



W.P.No.993 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 20.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.993 of 2025 and
WMP Nos.1232 & 1233 of 2025

MALCO Energy Limited,
(formerly the Madras Aluminium Company Limited),
Rep. by Director Poovannan Sumathi,
Post Box No.4, Mettur Dam R.S.,
Salem District 636 402.

... Petitioner

Vs.

1. The Tamil Nadu Power Distribution Corporation Limited (TNPDC),
Rep. by its Chairman, NPKRR Maaligai,
No.144, Anna Salai, Chennai 600 002.
2. Chief Financial Controller/Revenue (FAC),
7th floor Eastern Wing, TNPDC,
NPKRR Maligai, Chennai 600 002.
3. Director (Finance),
TNPDC, NPKRR Maaligai,
144, Anna Salai, Chennai 600 002.
4. The Superintending Engineer,
Mettur EDC, TNPDC,
Mettur 636 401.



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5. Tamil Nadu Electricity Regulatory Commission,
TNERC, 4th floor, SIDCO Corporate Office building,
Thiru Vi Ka Industrial Estate, Guindy,
Chennai 600 032.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Certiorarified Mandamus, to quash the impugned instructions issued by the second respondent, vide letter dated 12.12.2024 bearing reference Lr.No.CFC/REV/FC/AO/AS-3/REV/D.No.557-1/2024, directing all Superintending Engineers of TNPDCCL 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 fifth respondent TNERC for the period from 01.08.2017 to 30.06.2024 and the consequential demand notice issued by the fourth respondent, dated 26.12.2024 bearing reference Lr.No.SE/MEDC/DFC/AO/R/AS/HT/F.MALCO/D.169/24, 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 the fifth respondent TNERC and consequently direct the respondent TNPDCCL to forbear from pursuing any recovery action contrary to the binding tariff orders of the TNERC and the order



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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 for R1 to R4.

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 similarly placed power 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 in W.P.No.468 of 2025 filed a clarificatory petition in M.P.No.51 of 2024 before the TNERC. Along with the clarificatory petition, he 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 in W.P.No.468 of 2025 was 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 therein, directed 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. The learned counsel for the petitioner as well as the learned Advocate General, who is taking notice for the respondents would agree that the order to be passed by the fifth respondent in I.A.No.1 of 2024 in M.P.No.51 of 2024, pursuant to the direction issued in W.P.No.468 of 2025, will cover the issue involved in this matter.

7. Already, this court, vide order dated 08.01.2025 in W.P.No.468/2024, has directed the fifth respondent to dispose of the said petition filed by the petitioner therein, on or before 07.02.2024. Therefore, this writ petition is disposed of with an observation that the



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benefit of the order to be passed the fifth respondent in I.A.No.1/2024 in M.P.No.51 of 2024 will enure to the petitioner in this writ petition.

8. There shall be no order as to costs. Connected miscellaneous petitions are closed.

20.01.2025
(2/2)

Index:Yes/No
Internet:Yes/No
mst

To

1. The Tamil Nadu Power Distribution Corporation Limited (TNPDC),
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No.144, Anna Salai, Chennai 600 002.
2. Chief Financial Controller/Revenue (FAC),
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5. Tamil Nadu Electricity Regulatory Commission,
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S.SOUNTHAR, J.

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