



WEB COPY



W.P.No.10335 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.10335 of 2022 and
WMP.Nos.10054 & 10055 of 2022

M/s.Ratnakala Power Generation P Ltd.,
WEG HTSC No.239 & 240,
202, Shanti Vimal Apartment,
Sir P.M.Roan, Vile Parle East,
Mumbai 400 057

Rep. By its Authorised Signatory,
M.Mohammed Aasath

... Petitioner

Vs.

- 1.The Tamilnadu Generation and Distribution Corporation Ltd.,
Rep. By its Chairman and Managing Director,
No.144, Anna Salai, Chennai 600 002
- 2.The Chief Financial Controller / Revenue,
TANGEDCO,
No.144, Anna Salai, Chennai 600 002
- 3.The Superintending Engineer,
TANGEDCO,
Tuticorin Electricity Distribution Circle,
Tuticorin 600 002
- 4.The Chief Internal Audit Officer,
TANGEDCO,
Audit Branch,
1st Floor, No.144, Anna Salai,
Chennai 600 002
- 5.The Tamilnadu Electricity Regulatory
Commission repd. By its Secretary,



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4th Floor,
SIDCO Corporate Office Building,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai 600 032
Rep. By its Secretary

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records impugned Lr.No. SE / TEDC / DFC / AO / Rev / AAO / HT / F.Audit / D.175 / 22 dated 04.04.2022 issued by the 3rd Respondents and audit slip no.23 dated 25.01.2019 issued by the 4th Respondent quash the same as illegal, arbitrary and contrary to the order passed by the Honble Supreme Court in C.A. No.002029 / 2013 dated 23.08.2013 and the order passed by this Court in W.P.No.30662 and 30666 of 2018 dated 15.02.2019 and forbear the 3rd Respondent herein from levying cross subsidy surcharge against the petitioner for the units of electricity supplied to their Captive Users from their Captive Generating Plants without following the procedure contemplated in the Order passed by the fourth respondent in RA.No.7 of 2019 dated 28.01.2020.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.S.Madhusudanan,
Standing Counsel

ORDER

This writ petition has been filed challenging the letter in
Lr.No. SE / TEDC / DFC / AO / Rev / AAO / HT / F.Audit / D.175 / 22



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dated 04.04.2022 issued by the 3rd respondents and audit slip No.23

dated 25.01.2019 issued by the 4th respondent.

2. In similar case, this Court passed the following order in WP.Nos.30662 & 30666 of 2018 dated 15.02.2019:

“2. When the matters were taken up, learned counsel for the petitioners submitted that the counter affidavit filed by the respondents 1 to 3 clearly admits the case of the petitioner that the show cause notices were issued without being aware of the pendency of the civil appeals before the Hon'ble Supreme Court and again in paragraph-6(ii), they have stated that the further proceedings in this regard will be kept in abeyance until the disposal of the aforesaid civil appeal.

3. Heard the learned counsel for the parties.

4. It is pertinent to extract paragraph-6(ii) of the counter affidavit, which reads as follows:-

“6(ii). It is admitted that the second respondent without aware of the pendency of Civil Appeal before the Hon'ble Supreme Court of India against the order dated 3.10.2012 passed by the APTEL in Appeal No.193



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of 2011 has issued the show cause notice to the petitioner. If at all the petitioner would have been brought the fact to the knowledge of the second respondent by way of reply to the show cause notice, the petitioner would have avoided approaching this Hon'ble Court. Therefore it is respectfully submitted that further proceedings in this regard will be kept in abeyance until the disposal of the aforesaid Civil Appeal.”

5. Recording the above statement, these writ petitions stand disposed of. Consequently, W.M.P.Nos.35763 & 35771 of 2018 are closed. No costs.”

3. Therefore, this writ petition also stands disposed of.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

02.04.2024

Neutral Citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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- 1.Chairman and Managing Director,
The Tamilnadu Generation and Distribution Corporation Ltd.,
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- 2.The Chief Financial Controller / Revenue,
TANGEDCO,
No.144, Anna Salai, Chennai 600 002
- 3.The Superintending Engineer,
TANGEDCO,
Tuticorin Electricity Distribution Circle,
Tuticorin 600 002
- 4.The Chief Internal Audit Officer,
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1st Floor, No.144, Anna Salai,
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G.K.ILANTHIRAIYAN, J.

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