



W.A.No.947 of 2019 etc batch cases

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on :26.11.2025

Pronounced on : .12.2025

Coram:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**

AND

THE HONOURABLE **MR.JUSTICE MUMMINENI SUDHEER KUMAR**

W.A.Nos.2539, 2540 of 2018

W.A .Nos.933, 947, 515, 937, 939, 946, 950, 952, 958, 1000, 1002, 1011, 1012, 1013, 1015, 1016, 1018, 1021, 1024, 1030, 1032, 1034, 1036, 1043, 1045, 1048, 1050, 1051, 1055, 1063, 1067, 1081, 1082, 1084, 1085, 1087, 1092, 1093, 1094, 1106, 1108, 1109, 1110, 1111, 1113, 1117, 1126, 1128, 1135, 1141, 1177, 1178, 1159, 1160, 1174, 1175, 1179, 1180, 1181, 1185, 1186, 1188, 1190, 1195, 1196, 1197, 1198, 1199, 1200, 1202, 1203, 1204, 1207, 1209, 1212, 1214, 1220, 1221, 1222, 1223, 1228, 1230, 1231, 1233, 1239, 1240, 1242, 1246, 1248, 1250, 1252, 1255, 1258, 1260, 1265, 1262, 1267, 1268, 4128, 4168, 4141, 4142, 4143, 4144, 4146, 4154 of 2019, 1052, 1050, 1051, 1046, 1053, 1056, 1057, 1036, 1037, 1038, 1039, 1042, 1044, 1045, 1047, 1048, 1049, 1058, 1071 of 2020 and W.P.Nos.6988, 7305, 7306, 7546 of 2016, 19006, 19095, 27018 of 2019, 6294, 6297 of 2020

and

C.M.P Nos.7112, 7113, 7937, 7939, 20485, 20490, 4506, 7072, 7073, 7078, 7081, 7099, 7103, 7123, 7124, 7130, 7131, 7172, 7173, 7513, 7515, 7525, 7526, 7604, 7607, 7612, 7614, 7611, 7616, 7619, 7623, 7620, 7622, 7629, 7630, 7683, 7686, 7693, 7697, 7718, 7719, 7726, 7727, 7731, 7733, 7746, 7747, 7770, 7777, 8329, 8331, 7788, 7790, 7795, 7798, 7800, 7801, 7811, 7812, 7833, 7835, 7855, 7856, 7894, 7896, 7900, 7901, 7920, 7922, 7926, 7929, 7933, 7934, 7953, 7954, 7956, 7958, 7961, 7996, 7998, 8001, 8002, 8009, 8008, 8010, 8011, 8015, 8017, 8024, 8026, 8036, 8037, 8064, 8070, 8067, 8068, 8088, 8103, 8106, 8243, 8244, 8246, 8247, 8152, 8153, 8155, 8156, 8233, 8234, 8236, 8238, 8256, 8257, 8258, 8259, 8263, 8264, 8272, 8273, 8277, 8280, 8286, 8288, 8292, 8293, 8310, 8311, 8315, 8316, 8317, 8324, 8319, 8322, 8321, 8323, 8325, 8327, 8336, 8337, 8338, 8339, 8350, 8353, 8363, 8370, 8371, 8380, 8381, 8386, 8387, 8407, 8409,



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W.A.No.947 of 2019

1. Tamil Nadu Generation and Distribution Corporation Limited, Rep by its Chairman No.144, Anna Salai, Chennai-600 002.
2. The Chief Financial Controller/Revenue, Tamil Nadu Generation and Distribution Corporation Limited, No.144. Anna Salai, Chennai-600 002.
3. The Superintending Engineer, TANGEDCO, Erode Electricity Distribution Circle, Erode.
4. Accounts Officer, TANGEDCO, Erode Electricity Distribution Circle, Erode.
5. Chairman, Tamil Nadu Electricity Board, No.144, Anna Salai, Chennai-600 002. ...Appellants/Respondents 1 to 4 & 6
Vs.

