BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2025

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THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition(MD)Nos.9250 & 12295 of 2018
and
W.M.P(MD)Nos.8561 to 8563 & 11174 to 11176 of 2018

M/s Sri Kaderi Ambal Mills Limited,
HTSC No.46 and 75,
Rep. by its Managing Director SV.Pethaperumal,
Peratukottai Village,
Shanmuganathapuram – 630 374,

..Petitioner in WP(MD)No.9250 of 2018

M/s Nachammai Cotton Mills Limited,
HTSC No's 059094610089 & 059094610006
Rep. by its General Manager Mr.S.Srinivasan,
Chettinadu,
Karaikudi,
Sivagangai District.

..Petitioner in WP(MD)No.12295 of 2018

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Energy Department, Fort St. George,
Chennai – 600 009.

2.Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
Represented by its Chairman and
Managing Director,
144, Anna Salai, Chennai – 600 002.

3.The Chief Financial Controller / Revenue,
Accounts Branch, Revenue Division,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai – 600 002.

4.The Superintending Engineer,
Sivagangai Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Sivagangai.

5.Tamil Nadu Electricity Regulatory Commission (TNERC),
Rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai (Marshall's Road),
Egmore, Chennai – 600 008.

..Respondents in both petitions

Prayer in W.P(MD)No.9250 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying this Court a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent viz. memo No CFC / REV / FC / REV / AS.3 / D.No 219/15 dated 14/09/2015 and consequential demand of Rs.18,10,218/- by the 4th respondent vide demand notice in Lr No SE / SEDC / SVGA / DFC / HT / AS / F.Audit / d. 78/2016 dated 20/02/2016 in respect of Audit Slip No.10 dated 04/01/2016 alone which leading the unilateral withdrawal of deemed demand relief without prior approval of the 5th respondent and quash the same as illegal.

Prayer in W.P(MD)No.12295 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying this Court a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent viz. memo No CFC / REV / FC / REV / AS.3 / D.No 219/15 dated 14/09/2015 and consequential demand of Rs.18,10,218/- by the 4th respondent vide demand notice in Lr No SE / SEDC / SVGA / DFC / HT / AS / F.Audit / D.

764/2016 dated 1.6.2018 which leading the unilateral withdrawal of deemed demand relief without prior approval of the fifth respondent and quash the same as illegal and forbear the respondents 1 to 4 from in any manner levying, demanding and/or collecting Deemed Demand charges without applying Deemed Demand Concept as envisaged in Order No.2 dated 15.05.2006 issued by the fifth respondent from the petitioner for procuring energy from Open Access Sources including CPP and third party sources.

In both petitions:

For Petitioner : Mr.Radhakrishnan for
Mr.N.Sudalaimuthu

For Respondents : Mrs.D.Farjana Ghoushia
Spl. Govt. Pleader for R1 & R5

Mr.S.Deenadhayalan
Standing Counsel for R2 to R4

COMMON ORDER

Since both the petitioners laid challenge to the orders of cancellation of Deemed Demand Charges passed by the respondents in these writ petitions, they are taken up together for hearing and disposed of by means of this common order.

2. The petitioner in W.P.(MD) No.9250 of 2018 challenges Memo dated 14.09.2015 issued by the third respondent and the consequential demand of Rs.18,10,218/- raised by the fourth respondent, arising out of withdrawal of

deemed demand benefit. The withdrawal is based on TANGEDCO Circular dated 29.07.2013, which was issued without approval of the Tamil Nadu Electricity Regulatory Commission and is under challenge in earlier writ petitions filed by the petitioner, in which interim stay is in force. Despite the matter being sub judice, the respondents withdrew the deemed demand benefit for the period from 01.04.2012 to 06/2013. The petitioner was compelled to pay the disputed demand in instalments in order to obtain No Objection Certificate for open access. It is contended that such action is arbitrary, illegal and part of a monopolistic practice. The impugned circular has been challenged by several HT consumers, and interim orders have been granted by this Court, subject to payment of 50% of the deemed demand charges. Similar is the case of the petitioner in the other writ petition in W.P(MD)No.12295 of 2018.

3. Heard the learned counsels for the petitioners and the learned Special Government Pleader appearing for the respondents 1 and 5 and the learned Standing counsel appearing on behalf of the respondents 2 to 4.

4. The very same impugned order was quashed by a learned Single Judge of this Court in the order dated 14.09.2018 passed in a batch of writ petitions in ***W.P.No.5916 of 2014, etc. batch (Rasi Tex (In) P Ltd V. TANGEDCO and Others)***.

5. The respondents/TANGECO questioned the said order in W.A.No. 2539 and 2540 of 2018 before a Division Bench of this Court. The Division Bench, after taking note of the submission of the learned Advocate General that during the 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 and also considering the objections of the learned Senior counsel and other counsels for the respondents therein, while ordering notice on 19.11.2018, passed the following interim order :

> *"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 respondents / writ petitioners shall continue to pay 50% of the demand made as per the impugned orders / demand, the subject matter of challege in the writ petitions, within a period of two weeks from the date of each demand. It is also 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 these writ appeals, and if the appellant fails, they are liable to refund the Deemed Demand Charges already collected from the first respondents / writ petitioners. ....."*

6. The learned Standing Counsel for the respondents 2 to 4 admitted that the said writ appeals are pending and the petitioners are similarly placed units as that of the first respondents in the writ appeals. It is also brought to the notice of this Court that in the interregnum, following the interim order passed by the Division Bench, this Court disposed of a number of writ petitions with similar directions.

7. Considering the submissions of either side and in light of the facts coupled with the interim order passed by the Division Bench, these writ petitions are disposed of with the following directions :

(i) The petitioners are directed to pay 50% of the deemed demand charges, if not paid so far and continue to pay the same till the disposal of the writ appeal.

(ii) The petitioners are also liable to pay the balance deemed demand charges, if the writ appeal filed by the TANGEDCO is allowed.

(iii) Needless to say that the petitioners are also entitled to get similar refund, if any, if the first respondents in the writ appeals succeed, subject to the orders/observations of the Division Bench.

(iv) It is open to the petitioners to take recourse to any suitable action in the manner known to law, in the interregnum.

There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

21.11.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
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To

1.The Secretary to the Government,
Energy Department, Fort St. George,
Chennai – 600 009.

2.The Chairman and
Managing Director,
Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai – 600 002.

3.The Chief Financial Controller / Revenue,
Accounts Branch, Revenue Division,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai – 600 002.

4.The Superintending Engineer,
Sivagangai Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Sivagangai.

5.The Secretary
Tamil Nadu Electricity Regulatory Commission (TNERC),
19-A, Rukmini Lakshmipathy Salai (Marshall's Road),
Egmore, Chennai – 600 008.

P.T.ASHA, J.

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