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W.P.No.468 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.468 of 2025

and

W.M.P.Nos.547 and 548 of 2025

OPG Power Generation Pvt. Ltd.
OPG Power Plant, OPG Nagar,
PeriyaObulapuram Village NagarajaKandigai,
Madharapakkam Road, Gummidipoondi,
Thiruvallur – 601 201

... Petitioner

VS.

1.Tamil Nadu Power Distribution
Corporation Limited (TNPDCCL)
Rep. by its Chairman,
NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002.

2.Chief Financial Controller/Revenue [FAC],
7th Floor Eastern Wing, TNPDCCL,
NPKRR Maligai,
Chennai 600 002



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3. Director (Finance)
TNPDCI,
NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002

4. The Superintending Engineer
Chennai EDC / North
TNPDCI, Anna Salai
Chennai – 600 002.

5. Tamil Nadu Electricity Regulatory Commission,
TNERC,
4th Floor, SIDCO Corporate Office building,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai, 600032.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the impugned instructions issued by the 2nd Respondent, vide letter dated 12.12.2024 bearing reference Lr.No.CFC/REV/FC/AO/AS-3/REV/D.No.557-1/24, directing all Superintending Engineers of TNPDCI to bill all generators availing start-up power under High Tension Tariff – I (two-part tariff system) under the respective tariff orders issued by the 5th Respondent TNERC for the period from 01.08.2017 to 30.06.2024 and the consequential demand notice issued by the 4th Respondent dated 31.12.2024 bearing reference Lr.No.SE/CEDC/N/DFC/AAO/HT/A.3/F.1881/D.743/24, as being arbitrary, illegal, without authority, and contrary to the provisions of the Electricity Act, 2003, the Regulations framed thereunder as well as the tariff orders issued by 5th Respondent TNERC, and to consequently direct the Respondent TNPDCI to forbear from pursuing any recovery action contrary



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to the binding tariff orders of the TNERC and the order dated 29.12.2023 passed in T.A. No. 13 of 2022 and batch, consistent and in line with the tariff orders issued by the TNERC for the period from 01.08.2017 to 30.06.2024.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.P.S.Raman
Advocate General
assisted by Mr.D.R.Arunkumar
Standing Counsel (TNEB)

ORDER

By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. This Writ Petition is filed challenging the order passed by the 2nd respondent vide Letter in Lr.No.CFC/REV/FC/AO/AS-3/REV/D.No.557-1/24, dated 12.12.2024 directing all the Superintending Engineers to bill the petitioner and similarly placed generators under HT TARIFF-I as per the respective tariff orders issued by the Tamil Nadu Electricity Regulatory Commission, TNERC/the 5th respondent for the period from 01.08.2017 to 30.06.2024 with applicable BPSC.



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3. Earlier, the dispute arose regarding the applicable tariff/billing of start-up power and writ petitions were filed before this Court by petitioner and other generators in W.P.No.26266 of 2013 etc., batch and all those writ petitions were transferred to the 5th respondent by order dated 27.08.2021 passed by this Court. Pursuant to the same, the 5th respondent/TNERC disposed of all those petitions by order dated 29.12.2023. Aggrieved by the same, the Tamil Nadu Generation and Distribution Corporation Limited/1st respondent herein filed appeal before the APTEL. While passing an interim order in the appeal, the APTEL clarified that it was left open to TNERC to adjudicate the dispute raised by the parties. Pursuant to the direction issued by the APTEL, the petitioner herein filed a clarificatory petition in M.P.No.51 of 2024 before the TNERC. Along with the clarificatory petition, the petitioner has also filed a stay application in I.A.No.1 of 2024 and the same is posted for hearing on 28.01.2025.

4. In the meantime, the impugned order has been passed by the 2nd respondent issuing certain directions to all Superintending Engineers regarding amount payable by the petitioner.



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5. Since the stay application filed by the petitioner is pending before the Tamil Nadu Electricity Regulatory Commission/the 5th respondent herein, this Court without expressing any opinion on the merits of the points raised by the petitioner, is inclined to direct the Tamil Nadu Electricity Regulatory Commission/5th respondent to take up the stay application filed by the petitioner in I.A.No.1 of 2024 in M.P.No.51 of 2024 and pass final orders on its own merits and in accordance with law, on or before 07.02.2025.

6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

08.01.2025
(2/2)

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

Note: Issue order copy on 20.01.2025.



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To

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S.SOUNTHAR, J.

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