

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED: 16.02.2023**CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.3039 of 2023 and
W.M.P.(MD)No.2850 & 2851 of 2023**

Sri Gomathy Mills (P) Ltd.,
Main Road,
Viravanallur – 627 426,
Tirunelveli District,
Rep. By its authorized signatory
B.Jeyakumar

... Petitioner

Vs.

1. Tamil Nadu Electricity Regulatory
Commission,
Rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai – 600 008.
2. The Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
144, Anna Salai, Chennai – 600 002,
Rep. by its Chairman.
3. The Chief Engineer-NCES
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
2nd Floor, 144, Anna Salai,
Chennai – 600 002.
4. The Chief Financial Controller/Revenue,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
2nd Floor, 144, Anna Salai,
Chennai – 600 002.



5. The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution Circle,
Theni.

6. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the fourth respondent's impugned clarification bearing LR.No.CFC/REV/FC/AO.HT/AS.3/REV/D.522/22 dated 21.12.2022 and the consequential impugned demand notice bearing LR.No.SE/ TEDC /TIN/ DFC/ AO(R)/ AAO/ HT/ F.HT/ D17/22 dated 30.01.2023 issued by the sixth respondent and quash the same as illegal, arbitrary and without authority of law and against the order of the first respondent in D.R.P.No.8 of 2009 dated 26.08.2009 and the Wind Tariff Order No.3 of 2016 dated 31.03.2016 and contrary to Circular Memo dated 03.02.2016 issued by the Director Finance / TANGEDCO.

For Petitioner : Mr.S.R.Rajagopal,
Senior counsel,
for Mr.R.S.Pandiyaraj.

For Respondents: Mr.S.Deenadhayalan,
Standing Counsel.

* * *



WEB COPY



ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Standing counsel appearing for TANGEDCO.

2. The stand of the petitioner is that the impugned demand is not in consonance with the tariff order dated 31.03.2016 passed by the Tamil Nadu Electricity Regulatory Commission and the order made in D.R.P.No.8 of 2009 dated 26.08.2009.

3. I find force in the said contention. I consciously refrain from going into the details. In this view of the matter, the impugned notice and the impugned order are set aside and the matter is remitted to the file of the sixth respondent. The sixth respondent shall pass a fresh order on merits and in accordance with law after hearing the petitioners. This writ petition stands allowed.



4. It appears that the impugned order is based on the audit objection. A copy of the same shall be furnished to the petitioner. I make it clear that the sixth respondent can furnish a copy of the audit objection through email and the petitioner shall not adopt any dragging on tactics. The sixth respondent shall pass order within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall appear before the sixth respondent on 22.02.2023 at 3.00 p.m. A copy of the audit objection shall be served to the petitioner by then. The petitioner can take two days time to offer his reply. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

PMU

Note : Issue order copy on 20.02.2023.



WEB COPY



To:

1. Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai – 600 008.
2. The Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO),
144, Anna Salai, Chennai – 600 002,
Rep. by its Chairman.
3. The Chief Engineer-NCES
Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
2nd Floor, 144, Anna Salai,
Chennai – 600 002.
4. The Chief Financial Controller/Revenue,
Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
2nd Floor, 144, Anna Salai,
Chennai – 600 002.
5. The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution Circle,
Theni.
6. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.



WEB COPY



6

W.P.(MD)NO.3039 OF 2023

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.3039 of 2023

16.02.2023