

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
 (Constituted under Section 82 (1) of the Electricity Act 2003
 Central Act 36 of 2003)

PRESENT:-

Thiru.S.Kabilan	...	Chairman
Thiru.K.Venugopal	Member
	and	
Thiru.S.Nagalsamy	Member

M.P. No. 4 of 2011
and
I.A. No.1 of 2011 in M.P.No.4 of 2011

M/s.Cauvery Hi-Tech Weaving Park
 NH 47, Salem Main Road
 Komara Palayam 638 183
 Namakkal District
 Rep. by its Chairman

.... Petitioner
 (M/s.Gupta and Ravi, Advocates
 Thiru.R.Muthukumarasamy, Senior Advocate
 for Petitioner)

Vs.

1. The Tamilnadu Electricity Board
 144, Anna Salai
 Chennai – 600 002
 Rep. by its Chairman
2. The Superintending Engineer
 Mettur Electricity Distribution Circle
 Tamilnadu Electricity Board
 Mettur Dam

.... Respondents
 (Thiru.R.Selvakumar, Advocate for Respondents)

Dates of hearing: 23-3-2011, 17-6-2011 and 15-7-2011

Date of Order : 7-10-2011

M.P.No.4 of 2011 and the I.A. No.1 of 2011 in the said M.P. came up for final hearing before the Commission on **15-07-2011**. The Commission upon perusing the above petitions and other connected records and after hearing both sides passes the following:-

ORDER

Prayer in M.P.No.4 of 2011:-

1. To issue direction to extend the benefits of T.O.1/77 dated 20-3-2006 similar to Nethaji Apparel Park, Palladam Hi-Tech Weaving Park and Tiruppur Knit Wear Industrial Park as per order dated 4-5-2010 to the Petitioner and consequently set aside the proceedings of the Second Respondent culminating in the impugned communication bearing Ref.No.SEM/AEEGL/AE/F.HT SC.278/PR No.170/11, dated 10-2-2011.

Prayer in the I.A. No. 1 of 2011 in M.P. No.4 of 2011:-

2. To pass interim order restraining the Second Respondent from disconnecting the HT connection SC No. 278 of the Petitioner based on the letter dated 10-2-2011 issued by the Second Respondent pending disposal of the aforesaid application.

Facts of the case :-

3. The Petitioner is a Public Limited Company incorporated under Section 25 of the Companies Act, 1956. It was formed by a group of entrepreneurs in

Public-Private partnership module under Textile Centre Infrastructure Development Scheme (TCID Scheme) and Group Work Sheds Scheme (GWSS) of Ministry of Textiles, Government of India. The Petitioner formed a Special Purpose Vehicle (SPV) and held several awareness meetings in places like Komarapalayam, Pallipalayam, Bhavani, Salem, Tiruchengode, Erode, Kavindappadi, Attaympatti, Edappadi and other places where power loom activity was widely carried on in order to create awareness about the scheme of the Weaving Park.

4. In the original project report submitted to the Ministry of Textiles, the Petitioner proposed wind mill to minimize power cost but later on the Ministry of Textiles advised the SPV to change the proposal to accommodate HFO based captive power plant to be installed in the Weaving Park. The Project was approved by the Ministry of Textiles through the Project Approval Committee meeting held on 17-1-2005 and the construction activity like land leveling and development was started during January 2005.

5. The Petitioner applied for approval of the layout during June 2005 which was sanctioned by the Ministry of Textiles and the entrepreneurs who are interested in the Weaving Park paid Rs.70,000/- and Rs.1,40,000/- towards initial deposit based on their requirement of land and 10% amount as building margin. They have to pay 65% through bank loan and 25% building subsidy to be received from the Ministry of Textiles under GWSS.

6. The Petitioner entered into registered Deed of Lease with the applicants who applied for allotment of sheds and a deed of lease was executed granting lease for a period of 29 years. In terms of the said Deed of Lease the individual lessees are entitled to put up building and other super structure after obtaining approval from the competent authority and after expiry of the lease period the land and building will automatically vest with the Petitioner without payment of any compensation.

