

W.P. No. 1382 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HON'BLE Mr. JUSTICE N.ANAND VENKATESH

W.P. No. 1382 of 2021

and

W.M.P. Nos. 1552 and 16214 of 2021

M/s.K.G.Denim Limited

Rep. by its Authorised Signatory R.Selva Kumar

Then Thirumalai, Mettupalayam

Coimbatore District – 641 302.

... Petitioner

-VS-

1. The Government of Tamil Nadu

Rep. by its Secretary to the Government

Energy Department, Secretariat

Fort St. George, Chennai-600009.

2. The Chief Electrical Inspector to Government

Thiru-Vi-Ka Industrial Estate

Guindy, Chennai-600032.

3. The Senior Electrical Inspector

Corporation Commercial Complex

Dr.Nanjappa Road, Coimbatore Central

Coimbatore-641018.

4. The Electrical Inspector

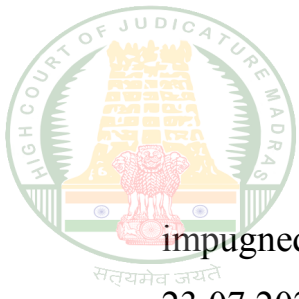
Office of the Electrical Inspectorate

4/13B, SRS Puram, Kalangan Road

Sulur, Coimbatore – 641 402.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records of the



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impugned letter in Letter No.1470/Mi/Aa/Sulur/A1/Minvari/2020 dated 23.07.2020 issued by the fourth respondent and quash the same.

For Petitioner : M/s.S.Varsha for Mr.Naveen Kumar Murthi
For Respondents : Mr.R.Ramanlal, AAG
Asst. by Ms.P.Aishwarya, GA (RR1 & 2)
R3 and R4 – No appearance

ORDER

This writ petition has been filed challenging the impugned letter No.1470/Mi/Aa/Sulur/A1/Minvari/2020 dated 23.07.2020 issued by the fourth respondent.

2. When the writ petition came up for hearing on 25.01.2021, this Court had passed the following order:-

“ The petitioner is a public limited Company involved in the manufacture of textiles. The petitioner company is also involved in the business of generation and distribution of energy for captive use. The petitioner's power plant had been converted into a Bio mass power plant and the same would be exempted from paying E-tax as per G.O.Ms.No.18 Energy (A2) dated 01.04.2015 as the bio mass generating plants are exempted from paying electricity tax. But by the impugned



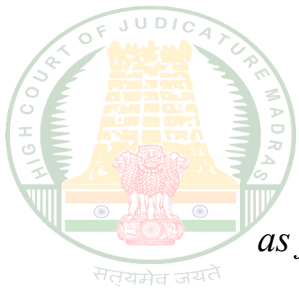
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letter dated 23.07.2020, the 4th respondent demanded a sum of Rs.26,87,584/- towards captive consumption charges with interest at 12% . The exemption sought for by the petitioner for payment of E-tax was rejected stating that exemption for payment of E-tax was granted only to Bio mass energy generating plant, generating the same for sale and not for self consumption. The learned counsel for the petitioner relied upon similar order passed by this Court in WMP.Nos.15474 and 15475 of 2020 in W.P.No.12554 of 2020 dated 15.09.2020, wherein similar impugned orders were stayed by this Court on certain conditions.

2 Mr.N.Shanmugasundaram, learned Special Government Pleader takes notice for the 1st respondent. Mr.N.Damodharan, learned Standing Counsel takes notice for 2nd to 4th respondents. They fairly conceded that similar writ petitions on the very same issue are pending before this Court in W.P.Nos.6429 & 6432 of 2020 etc., batch.

3. On the very same issue this Court has passed an order in W.P. No.5916 of 2015 etc., dated 14.09.2018 which reads



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as follows;

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“18. In view of the discussions made in the aforementioned paragraphs, this Court is of the opinion that the Regulatory Commission has to undertake the process of revision either suo-moto or through an application if any filed before the commission and conduct the adjudicative process by issuing notice to all the stakeholders and after hearing the parties aggrieved, decision shall be taken on merits and in accordance with law. The compliance of principles of natural justice has been contemplated in the business regulations, as stated supra. Thus Electricity Regulatory Commission is bound by that and they have to follow the procedures and thereafter take a decision and pass orders on merits and in accordance with law in respect of the withdrawal of the concession of the Deemed Demand Charges in respect of the writ petitioners. However, it is made clear that the observations made in this judgment will not affect the independent adjudication if any undertaken by the



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Electricity Regulatory Commission in accordance with the procedures contemplated. The Electricity Regulatory Commission is at liberty to decide the merits and de-merits independently and pass orders without causing undue delay in view of the fact that the concession has been already cancelled in respect of other categories. Accordingly the impugned order passed by the second respondent in letter No.CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.11513 dated 29.07.2013 is quashed and these writ petitions are allowed. No costs. Consequently connected miscellaneous petitions are also closed”.

4. As against this order, Tamil Nadu Electricity Board has preferred appeals in W.A.Nos.2539 and 2540 of 2020, wherein the Division Bench of this Court, passed an interim order dated 19.11.2018 which reads as follows;

“ 7. Hence, there shall be an order of interim stay as prayed for till 17.12.2018. It is also brought to the notice of this Court by the learned Advocate General that during the



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pendency of the writ petitions interim stay has been granted subject to the condition that the writ petitioners pay 50% of the amount demanded within a stipulated time.

