

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

COURT-II

**APPEAL NO. 162 OF 2019 & IA NO. 582 OF 2019
APPEAL NO. 165 OF 2019 & IA NO. 585 OF 2019
APPEAL NO. 310 OF 2019 & IA NOS. 1469 & 1470 OF 2019
APPEAL NO. 323 OF 2019 & IA NOS. 1483 & 1484 OF 2019
APPEAL NO. 324 OF 2019 & IA NOS. 1544 & 1545 OF 2019
APPEAL NO. 325 OF 2019 & IA NOS. 1550 & 1551 OF 2019
APPEAL NO. 395 OF 2019 & IA NOS. 1617 & 1618 OF 2019
APPEAL NO. 434 OF 2019 & IA NOS. 1659, 1660 & 1661 OF 2019
APPEAL NO. 173 OF 2019 & IA NOS. 715, 1238 OF 2019 &
IA NO. 2105 OF 2021
APPEAL NO. 233 OF 2019 & IA NOS. 749 & 1059 OF 2019
APPEAL NO. 234 OF 2019 & IA NOS. 747 & 1058 OF 2019**

Dated: **05.04.2022**

Present: **Hon'ble Mr. Justice R.K. Gauba, Officiating Chairperson
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

In the matter of:

APPEAL NO. 162 OF 2019 & IA NO. 582 OF 2019

**Suryadev Alloys and Power Ltd. Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)**

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 165 OF 2019 & IA NO. 585 OF 2019

**Kamachi Industries Ltd. Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)**

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 310 OF 2019 & IA NOS. 1469 & 1470 OF 2019

Ponni Sugars (Erode) Limited Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 323 OF 2019& IA NOS. 1483 & 1484 OF 2019

The Ramco Cements Ltd. Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 324 OF 2019 & IA NOS. 1544 & 1545 OF 2019

Sakthi Sugars Limited Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 325 OF 2019 & IA NOS. 1550 & 1551 OF 2019

Bannari Amman Sugars Limited Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 395 OF 2019 & IA NOS. 1617 & 1618 OF 2019

M/s. Kothari Sugars and Chemicals Limited Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 434 OF 2019& IA NOS. 1659,1660 & 1661 OF 2019

E.I.D – Parry (India) Limited Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

**APPEAL NO. 173 OF 2019 & IA NOS. 715, 1238 OF 2019 &
IA NO.2105 OF 2021**

Sree Rangaraj Ispat Industries (P) Ltd. Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Ors. Respondent(s)

Counsel for the Appellant(s) : Mr. Kumar Mihir

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO. 233 OF 2019 & IA NOS. 749 & 1059 OF 2019

Chettinad Cement Corporation Ltd. Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Ors. Respondent(s)

Counsel for the Appellant(s) : Mr. Kumar Mihir

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

In the matter of:

APPEAL NO 234 OF 2019 & IA NOS. 747 & 1058 OF 2019
Chettinad Cement Corporation Ltd. Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Ors. Respondent(s)

Counsel for the Appellant(s) : Mr. Kumar Mihir

Counsel for the Respondent(s) : Ms. Anusha Nagarjan for R-2

ORDER

This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

**IA NO. 1059 OF 2021 IN APPEAL NO.233 OF 2019&
IA NO. 1058 OF 2021 IN APPEAL NO.234 OF 2019**

[For Condonation of delay in filing rejoinder]

The delays of 77 days in filing rejoinders having been properly explained, applications are allowed and the rejoinders are taken on record. The applications are disposed of accordingly.

IA NO. 1659 OF 2019 IN APPEAL NO.434 OF 2019

[For Exemption from filing certified copy of Impugned Order]

The application filed by the applicant for exemption from filing certified copy of impugned order is declined. The certified copy of the impugned order shall be filed within two weeks. The application is disposed of accordingly.

**IA NOS. 582, 585,715, 747, 749, 1238, 1469, 1483, 1544, 1550,
1617 &1660 OF 2019**

[For interim relief]&

IA NOS. 1470, 1484,1545, 1551, 1661OF 2019

[For directions]

This batch of appeals raises common questions of law vis-à-vis same impugned order. Interim relief against precipitative action has been granted in some of these appeals by separate specific orders. It is

pointed out that in similarly placed Appeal no.310 of 2019 *Ponni Sugars (Erode) Limited Vs. Tamil Nadu Electricity Regulatory Commission &Anr.*, the co-ordinate bench by its order dated 11.09.2019 had inter alia observed and directed as:-

“Since they had not opted for parallel operations of the captive generating plants with the grid without availing open access, they are not liable to pay Parallel Operation Charges (“POC”). According to Respondents there was second tariff Order in August, 2017 wherein they modified earlier Tariff Order and second Tariff Order is not challenged by the Appellant. In terms of Madras High Court order referred above the POC was from May, 2014 to January, 2019 and Madras High Court has stayed all proceedings consequent to order of stay granted referred to above. In that view of the matter, we direct the Respondent Discom not to precipitate the matter in terms of demand notice now under challenge till next date of hearing.

Objections by the Respondents shall be filed within three weeks’ time i.e. on or before 03.10.2019 with advance copy to the other side.

List the matter on 14.10.2019”.

In the given facts and circumstances, we feel it just and proper to make the above directions absolute for the pendency of all these appeals. The captioned applications are disposed of with these observations.

IA NO. 1618 OF 2019 IN APPEAL NO. 395 OF 2019

[For Exemption from impleading parties]

The exemption from impleadment of other such generators who had participated in hearing before the Commission leading to the impugned order being passed, but had common cause with the Appellant, some of them also having filed similar appeals, is granted. Application is disposed of.

IA NO. 2105 OF 2021 IN APPEAL NO. 173 OF 2019

[For Deletion]

The deletion of proforma parties/officials of TANGEDCO is granted, application is disposed of accordingly. The amended memo of parties shall be filed within three days.

APPEAL NOS. 162, 165, 310, 323, 324, 325, 395, 434, 173, 233 & 234 OF 2019

We are informed that pleadings are complete.

Admit.

Upon request and with the consent of all the parties, we direct this batch of appeals to be included in the “*List of Priority*” and to be taken up in its turn from there.

The written submissions and digital copies of the records must be filed in advance before the batch of appeals is taken up for hearing.

(Sandesh Kumar Sharma)
Technical Member

pr/tp

(Justice R.K. Gauba)
Officiating Chairperson