1. National Oxygen Limited represented by its Joint Managing Director Mr. Rajesh Kumar Saraf, S/o. Shri Gajanand Saraf, Aged 53 years, Having its registered office at No.80, Old No.141, Greaves Road,



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Chennai-600 006.

...1st Respondent/Writ Petitioner

2. Tamil Nadu Electricity Regulatory Commission,

Rep. By its Secretary,

No.19A, Rukmini Lakshmipathy Salai,

Egmore, Chennai-600 008.

...2nd Respondents/5th Respondent

3. M/s. TCP Limited,

TCP Sapthagiri Bhavan,

No.4, Karpagambal Nagar, Mylapore,

Chennai-600 004.

...3rd Respondent/7th Respondent

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 14.09.2018 passed in W.P(MD)No.2288 of 2017 by this Court.

For Appellants : Mr.P.Wilson, Senior Counsel

for Mr.Dr.Arunkumar

For R3 : Mr.Rahul Balaji

For R1 : No appearance

For R2 : Mr.Richardsonwilson

COMMON JUDGMENT

(Judgment of the Court was made by DR.G.JAYACHANDRAN, J.)

The Appellants are the TANGEDCO and officials of TANGEDCO, aggrieved by a common order dated 14.09.2018 in a batch of writ petitions filed this batch of writ appeals. The High Tension Open Access Captive Power Generators/ Consumers of TANGEDCO are the successful Writ Petitioners, arrayed as respondents herein. The writ petitions primarily for issuance of Certiorarified Mandamus to call for the records



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and quash the letter of Chief Financial Controller / Revenue,

TANGEDCO bearing No: CFC/FC/DFC/AAO.HT/AS 3 / REV/D.No

115/13 dated 29.07.2013. In some of the writ petitions, further relief sought to forebear the TANGEDCO officials from demanding or levying demand charges without applying DEEMED DEMAND CONCEPT as envisaged in Traffic Order 2 of 06 dated 15.05.2006 and for quashing of demand charge made or for refund of demand charge paid pursuant to the CC Bills raised by TANGEDCO following the impugned letter.

2.The Learned Single Judge, vide his common order, dated 14.09.2018, quashed the impugned letter and allowed the writ petitions with the observation that the Tamil Nadu Electricity Regulatory Commission has to undertake the process of revision either *suo motu* 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.

3.The appeals under consideration are directed against the above finding of the learned Single Judge. According to the appellants, the writ

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petitioners have knocked the doors of justice with unclean hands. The

Learned Single Judge on being misled by the petitioners, erroneously allowed the writ petitions ignoring the fact that the impugned letter, which is an inter department communication pursuant to the Tariff orders passed in the year 2012 and 2013 by the Regulatory Commission after following the due adjudicative process contemplated under the statute. The learned Single Judge erred in presuming that the impugned letter dated 29.07.2013 is an order of cancellation of the benefit of Deemed Demand Charges. This erroneous presumption has lead to the erroneous conclusion.

4.The Learned Senior Counsel appearing for the TANGEDCO and the Learned Counsel appearing for the TNERC tracing the background of the Deemed Demand Charges concession given to the Open Access High Tension Power Consumers in the year 2006 and the reason for rationalising the categories of HT consumer and the tariff orders passed subsequently in the year 2012 pursuant to the powers conferred under Sections 62 and 86 of the Electricity Act, 1986 submitted that, the impugned letter of the second respondent, dated 29.07.2013 is a consequence to the Tariff order passed by the Regulatory Commission.



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Without challenging the vires of the Tariff Order, the consequential communication and action taken as per the order, the writ petitions are filed by wilful suppression of facts in entirety. The Learned Single Judge without proper appreciation of the records placed before the court, allowed the writ petitions which are not even maintainable.