8. Therefore, in the light of the above facts and circumstances, and reasons assigned above, this Court is of the considered view that the same arrangement shall continue till the disposal of the writ appeals for the reason that appellant in the event of success in these appeals may not be able to recover it and there may be possibility of respondents/writ petitioners to wind up operations due to vagaries of business or other reasons. Therefore, without prejudice to the rights and contentions, the first respondent/writ petitioners shall continue to pay 50% of the demand made as per the impugned orders/demand, the subject matter of challenge in the writ petitions, within a period of two weeks from the date of each demand. It is made clear that the amount collected by virtue of the interim order in the writ petitions as well as in these writ appeals, by the appellant is also subject to the result of



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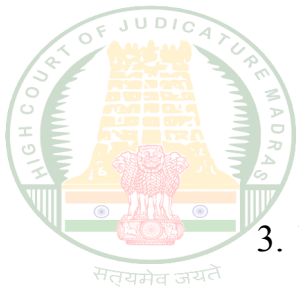
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these writ appeals, and if the appellant fails, they are liable to refund the Deemed Demand Charges already collected from the first respondent/writ petitioners. Call on 17.12.2018.”

5. In view of the interim orders passed by the Division Bench of this Court staying the operation of the proceedings and permitting the writ petitioners to pay 50% of the demand made as per the impugned orders, the other writ petitions have also been entertained. The other writ petition in WP.No.12554 of 2020 was entertained and an order of interim injunction was granted on condition that the petitioner should pay 50% of the amount demanded within the stipulated time.

6. In view of the above orders passed by this Court, there shall be an order of interim stay of the impugned order dated 23.07.2020 on condition that the petitioner shall pay 50% of the amount demanded within a period of two weeks from the date of receipt of a copy of this order.

7. Post this writ petition along with connected W.P.Nos.6429 & 6432 of 2020 etc., batch after four weeks.”



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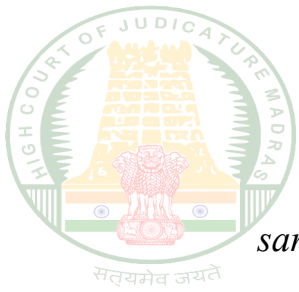
3. When the matter came up for hearing on 17.06.2025, this Court had

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“ When this writ petition came up for hearing on 10.06.2025, this Court directed this writ petition to be posted along with WP.Nos.6429 of 2020, 6432 of 2020 and WP.No.12554 of 2020.

2. When the matter was taken up for hearing today, it was brought to the notice of this Court that W.P.Nos.6429 and 6432 of 2020 had already been disposed of by this Court by an order dated 18.08.2021. Insofar as WP.No.12554 of 2020 is concerned that writ petition was listed with a batch of writ petitions in WP.Nos.6776 etc., of 2018 and those writ petitions were disposed of by order dated 28.10.2021. Hence, it must be seen as to whether this writ petition can also be disposed of in terms of the above orders.

3. The learned counsel for the petitioner sought for sometime to take instructions. The learned Government Advocate appearing on behalf of the respondents submitted that the interim order passed by this Court directing the petitioner to pay 50% of the amount demanded, was not complied with and to substantiate the



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same, the stand that was taken in the counter affidavit filed by the respondents along with the vacate stay petition was pointed to this Court.

4.The learned counsel for the petitioner shall take specific instructions as to whether the interim order passed by this Court has been complied with.

5.Post this writ petition finally on 24.06.2025.”

4. When the matter was taken up for hearing on 01.07.2025, this Court had passed the following order:-

“ The learned counsel for the petitioner seeks for sometime in this case to take instructions from the petitioner. Even in the previous order that was passed on 17.06.2025, this Court made it very clear that the interim order passed by this Court has to be complied with.

2.In view of the above, post this writ petition finally on 15.7.2025.”

5. When this writ petition came up for hearing today, the learned counsel for the petitioner, on instructions, submitted that the petitioner is not able to deposit the 50% amount demanded as directed by this Court. The learned



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counsel further submitted that the petitioner is facing financial difficulties.

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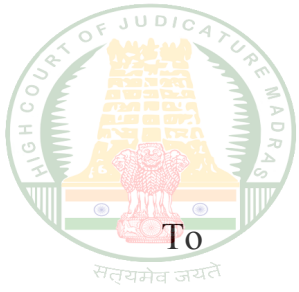
6. In the considered view of this Court, the fact that the petitioner has not complied with the interim order passed by this Court due to the alleged financial difficulties faced by the petitioner, warrants this Court not to exercise its discretion under Article 226 of the Constitution of India. If the petitioner has already negotiated with the respondents to pay the amount defaulted in installments, the petitioner shall follow it again. This Court is not inclined to deal with the writ petition on merits.

7. Accordingly, this writ petition is disposed. Consequently, connected miscellaneous petitions are closed. No costs.

15.07.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
NCC : Yes / No

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To

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1. The Secretary to the Government of Tamil Nadu
Energy Department, Secretariat
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2. The Chief Electrical Inspector to Government
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N.ANAND VENKATESH, J.

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