



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4735 of 2020

and

W.M.P.No.5595 of 2020

Raghav Industries Ltd., HTSC No.176,
T.S.No.7, Kattipalayam Village,
Elanagar (Post),
Thiruchengode, Namakkal – 637212,
repd by its Authorised Signatory
Mr.N.Renganathan

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 10th Floor,
144, Anna Salai,
Chennai 600 002.
- 2.The Superintending Engineer,
TANGEDCO,
Namakkal Electricity Distribution Circle,
Namakkal.
- 3.The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.
- 4.The Chief Engineer/NCES,



TANGEDCO,
144, Anna Salai,
Chennnai – 02.

WEB COPY

5. Tamil Nadu Electricity Regulatory Commission,
repd. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 3rd respondent's impugned Letter No.SE/TEDC/TIN/DFC/AO/WIND/AS/F.Banking/D.No. 1675/19 dated 16.10.2019 and quash the same as illegal, arbitrary, against the Wind Tariff Orders of the 5th respondent and contrary to Sections 9 and 42 of the Electricity Act, 2003.

For Petitioner	: Mr.S.P.Parthasarthy
For R1 to R4	: Mr.S.Kalaiselvan Standing Counsel [For TANGEDCO]

ORDER

The order passed by the 3rd respondent in proceedings dated 16.10.2019 is sought to be quashed in the present writ petition.

2. The petitioner owns two wind mills and generating electricity. The



petitioner company sought to transfer 574075 units kept in the banking account of Wind Fan HTSC No.1645 to the banking account of Wind Fan HTSC No.2324 and accordingly, while making allotments of energy to the consumption at HTSC No.176 available in the Namakkal EDC, allotments can be provided from out of the total units available at our banking account, including the 574075 units transferred from the erstwhile windmill of the petitioner having WF HTSC No.1645. The said request made by the petitioner was rejected and the said order came to be challenged in the present writ proceedings.

3. The learned counsel for the petitioner made a submission that the issue has been taken by way of an Appeal before the Appellate Tribunal for Electricity and the matter was remanded by the Appellate Tribunal vide order dated 30.11.2023 in APL.No.853 of 2023 and the relevant portion reads as under:

“Since the TNERC has erred in holding that the orders of the Madras High Court in W.P.No.8634 of 2019 dated 17.08.2021 and W.P.(MD).Nos.6221 and 6222 of 2018 are binding, and it could not therefore follow its earlier order in DRP.No.8 of 2009 dated 26.08.2009, the order



WEB COPY

W.P.No.4735 of



under appeal must be, and is accordingly, set aside. The matter is remanded to the Commission for its consideration afresh in accordance with law. It is made clear that we have not examined the rival contentions on merits, and have only held that the two judgements of the Madras High Court, on which the TNERC has relied upon, does not bind the Commission. Needless to state that, on the petition being taken up for hearing on remand, parties on either side are at liberty to raise all such contentions as are available to them on merits, and the Commission shall consider the same in accordance with law.”

4. Consequent to the remand made by the Appellate Tribunal, the Tamil Nadu Electricity Regulatory Commission has already commenced hearing and the next hearing date is posted on 09.01.2024.

5. The issues raised in the present writ petition are also similar and therefore, it is preferable to leave to the adjudication of the Electricity Regulatory Commission along with all other pending matters, which were already remanded by the Appellate Tribunal for Electricity.



6. Accordingly, the impugned order in the present writ petition is set aside and the matter is remanded back to the Tamil Nadu Electricity Regulatory Commission to be heard along with the other cases, which are posted for hearing on 06.01.2024.

7. In result, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

04.01.2024

Jeni
Index : Yes
Neutral Citation : Yes / No
Speaking order

To

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 10th Floor,
144, Anna Salai,
Chennai 600 002.

2.The Superintending Engineer,
TANGEDCO,
Namakkal Electricity Distribution Circle,
Namakkal.



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

4. The Chief Engineer/NCES,
TANGEDCO,
144, Anna Salai,
Chennnai – 02.

5. Tamil Nadu Electricity Regulatory Commission,
repd. by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai – 600 008.



WEB COPY

W.P.No.4735 of



S.M.SUBRAMANIAM, J.

Jeni

W.P.No.4735 of 2020

04.01.2024