5. Per contra, the learned counsels appearing for the respondents/writ petitioners submitted that, the Order 2/2006, gave the benefit of deemed demand charges to the HT captive consumers of non renewable energy using Open Access facility. The said concession never withdrawn under any of the subsequent orders and if any change in the deemed demand charges to be inferred from the subsequent orders, then it is without following the procedure contemplated under the Act. The concession envisaged in Order 2/2006 passed under the Regulations governing Open Accession HT captive power Consumers can be withdrawn only on following the procedures contemplated for change in tariff policy and not by administrative communication.

6. From the common order of the learned single Judge, which is under challenge in these batch of writ appeals, it is very obvious that the



revise tariff. His observations and reasoning to quash the letter of Chief Finance Controller / Revenue, dated 29.07.2013 is on the premise, the said letter is not backed by an order passed by the Regulatory commission after following due procedure contemplated under the statute. In the given factual matrix, it is suffice to test whether the impugned letter dated 29.07.2013 is backed by any order passed by Commission in accordance with law, or not?

7.It is pertinent to note that Tamilnadu Electricity Regulation Commission (TNERC) is the statutory authority established in terms of the provisions under the Electricity Act, 2003 (Central Act, 2003). Earlier, the Tamil Nadu Electricity Board (TNEB) was in charge and control of generation, transmission and distribution including fixation of tariff for different kind of consumers. After the Electricity Act, 2003, the function of TNEB got bifurcated and shared between TANGEDCO and TANTRANSCO. As a regulatory commission, under sections 42, 61 r/w 81 of the Act, Tamil Nadu Electricity Regulatory Commission (TNERC) is empowered to frame Regulations regarding transmission, distribution, charges for transmission like wheeling charges. Cross subsidiary charges,



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Sur-charges and additional charges etc.

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8.From the records and the submissions made by the learned counsels, we understand that the concept of Deemed Demand Charges originated from Tamil Nadu Electricity Regulatory Commission (Terms and Condition for Determination of Tariff) Regulations 2005 followed by the Order 2 of 2006 issued by the Tamil Nadu Electricity Regulatory Commission (TNERC) on 15.05.2006. The tariff orders are revisable periodically. After 2006 Tariff orders, several tariff orders passed by the Commission and given effect.

9. Prior to Electricity Act, 2003, the generation, transmission and distribution of electricity was monopoly of the respective State Electricity Board. The Post Act era had paved way for generation of energy through conventional and non-conventional resource by private sector also. However transmission using dedicated lines by private sector being an expensive affair, which requires huge capital investment as well as high operational and maintenance cost, the generators and energy consumers were permitted to use the GRIDS of TANGEDCO / TANTRANSCO for transmission of energy collecting charges under Open Access Scheme.

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10. In exercise of the power under Section 42(2) of the Electricity Act, which mandates the State Regulatory Commission for introducing Open Access for private power generators, the TNERC notified Intra – State Open Access Regulation, 2005. As per Regulation 9, various charges payable to the State Transmission Utility/Transmission Licensee and Distribution Licensee by an open access customer are to be determined by the TNERC. Under this regulation, the Order 2 of 2006 dated 15.05.2006 came into force after considering the suggestions made by the stake holders in the public hearing.

11. In Tariff Order 2 of 2006, the Commission took into consideration the GRID availability, Demand and Energy Forecast, need and nature of long term and short term Open access customers, operational and maintenance cost, fixed tariff applicable to all the open access customers covered under the TNERC intra state open access regulation 2005. This Tariff Order 2/06 came into effect from 03.08.2005.

12. For the purpose of deciding the present appeals, the relevant portion of the Order 2 of 2006, which deals about energy charge, demand



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charge and deemed demand charge in respect of open access HT

consumer as found in Regulation 5.22.4 is reproduced below:-

“5.22.4. When the scheduled generation is not maintained and / or when the drawal by the consumer is in excess of the schedule. The Open Access regulations specified by the Commission stipulates that "the applicable tariff of that consumer category shall be allowed as grid support charges till ABT regime is implemented and as and when ABT regime is implemented the grid availability charges shall be UI charges or the tariff applicable for that particular category whichever is higher."

