IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.20201 & 20202 of 2008
and 13991 & 13992 of 2011

Chettinad Cement Corporation Limited,
Rep. by its Company Secretary
Sri.S.Hariharan ... Petitioner in W.Ps.20201 & 20202/2008

M/s.Auro Mira Bio-Energy Pudukottai India Ltd.,
Plot No.5A & 6A, Sipcot Industrial Complex,
Pudukottai – 622 002. ... Petitioner in W.Ps.13991 & 13992/2011

Vs.

1.State of Tamil Nadu,
Rep. by the Secretary to Government,
Energy Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Tamil Nadu Electricity Board,
Rep. by its Chairman,
800, Anna Salai,
Chennai – 600 002. ... Respondents in all the W.Ps.

3.The Chief Electrical Inspector to Government,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai – 600 032.

4.The Superintending Engineer,
Karur Electricity Distribution Circle,
Karur – 639 002. ... Respondents in W.Ps.20201 & 20202/2008

3.Chief Electrical Inspector to Government of Tamil Nadu,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai – 600 032.

4.Electrical Inspector,
Trichy Division,
Trichy. ... Respondents in W.Ps.13991 & 13992/2011

Prayer in W.P.No.20201 of 2008:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the provisions of the Tamil Nadu Tax on Consumption of Sale of Electricity Amendment Act, being Act 38 of 2007 as unconstitutional, beyond the legislative competence, and violative of Article 14 of the Constitution of India.

Prayer in W.P.No.20202 of 2008:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to forthwith refund the tax collected under the Tamil Nadu Tax on Consumption or Sale of Electricity Act 12 of 2003 in view of the judgment of the Hon'ble Supreme Court in Southern Petrochemicals Industries Co. Ltd. Vs. Electricity Inspector and E.T.I.O. & Ors. In AIR 2007 SC 1984.

Prayer in W.P.No.13991 of 2011:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the third respondent comprised in its letter dated 24.05.2011 and quash the same as being arbitrary and illegal and contrary to the provisions of Tamil Nadu Tax on Consumption or Sale of Electricity Act 12 of 2003 (as amended).

Prayer in W.P.No.13992 of 2011:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the provisions of the Tamil Nadu Tax on Consumption of Sale of Electricity Amendment Act, being Act 38 of 2007 as unconstitutional, beyond the legislative competence, and violative of Article 14 of the Constitution of India.

For Petitioners : Mr.T.Balaji
in W.Ps.20201 & 20202/2008
Mr.Rahul Balaji
in W.Ps.13991 & 13992/2011

For Respondents : Mr.L.S.M.Hasan Fizal for R1 and R3
Additional Government Pleader
Mr.L.Jai Venkatesh for R2 and R4
in all the W.Ps.

C O M M O N O R D E R

W.P.Nos.20201 of 2008 and 13992 of 2011 have been filed seeking issuance of Writ of Declaration declaring that the provisions of the Tamil Nadu Tax on Consumption of Sale of Electricity Amendment Act, being Act 38 of 2007 as unconstitutional, beyond the legislative competence, and violative of Article 14 of the Constitution of India.

2.W.P.No.20202 of 2008 has been filed seeking issuance of Writ of Mandamus directing the respondents to forthwith refund the tax collected under the Tamil Nadu Tax on Consumption or Sale of

Electricity Act 12 of 2003.

3.W.P.No.13991 of 2011 has been filed seeking issuance of Writ of Certiorari calling for the records of the third respondent in letter dated 24.05.2011 and quash the same as being arbitrary and illegal and contrary to the provisions of Tamil Nadu Tax on Consumption or Sale of Electricity Act 12 of 2003 (as amended).

4.As the issue involved in all Writ Petitions is one and the same, cases are taken up for disposal by a common order.

5.When these matters are taken up for hearing, learned counsel appearing for the petitioners submitted that, the issue involved in the present Writ Petitions is squarely covered by the order dated 25.07.2019 passed by this Court in W.P.No.21902 of 2019. For better appreciation, relevant portion of the said order is extracted hereunder:

> *"?3. The issue raised in the present Petition is being settled against the Petitioner in terms of the Division Bench judgment in W.P.Nos.159 of 2008 and etc. (batch) decided on 15.06.2012 and thereafter, the Hon-ble Supreme Court having entertained the Special Leave Appeals against the said judgment bearing Special*

Leave (Civil) Nos.24685 to 24719 of 2012, dated 31.08.2012, with an interim direction restraining the Respondents therein from taking any coercive steps for disconnecting the supply of electricity to the premises of the petitioner therein, subject to that petitioner paying all the charges/dues except tax calculated on the basis of maximum demand, it is agreed that, the present Writ Petition be disposed of in the terms aforesaid, with the agreement that the ultimate fate of the matter before the Hon-ble Supreme Court would also govern the present petitioner and the same interim order would continue to enure for the benefit of the Writ Petitioner during the pendency of the Special Leave App Appeals.?"

6.As the said interim order passed by the Apex Court governs the Writ Petitioners herein, the above Writ Petitions are disposed of in terms of the said order passed by the Apex Court. No costs. Consequently, the connected miscellaneous petitions are closed.

05.08.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

M.DHANDAPANI,J.
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To

1.The Secretary to Government,
Energy Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

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