

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.13980 of 2025

and

W.M.P.Nos.15741 & 15742 of 2025

M/S.THIRUMATHY MUTHAMMAL TEXTILES PVT LTD,
ADMINISTRATIVE OFFICE,
OLD NO.11, CANTONMENT,
TRICHY-620 001,
REPD. BY ITS AUTHORISED SIGNATORY,
S.SOMASUNDARAM

... Petitioner

Vs

1. TAMILNADU POWER DISTRIBUTION CORPORATION LTD (TNPDC)
10TH FLOOR, 144, ANNA SALAI,
CHENNAI-600 002,
REP. BY ITS MANAGING DIRECTOR.
2. THE CHIEF FINANCIAL CONTROLLER/REVENUE,
(FORMERLY TANGEDCO),
TAMILNADU POWER DISTRIBUTION CORPORATION LTD,
2ND FLOOR, 144, ANNA SALAI, CHENNAI-600 002.
3. THE CHIEF ENGINEER/COMMERCIAL,
(FORMERLY TANGEDCO),
TAMILNADU POWER DISTRIBUTION CORPORATION LTD,
2ND FLOOR, 144, ANNA SALAI,
CHENNAI-600 002.
4. THE SUPERINTENDING ENGINEER,
PUDUKOTTAI ELECTRICITY DISTRIBUTION CIRCLE,
TAMILNADU POWER DISTRIBUTION LTD (TNPDC),
PUDUKOTTAI.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the third respondents impugned memo dated 05.02.2025 and consequent rejection order dated 10.03.2025 issued by the fourth respondent quash the same illegal arbitrary and contrary to the order made in R.P.No.1 of 2023 in M.P.No.2 of 2019 dated 08.08.2024 and consequently direct the fourth respondent to effect additional load of 250 KVA over and above the existing sanctioned demand of 1750 KVA vide its application dated 26.11.2024 on payment of the necessary charges and energies the petitioner's 810KW Roof Top solar Power plant.

For Petitioner : Mr.S.P.Parthasarathy

For R1 to R4 : Mr.S.Madhusudhanan

ORDER

This writ petition is filed for a Certiorarified Mandamus, calling for the records on the file of the third respondent relating to the impugned memo dated 05.02.2025 and the consequential rejection order dated 10.03.2025 issued by the fourth respondent and to quash the same and consequential direction to the fourth respondent to effect an additional load of 250 KVA over and above the existing sanctioned demand of 1750 KVA, as per the application dated 26.11.2024, on payment of the necessary charges and energies the petitioner's 810KW Roof Top solar Power plant is concerned.

2. Upon hearing the learned counsel appearing for the petitioner, it is seen that the petitioner had made a request for sanction of the additional load and the same is being processed as per law. In the meantime, with reference to the earlier audit objection, a sum of Rs. 28,58,436/- was levied. The petitioner sought revocation of the same and now the impugned order has been issued, imposing a revised amount of Rs. 3,93,620/-.

3. The learned counsel appearing for the petitioner submits that the said amount is levied pursuant to the circular dated 03.08.2023. He submits that the circular itself was issued pursuant to the order passed in M.P. No. 2 of 2019. The learned counsel then draws the attention of this Court to the order of the Tamil Nadu Electricity Regulatory Commission (TNERC) in R.P. No. 1 of 2023, wherein the review has already been allowed and in paragraph 9 of the said order, the earlier order in M.P. No. 2 of 2019 has been reviewed and modified.

4. Therefore, while directing the petitioner to pay the said sum of Rs.3,93,620/, the said order of the Tamil Nadu Electricity Regulatory Commission has not been considered. Hence, the petitioner has already made

a representation to the respondents to reconsider the same as per the reviewed order. If the respondents undertake this exercise, the amount may not be payable by the petitioner. At present, due to non-payment of the said amount, the additional load as well as energy for the rooftop solar power plant is not being granted.

5. Per contra, the learned counsel appearing on behalf of the respondents 1 to 4 would submit that if the petitioner has made an application to review the order dated 10.03.2025, the same will be considered in accordance with law. However, the petitioner can also deposit the said amount in the meantime.