In this context, the applicable tariff as referred above, consist of energy. charges and demand charges.

a) Energy Charges applicable: When the generator is synchronized with the Grid, energy charges shall be payable by the open access customer, for the units supplied by the Distribution Licensee (i.e., balance units arrived at after subtracting the units supplied by the generator from the total consumption of the user during the billing month) at the applicable rate for that category. The time of day consumption (TOD) shall be charged for the nett consumption only (deducting the generated energy from the energy consumed during the respective time slots).

b) Demand charges applicable: In addition to energy charges stipulated above, the open access customer shall pay applicable demand charges as detailed below:



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There are 2880 time blocks of 15 minutes interval in a billing month. It is not feasible to segregate precisely the quantum of demand supplied in each time block in the billing month to the open access user by the generator and by the licensee distinctly. This segregation may be computed by matching the demand recorded in each time block at the generator end (A) with the demand recorded in the corresponding time block at the open access users end (B) then

Case 1: If (B) is lesser than (A), it means there is no supply of demand by the licensee to the open access user.

Case 2: If (B) is greater than (A), it means that there is supply of demand by the licensee in that respective time block.

As per the tariff order, a demand charge in a billing month by any HT consumer is 90% of sanctioned demand or recorded demand which ever is higher. As the demand is recorded at every 15 minutes time block, the recorded demand will show the maximum demand recorded in any of the 15 minutes time block in that billing period of one month.

The probability of occurrence of case 1 is zero and the probability of licensee supplying the demand in any one of the time blocks in a billing month as in case 2 is 100 percent. In such a scenario, whether the licensee is entitled to receive the demand charges in full, even though the generator is also injecting the demand into the grid continuously, needs to be addressed. It is no doubt that, all the fluctuation in the



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generator end and user end is met by the licensee. However, the percentage of the demand, injected by generator is also to be taken for consideration and to that extent, the demand charges receivable by the Licensee is to be restricted.

Till a mechanism is put in place to ascertain the relation between the demand generated in each of the 2880 fifteen minutes time blocks and the demand recorded at the consumer end in the related time blocks, a reasonable approximation has to be followed to arrive at the demand supplied by the generator. Since the variation in meeting the demand of the open access customer by the two parties involved, is possible in the full range of 0 to 100% and only the actual energy generated is available at the generation and considered prudent to convert 51% of the energy generated for the open access user, into an equated demand with reasonable approximations as the deemed demand supplied by the generator. In line with such an approximation, a deemed demand concept is proposed.

The demand charges for an open access user shall, accordingly, be such percentage as specified for the "deemed demand" supplied by the generator plus 100% of the applicable demand charges for that category of Open access user for the balance demand supplied by the Distribution Licensee. (i.e., the difference between the maximum demand



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recorded and the deemed demand subject to the tariff order issued then and there on demand charges).

Deemed demand charges: The transmission losses in each voltage play a vital role in deciding the deemed demand. The loss levels at each voltage are given above. The loss factor depends on the voltage at which the power is injected and the voltage at which the open access user draws. Since various combinations are possible, a simple methodology is adopted to approximate the loss factor under various scenarios. Even though the power, in an interconnected grid, flows by displacement and does not actually traverse the whole distance from point of injection to the point of travel, the accepted principle, in general is, that the loss estimation shall be based on the theoretical route of flow. For example, even though the generated power is injected by a generator at 11 kV and is also drawn at the same voltage of 11 kV at a distant place, the power is supposed to have been transformed through the higher voltages of 33, 110, 230 kV etc., again transformed into the lower levels and reach the point of drawal. To emulate such scenarios it is assumed that the said power, flows in an upward and downward direction as indicated below, through various voltage transformation levels and undergoes 50% of the loss, in each direction, in that level.”

13.It is also appropriate, at this juncture to refer to Regulation 5.24.2 which deals of date of effect and period the order will be in force.



