in W.P.No.4213 of

2012

SEI Adhityashakthi Private Limited,
Flat No.6J, Centrury Plaza,
560-562, Anna Salai – Teynampet,
Chennai - 18, Rep. by its Authorised Signatory,



Mr.T.Swaminathan

2012

.....Petitioner in W.P.No.4215 of

SEI Adhavan Power Private Limited,
Flat No.6J, Centrury Plaza,
560-562, Anna Salai Teynampet,
Chennai - 18, Rep. by its Authorised Signatory,
Mr.T.Swaminathan.

... petitioner in W.P.No.4218 of

2012

SEI Renewable Energy India Private Limited.
Flat No.6J. Centrury Plaza,
560-562, Anna Salai – Teynampet.
Chennai - 18, Rep. by its Authorised Signatory,
Mr.T.Swaminathan. ...

.....Petitioner in W.P.No.4219 of

2012

-Vs-

Tamil Nadu Electricity Regulation Commission,
No.I44, Anna Salai,
Chennai-2,
Rep. by its Secretary.



... Respondent in all the petitions

Common Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus Calling for the records in order dated 07.12.2021 in PRC. No.6/2021, 8/2021, 7/2021, 5/2021 and 9/2021 respectively passed by the respondent and quashing the same and consequently directing the respondent to number the petition filed by the petitioner before the respondent under S.86(1) e and f of the Electricity, 2003 without reference to the obligation of the petitioner to pay fees in terms of item 7A in Regulation 6 of the Tamil Nadu Electricity Regulatory Commission (Fee and Fines) Regulation, 2004.

For petitioner : Mr. M.V.Swaroop (in all the petitions)

For Respondent : Mr.D.Kumaran (in all the petitions)

COMMON ORDER

These writ petitions have been filed seeking to quash the impugned orders dated 07.12.2021 in PRC. No.6/2021, 8/2021, 7/2021, 5/2021 and 9/2021 respectively passed by the respondent and consequently, directing the respondent to number the petition filed by the petitioner before the respondent under S.86(1) e and f of the Electricity, ACT 2003 without reference to the obligation of the petitioner to pay fees in terms of item 7A in Regulation 6 of the Tamil Nadu Electricity Regulatory



Commission (Fee and Fines) Regulation, 2004.

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2. It is the case of the petitioners that the petitioners company claimed a relief towards recovery of dues for the energy supplied to the respondent. Therefore, the petitioners made application under Regulation 3(iv) for waiver/referral of payment of Court fee before the Tamil Nadu Electricity Regulatory Commission and the said applications were rejected vide order dated 07.12.2021. Challenging the said order, the writ petitions have been filed.

3. The learned counsel for the petitioner submitted that the respondent has erred in holding that the power to grant waiver or to alter the fee has to be interpreted. The respondent has power to interfere under Regulation 3(iv) of the TNERC (Fees and Fines) Regulations, 2004. The exercise of such power, being not intentionally wide in its ambit, could never have been understood to involve grammatical interpretation of the regulation.

4. The learned Standing Counsel appearing for the respondent submitted that if the petitioners aggrieved over the impugned order, they have to approach the appellate authority under Section 111 of the Act for getting appropriate remedy. Instead of doing



that, the petitioners filed the writ petitions, which could not be maintainable. This Court may dismiss the writ petition.

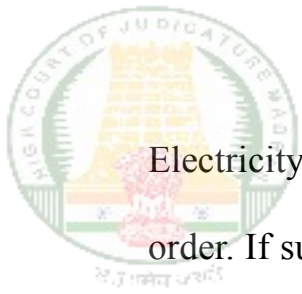
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5. Heard the learned counsel on either side and perused the materials available on record.

6. As rightly submitted by the learned counsel appearing for the respondent that since the issue involved in the present case is disputed question of fact, which cannot be decided by this Court, the petitioner has to approach the appellate authority under Section 111(1) of the Electricity Act, 2003 for getting appropriate remedy. For better appreciation, the said Section is extracted hereunder:

" 111. (1) Any person aggrieved by an order made by an adjudicating officer under this Act (except under section 127) or an order made by the Appropriate Commission under this Act may prefer an appeal to the Appellate Tribunal for Electricity:"

7. In such view of the matter, this Court, without expressing any opinion on the merits of the case and without interfering with the impugned order, directs the petitioner to approach the appellate authority (APTEL) under Section 111 of the



Electricity Act within a period of four weeks from the date of receipt of a copy of this order. If such appeal is filed, the APTEL shall pass orders on merits and in accordance with law as expeditiously as possible.

8. With the above observation, all the writ petitions are disposed of. No costs.