6. I have considered the submissions made by both sides and perused the material records of the case.

7. As far as the grant of additional load and the grant of energy to the petitioner's rooftop solar power plant is concerned, there is no dispute regarding the same. It is being processed as per the rules and the attendant charges are being paid by the petitioner and the same is installed and is in advanced stage. As for the demand of Rs. 3,93,620/-, there is also no dispute

between the parties that if the petitioner submits a request by way of representation, the same will be reconsidered in light of the TNERC's order dated 08.08.2024 made in R.P. No. 1 of 2023. The only question in which both sides counsel differ is that the whether the said amount should be deposited upfront by the respondents or only after the reconsideration by the respondents.

8. In this regard, as rightly pointed out by the learned counsel appearing for the petitioner, paragraph 9 of the said Tamil Nadu Electricity Regulations Commission order is extracted hereunder for ready reference:-

“9) In the result the Review Petition is allowed. Paragraph 8.15 (II) (vii) and (viii) and 8.16 of the order dated 20.07.2023 passed by this Commission in M.P. No.2 of 2019 is reviewed and modified as hereunder.

(a) “Para 8.15(II) (vii) The clarification dated 25.06.2010 issued by the 1st Respondent CFC/TANGEDCO cannot be applied during the Second Part of the months from 11/2009 to 09/2010 when the procedure of advance declaration of energy by the captive consumer as per the order of this Commission in S.M.P.No. 1 of 2009 dated 28.10.2009 was in vogue. As

held by the Hon'ble APTEL in the Judgement dated 12.12.2012 in Appeal No.51 & 56 of 2012, till September 2010, the demand and energy quota, as communicated to the consumers by the Electricity Board based on the advance declaration of energy by the consumers, will have the effect for calculation of excess demand and energy charges. Further, with effect from 01.10.2010, TANGEDCO shall resort to levying excess demand and energy quota on captive users based on the energy actually consumed/adjusted in consonance with the memo dated 17.11.2008 and para 4.5 of the Commission order dated 07.09.2010 as held by the Hon'ble APTEL in Appeal No.51 & 56 of 2012 dated 12.12.2012 and the consequential implementation order dated 29.10.2013 in R.A.No.2 of 2013."

(b) Para 8.15(II) (vii) and (viii) and 8.16 in the original order shall stand deleted."

9. Therefore, when the earlier order in M.P. No. 2 of 2019 has itself been modified and when the said order is referred to as the basis in the letter dated 03.08.2023 for fixing the amount, it goes without saying that the respondents have to reconsider the same. Even without such reconsideration and finalisation, it may not be appropriate for the respondents to insist that the petitioner pay the amount upfront. Considering the nature of the amount and

the overall nature of the transactions between the petitioner and the respondent corporation, I am of the view that the said amount can be paid depending on the outcome of the reconsideration by the respondent.

10. In view thereof, this writ petition is disposed of on the following terms:

(i) The respondent corporation shall effect the additional load and provide energy to the rooftop solar power plant belonging to the petitioner in accordance with their rules, upon the petitioner paying the other attendant charges, without insisting on the payment of Rs. 3,93,620/-, which is the subject matter of the present writ petition.

(ii) As far as the said amount is concerned, along with a copy of this order, the petitioner shall make a representation to the fourth respondent and the fourth respondent shall reconsider the same and pass orders duly taking into account the order of the Tamil Nadu Electricity Regulatory Commission dated 08.08.2024 made in R.P. No. 1 of 2023.

(iii) The said exercise shall be completed within a period of one month from the date of receipt of the representation from the petitioner. The petitioner shall make such representation within one week from the date of receipt of the web copy of this order without waiting for the certified copy of the order.

(iv) Based on the outcome of the order passed by the fourth respondent, it will be open for the respondent authorities to either insist that the petitioner pay any such amount as may be fixed by them in accordance with law.

(v) Consequently, connected miscellaneous petitions are closed. No costs.

21.04.2025

Neutral Citation: Yes/No
nsl

To

1. THE MANAGING DIRECTOR.
TAMILNADU POWER DISTRIBUTION CORPORATION LTD (TNPDC)
10TH FLOOR, 144, ANNA SALAI,
CHENNAI-600 002,
2. THE CHIEF FINANCIAL CONTROLLER/REVENUE,
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D.BHARATHA CHAKRAVARTHY, J.

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