It read as-

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“5.24.2 The orders will take effect from the date of this order and till such time the charges are revised. Further revision shall normally be along with the regular tariff petition by the Licensee. (emphasis added by us). The Licensee may also approach the Commission for revision of these charges by filling a district revision petition without linkage to the regular tariff revision. Further the Commission reserves the right to initiate suo-motu procedure for revision of the charges.”

14.In the above said factual matrix, the writ petitioners contend that, while the Order 2/06 will be in force till the charges are revised, and for revision of charges, procedure of public hearing is required. The impugned letter dated 29.07.2013 is not in tune with the Deemed Demand Concept envisaged under Order 2/ 06 which is still in force and not revised explicitly. The above contention accepted by the Learned Single Judge and allowed the writ petitions.

15.The Learned Counsels for the appellant, by placing the earlier Tariff Orders and the Electricity Act and Regulations framed thereunder, contended that, the Tariff Order 2/2006 lost its relevancy after the general
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tariff revision effected in subsequent years. Particularly after 2012, the concept of deemed demand charge envisaged in the Order 2/06 replaced by the concept of billable demand. In the light of the above conflicting submissions, it is necessary to examine under what circumstances the second respondent has caused the letter dated 19.07.2013 impugned in the writ petitions.

16.The impugned letter has emanated from the Chief Financial Controller/ Revenue, Chennai. It is addressed to All the Superintending Engineers of Distribution Circles. The subject of the letter is ‘*Order No:1/2013, dated 20/06/2013-Grid Availability Charges- Deemed Demand- regarding*’. This letter in para 1 Regulations 5.66, 5.67, 5.68 of the Regulation Order 1/2013 is extracted. Thereafter, in the paragraphs following, it is clarified as below:-

“.....

2.Further, in the order No.2 dated 15.05.2006, various charges applicable to all OA customers covered under TNERC's Intra State Open Access Regulation 2005 has been issued. The charges included “Deemed Demand” charges also. In the latest Tariff Order No.1 dated

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20.06.2013, similar charges except “Deemed Demand” has been ordered.

3.From the above, it could be clearly observed that the concept of 'Deemed Demand' has not been envisaged in the Tariff Order dated 20.06.2013 in T.P.No.1 of 2013. Hence, the applicable demand charges for Open Access consumers shall be collected without applying “Deemed Demand” concept.

4.Therefore, all the superintending Engineers are requested to take necessary action accordingly.”

17. Before the Tariff order 1 of 2013 dated 20.06.2013, the Commission earlier passed the tariff order of the year 2012 which also deals about tariff fixation of HT consumers and levy of deemed demand charge. We find, before passing this order the commission has given public hearing to the stakeholders. In response, the Tamil Nadu Power Producers Association had suggested that the deemed demanded benefit need to be continued in view of supply of demand by the generator to the grid while allotting energy to the Open Assess Customers. This suggestion considered by the commission and for better implementation and rationalisation of categories of HT consumers, instead of deemed



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demand, the concept of Billable demand been introduced.

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18.The reason for the commission to substitute billable demand charge in the place of deemed demand charge is found in clause 9.4 of this tariff order, which says, (i) for rationalisation of tariff the commission had merged HT II A and II C. (ii) for the purpose of simplification of billing and overall approach of the commission to reduce the number of sub-categories and rationalisation of tariff categories, wherever possible. Hence, it is crystal clear that for the above said reason after hearing the stake holders, under Regulation 10 which deals the tariff schedule, for HT supply consumers, the concept of *billable demand* been introduced. The said clause reads as below:-

“Clause 10.1.7: Billable demand: In case of HT Consumers, maximum Demand Charges for any month will be levied on the KVA demand actually recorded in that month or 90% of the sanctioned demand which ever is higher.

Provided that whenever the restriction and control measures are in force, the billable demand in case of two part tariff for any month will be the actual recorded maximum demand or 90% of demand quota, as fixed from time to time through restrictions and control measures,

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whichever is higher.