7. The Petitioner also entered into Participation Agreement which stipulated the terms and conditions, use of the building allotted on long term lease basis. The Petitioner provided common infrastructure like roads, water supply and sewerage facilities and also necessary infrastructure for providing electricity connection to each of the sheds.

8. The Park originally envisaged putting up of 57 units and 47 have been fully occupied and are carrying on full-fledged operations. Orders were placed for captive power plant and since there was delay in sanctioning of the project loan by the banks, the power plant could not be completed and is now ready for operation. The necessary infrastructure to supply power through captive power plant has been in place.

9. Some of the individual units under the pretext of delay in installation of captive power plant approached the High Court, Madras by way of Writ Petition

in W.P. No. 3105 of 2010 for a mandamus to the Central Government to take over the Petitioner. M.P. No.2 of 2010 was filed for a direction to the Respondent to provide individual LT connection at their cost and expenses pending disposal of the Writ Petition. By interim order dated 12-4-2010 the High Court directed the Respondent to provide separate LT service connection to each of the units who are the Petitioners in the Writ Petition. Aggrieved by the said order, the Petitioner has filed a writ appeal which is yet to be numbered.

10. Based on the order of this Commission dated 4-5-2010, the Second Respondent has now issued the impugned order holding that at the time of effecting LT supply the HT supply will be withdrawn and that the probable date of effecting LT supply will be intimated in due course.

Contentions of the Petitioner:-

11. At the time of sanction of the project this Hon'ble Commission issued Tariff Order T.O.1/77 dated 20-03-2006 based on the applications filed by Nethaji Apparel Park, Palladam Hi-Tech Weaving Park and Tiruppur Knit Wear Industrial Park. All the three units are similar to the Petitioner and based on the applications filed by them the Commission permitted providing single point HT connection to units which are similar to the said applicants. T.O. 1/77 dated 20-3-2006 was made applicable to the Petitioner and the First Respondent gave single point HT supply during February 2007 to the Petitioner which is distributed to various units located inside the Park.

12. The Petitioner has invested a huge sum of Rs.1662 lakhs towards putting up necessary infrastructure for providing power supply to the individual units as well as the captive power plant. An additional amount of Rs.82.45 lakhs has been spent towards laying of internal roads. An amount of Rs.2.67 crores has been spent by the Petitioner for single point provision HT cable from TNEB Distribution Pole Structure, all distribution cables and meters, provision of 6 x 800 KVA transformer, breakers, APFC Panel and distribution panel boards. Initially the Petitioner was sanctioned 300 KVA HT power supply which was progressively increased and as late as in 2010, it has been increased to 1520 KVA.

13. This Hon'ble Commission has passed order in R.P. No. 4 of 2006 on 4-5-2010 in terms of which T.O. 1/77 dated 20-3-2006 was withdrawn with immediate effect. However, considering the expenses spent by the three units, the Commission permitted that the three beneficiaries to continue to retain three single point HT status as an exception.

Contentions of the Respondents in Counter Affidavits :-

14. Some 19 individual entrepreneurs, who are unit members of the Petitioners' Park, out of 47 actually occupied members, functioning inside the Petitioners' premises, approached the High Court, Madras by filing W.P. No. 3105 of 2010, seeking a Writ of Mandamus, to provide individual LT service

connection to their respective weaving sheds at their own costs and expenses. By an order dated 12-4-2010 in M.P. No.2 of 2010, the High Court was pleased to direct the Executive Engineer / O & M /Sankari to provide separate electricity service connection to each of the petitioner units. By virtue of the same order of the High Court also directed that the Petitioners therein (19 Nos.) should also file an undertaking affidavit, that in the event of provision of separate LT supply, the HT supply through the 14th Respondent (the Petitioner herein) may be disconnected.

15. The orders in M.P. No. 2 of 2010 in W.P. No.3105 of 2010, passed by the High Court dated 2-4-2010 is still in force and also has become final (because of lapse of period of limitation), as the Petitioner herein, the 14th Respondent in the aforesaid Writ Petition, has admitted in paragraph 6 of the petition that "Aggrieved by the said order the Petitioner has filed a Writ Appeal which is yet to be numbered". The Petitioner herein, the 14th Respondent in the Writ Petition, though pleads about the filing of Writ Appeal, he has not chosen to plead as to whether the order dated 2-4-2010 was passed in his presence or absence, as the 14th Respondent was not represented therein, either in person or through a pleader.

