



WEB COPY

W.P.No.8053 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.8053 of 2020

and

W.M.P.Nos.9529, 9530, 9536 & 13985 of 2020

TULSYAN NEC Ltd.,
Rep. By its Authorised Signatory,
Registered Office at Sithurnatham Village,
Eguvarpalayam, Gummidipondi Taluk,
Thiruvallur – 601 201.

.. Petitioner

VS

1.Tamil Nadu Generation Distribution and Corporation Ltd.,
(TANGEDCO), 144, Anna Salai,
Chennai – 600 002.

2.The Superintending Engineer,
CEDC/North/Chennai,
Tamilnadu Generation Distribution and Corp. Ltd.,
144, Anna Salai,
Chennai – 600 002.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent vide impugned letter No. SE /CEDC /N /AAO /HT /F.Tulsyan /F.CPP/D 1680/20 dated 4.4.2020 in so far as it pertains the period from 25.03.2020 – 31.03.2020 and consequential impugned demand notice vide Lr.No.SE/CEDC/N/AAOHT/F.Tulsyan F.CPP/D 1723/20 dated 06.05.2020, quash the same as illegal and arbitrary, direct the respondents to refund the amount paid for open access charges for the lock down period from 25.03.2020 – 31.03.2020 and consequentially forbear the respondents from insisting payment for the open access charges pertaining to the lockdown period.

For Petitioner : Mr.Rahul Balaji



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For Respondents : Ms.Sindhuza
for Mr.L.Jai Venkatesh
Standing Counsel

ORDER

In this writ petition, the petitioner challenges a demand by the second respondent, being the Superintending Engineer, TANGEDCO for Open Access (OA Charges) for the dates 25.03.2020 to 31.03.2020 and connected demands and for a consequential refund of the same for the period during which the country was under lock-down between 25.03.2020 and 31.03.2020.

2. Both, Mr.Rahul Balaji, for the petitioner and Ms. Sindhuza, for Mr.L.Jai Venkatesh, for the respondent would, in common, draw attention to orders that have been passed by learned Single Judges and by the First Bench on the very same issue as in the present matter. In an order passed on 01.02.2022, learned Single Judge has noticed that a common order has been passed in similar matters on 17.09.2020 directing disposal of the refund applications filed by various entities similarly placed to the petitioner.

3. A common order had been passed directing TNERC to dispose the refund applications and TNERC is stated to have subsequently allowed the application filed by those petitioners directing refund. As against the order of the TNERC, a belated appeal has been filed by TANGEDCO. Hence at the time of disposal of W.P.No.1199 of 2022, the Court had noticed that the order of TNERC has attained finality and had hence directed implementation of the directions within a fixed time frame.



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4. As against that order and similar orders, TANGEDCO has filed appeals before the First Bench and in W.A.No.354 of 2024 and batch, vide order dated 05.02.2024 order of learned Single Judge had been confirmed except with the observation, the amount refunded / to be refunded, would be subject to the decision of the Appellate Tribunal for Electricity. The same direction is issued in this matter as well. The petitioner shall be granted refund within four weeks and the fate of the refund would be subject to the outcome of the appeal filed by TANGEDCO before APTEL.

5. This writ petition stands disposed in terms of this order. No costs. Connected miscellaneous petitions are closed.

01.08.2024

Index:Yes/No
Neutral Citation:Yes
ssm

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DR. ANITA SUMANTH,J.



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