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10.High Tension Tariff IA:

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/month	Energy Charge in Paise per KWh (unit)
High Tension Tariff A	300	550

11.10. 2.1 *This Tariff is applicable to all manufacturing and industrial establishments and registered factories including Tea Estates, Textiles, Fertilizers, Salem Steel Plant, Heavy Water Plant, Chemical plant, common effluent treatment plant, cold storage units. Industrial estates water works, Water Supply Works by new Tirupur Area Development Corporation.”*

19.In clause 10.22.4, the commission has further clarified that, the present tariff order supersedes all the previous specific orders issued by the commission on categorisation of certain consumers. While so, the impugned common order of the learned single judge had erred in observing that the tariff order 2 of 06 still in force and the concession granted cannot be impliedly withdrawn.

20.The preamble to the Tariff Order 1 of 2013, which is self-



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explanatory need reference at this juncture, since it provides us

information that the said order was passed after due public hearing. The

preamble to the Order 1/2013 reads:-

“In exercise of the powers conferred by clauses (a), (c) (d) of sub-section (1) of section 62 and clause (a) of sub-section [1] of section 86 of the Electricity Act 2003, (Central Act 36 of 2003) and all other powers hereunto enabling in that behalf and after considering the views of the State Advisory Committee meeting held on 26.4.2013 and after considering suggestions and objections and 17.05.2013, as per sub-section (3) of section 64 of the said Act, the Tamil Nadu Electricity received from the public during the Public hearings held on 03.05.2013, 08.05.2013, 10.05.2013. Regulatory Commission, hereby, passes this order for Generation and Distribution Tariff. This Order shall take effect on and from the June 21, 2013.”

21. Thus, it is evident before passing Tariff Order 1 of 2013, public hearing been held on various dates. Opinion and suggestions obtained from the stakeholders and then the Commission has passed the order. In Chapter A 6 – under the caption ‘The Stakeholders comments, TANGEDCO reply and Commission view’, clause 6.1 (i) speaks about



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the categorisation of supply to high tension consumers. The categorisation of supply are as specified in the TN Electricity Distribution Code and TN Supply Code. The billable demand concept again reiterated in clause 6.1. (vii) which reads as below:-

vii.Billable Demand: In case of HT Consumers, maximum Demand Charges fro any month will be levied on the kVA demand actually recorded in that month or 90% of the contracted demand whichever is higher.

Provided that whenever the restriction and control measures are in force, the billable demand in case of two part tariff for any month will be the actual recorded maximum demand or 90% of demand quota, as fixed from time to time through restriction and control measures, whichever is higher.”

22.The learned single judge had unfortunately not examined the regulation 5.24.2 of the Order 2 of 06 along with the Tariff order 1 of 2013. He had allowed the writ petition on an erroneous impression that the concession granted in Order 2 of 2006 cancelled unilaterally without following the procedures. The fact that the Order 1/2013was passed only after wide consultation process contemplated under the Act not been properly placed before the Learned Single Judge. The impugned order of 20/26



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the Learned Single Judge allowing the writ petitions as if no adjudicative procedure followed and no public hearing given is contrary to facts.

Liberty to the TANGEDCO to approach the Commission for the purpose of revision of all such concessions granted to this category will be duplication of the process. Had tariff order 1 of 2013 been placed before the Learned Single Judge and properly explained, the learned single Judge might have not allowed the writ petitions.

23.As pointed out by the Learned Counsel for the Commission, the tariff fixed under Order 2 of 2006 is not a concession, but a stop gap arrangement till a mechanism is put in place to ascertain the relation between the demand generated in each of the 2880 fifteen minutes time blocks and the demand recorded. Later having realised that a mechanism as envisaged could be put in place, the Commission has devised the concept of billable demand, wherein, the fixation of tariff is based on the nature of generation, transmission and utilisation. This method found to be more rational and less complication.