16. Pursuant to the orders in M.P. No. 2 of 2010 in W.P. No. 3105 of 2010, out of 19 petitioners, petitioners 8, 14 & 17 have not applied for LT connection and that additionally 12 more similar units have also filed applications for individual

service connection. The 12 additional applicants, sought for individual service connection, on par with the 19 petitioners in W.P. No. 3105 of 2010, though they were not parties covered in the same order. In compliance of the orders of the High Court, all these applications, numbering 16, together with the applications of 12 other similarly placed applicants within the very same Park, were sanctioned LT service connection as per the norms and now the works are under progress, for individual connection. These connections were sanctioned on 31-5-2011.

17. In order to avoid complaints in maintaining service connections in different status and different level of voltages, the impugned notice has been issued to the Petitioner, directing him to withdraw the HT. The reason requiring the Petitioner to withdraw is for the following reasons:-

(a) T.O.No.1 of 2007 dated 20-3-2006, based on which the Petitioners Park has been granted HT was withdrawn by the Hon'ble Commission, on 4-5-2010, with effect from the same day; and

(b) 28 out of 47 unit members of the Petitioners' Park has been sanctioned LT service connection in pursuant to orders in M.P. No. 2 of 2010 in W.P. No. 3105 of 2010 (16 members as named in the order and 12 other members since they are also similarly placed unit members).

18. In the letter written by the Chief Electrical Inspector to Government, Chennai 600 032 vide his Letter No. MTR 499/CEIG/D5/2011 dated 18-3-2011 he has informed TANGEDCO that utmost care should be taken during such

conversion of supply to LT for some consumers, so that physical and electrical separation (or) segregations of the service connections at different voltage levels (HV & MV & LV) should be ensured for a safe operation and maintenance of different units.

19. The Petitioners Park had challenged the withdrawal of T.O. No. 1 of 1977 dated 20-3-2006, on 4-5-2010 for which the only remedy is filing of an appeal before Appellate Authority, as contemplated in law and that the case on hand is not appropriate proceeding to challenge the same, that too when all the parties in T.O. No. 1 of 1977 are not impleaded as parties herein.

Finding of the Commission:-

20. The analogy of order No.T.O.1/77 dated 20-3-2006 of the Commission in M/s.Netaji Apparel Park, M/s. Palladam Hi-Tech Weaving Park and M/s.Tirupur Export Knitwear Industrial Complex (TEKIC) would apply to the present Petitioner. The heavy investment made by the Company namely M/s.Cauvery Hi-Tech Weaving Park in creating a distribution network at a cost of Rs.16.62 crores (as submitted by the Petitioner) would be a waste if TANGEDCO is required to re-establish the distribution network within the area of operation of the company. The expenditure incurred by the company is mostly through subsidy granted by the Government of India as well as State Government. Therefore, the Commission decides to extend the benefit available to M/s.Netaji Apparel Park, M/s.Palladam Hi-Tech Weaving Park and M/s.Tirupur Export

Knitwear Industrial Complex (TEKIC) to the present Petitioner. TANGEDCO is not opposed to the grant of single point connection.

Direction:-

21. In view of the findings of the Commission in para 20 above, the single point HT S.C.No.278 of the Petitioner shall not be disconnected by the Respondents.

As regards the 19 applicants for L.T. connection within the premises of the Petitioner, who are parties to the W.P.No.3105 of 2010, the TANGEDCO will abide by the extant order of the High Court.

The interim order dated 23-3-2011 made in I.A. No. 1 of 2011 in the above M.P. is merged with this order.

Appeal:-

22. An appeal under section 111 of the Electricity Act, 2003 against this order shall lie to the Appellate Tribunal for electricity within a period of 45 days.

(Sd.....)
(S. Nagalsamy)
Member – II

(Sd.....)
(K. Venugopal)
Member – I

(Sd.....)
(S.Kaliban)
Chairman

/ True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**