24.Fixation of tariff is subject to change periodically during general revision. Only condition is that, before revision a fair public hearing must be given to the stake holders. On examining Order 1 of 2013, which is



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referred and relevant to the present case, we find that on representation from TANGEDCO for uniform categorisation of HT customers which obviously includes, open access captive power generators both conventional and non conventional, the Tariff orders 1 of 2012 and Tariff Order 1 of 2013 been passed, after hearing the stakeholders including the Association, in which most of the writ petitioners are members.

25. Therefore, the contention of the writ petitioners that the impugned letter of the Chief Financial Controller of TANGEDCO is without applying the concession envisaged in Tariff Order 2 of 2006 is baseless. The impugned letter in fact a intra-department communication issued pursuant to Tariff Order 1 of 2013 issued in supersession of all the earlier orders.

26. The contention of the writ petitioners that Order 2 of 2006 is still in force and the tariff fixed under Order 1 of 2013 is not applicable to them is not factually and legally sustainable. The Tariff order of 2 of 2006 had been superseded explicitly in the tariff order 1 of 2012, which came into effect from 01.04.2012. We are given to understand that, as far as the HT-Open Access Captive power generators and Consumers Order 1/2012 was put to force for more than a year. By then, Order 1/2013 came into



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force with rationalised new tariff for high tension supply consumers with

billable charges in the place of deemed demand charges. The determination of Tariff for generation and distribution vide Tariff Order 1 of 2013 had come into force from 20.06.2013. The impugned letter is the instruction of Finance Controller to the Regional Superintendents to follow the Tariff Order 1 of 2013. Hence, without challenging the Tariff Order 1/2013, before the Appellate authority, the writ petition filed under Article 226 of the constitution only questioning the consequential letter addressed to the subordinates is not maintainable.

27.The Learned Counsels appearing for the respondents referring the Appellate authority order passed in respect of non conventional energy generators like wind and bagasse attempted to impress upon this Court that the Tariff order for the renewable energy explicitly speaks about withdrawal of deemed demand charge concession and the replacement of billable demand and alteration of banking charges. Hence, the generators and consumers of renewable energy went on appeal before the appellate authority and succeeded. Whereas, in Tariff Order 1 of 2013, no such indication is found to challenge. Therefore they resorted to invoke the Writ jurisdiction.



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28.The above said argument does not impress this court in anyway

for the reason that, the reading of the tariff order 1 of 2013 and the other orders for renewable energy generators, in respect of replacing deemed demand charges with billable demand, the other orders are differently worded. The appellate authority had set aside the commission order on billable demand in respect of renewal energy generators is on a different reason and not on the reason not following the procedure under the statute. Therefore, the concept of billable demand introduced after wide consultation charging the consumer depending on the injection into the grid and consumption from the grid, using open access being more rational and simple cannot be dealt par with the Tariff Orders passed in respect of renewable energy generators and consumers.

29.Therefore, we hold that the learned single Judge due to misdirection by the writ petitioners, had erroneously concluded that, the concession granted earlier withdrawn impliedly without affording hearing and following the procedure of adjudication. The examination of records as discussed above proves otherwise.



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30. As a result, the common order of the learned single judge in

W.P.No.5918/2015 etc., batch, dated 14.09.2018 is set-aside and the writ appeals stand allowed. Consequently, the writ petitions stands dismissed. In view of dismissal of W.P.No.5918 of 2015 and batch by this order, the other writ petitions, which are grouped along with this batch of writ appeals shall also stand dismissed. The interim orders, if any passed in this batch of matters shall stand dissolved. If any charges/ amount due and payable to TANGEDGO by the respondents/ writ petitioners, the same to be paid within a period of three(3) months from today. Till then no coercive steps for collection of due need be taken by TANGEDCO. With this subject to above observation, all the pending miscellaneous petitions stand closed. No costs. Connected miscellaneous petitions are closed.

[G.J., J.] & [M.S.K., J.]
12.12.2025

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