

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. 21 of 2011

M/s.Sree Kaderi Ambal Mills Ltd.
Super B-3, Industrial Estate
Madurai – 625 007
Rep. by its Managing Director
S.V. Pethaperumal

.... **Petitioner**
(Thiru.K.Seshadri, Advocate for Petitioner)

Vs.

1. The Chairman
Tamil Nadu Electricity Board
144, Anna Salai
Chennai – 600 002.
2. The Chief Engineer (NCES)
Tamil Nadu Electricity Board
144, Anna Salai
Chennai – 600 002.
3. The Superintending Engineer
TANGEDCO
Tirunelveli Circle
Tirunelveli – 627 011.

.... **Respondents**

Dates of hearing: 12-9-2011 and 3-11-2011

Date of Order : 3-11-2011

M.P.No.21 of 2011 came up for admission before the Commission on **3-11-2011**. Thiru. K. Seshadri, Counsel for the petitioner submitted that there is a delay in filing the petition from 23-4-2011 to 2-8-2011 and the delay is on account of the persistent efforts put forth by the petitioner to get the matter settled amicably with the respondents and that the delay is neither willful nor wanton. He prayed that the delay may be condoned and the Miscellaneous Petition may be admitted. After hearing the counsel the Commission condoned the delay and took up the M.P. for consideration and passed the following

ORDER

Delay condoned. The Commission heard the learned counsel for the petitioner. The counsel admits that the captive consumption has been less than 51% of generated energy which is the limit laid down in clause 3 of the Electricity Rules, 2005 for treating the generation plant as a captive generation plant. The counsel further pleads that the Electricity Rules 2005, more particularly Rule 3 of the said Rules would not apply to generating plants owned by a single owner such as the petitioner. We are unable to accept this interpretation of the Electricity Rule 2005. All the three wind mills of the petitioner were set up in 2008-09 much after the commencement of the Electricity Rules 2005 and therefore, the said Rules will apply in-toto to the petitioner's plants. Rule 3 of the Electricity Rules, 2005 (vide GSR 379 (E), dated 8-6-2005) is extracted below:

“3. Requirements of Captive Generating Plant.- (1) No power plant shall qualify as a Captive Generating Plant’ under section 9 read with clause (8) of section 2 of the Act unless-

(a) in case of a power plant-

- (i) not less than twenty six percent of the ownership is held by the captive user(s), and
- (ii) not less than fifty one percent of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use:”.

In view of this Rule, if the two conditions (i) & (ii) above are not fulfilled, the power plant shall not qualify as a captive generating plant. By the Petitioner’s own admission, they have not consumed the minimum stipulated requirement of 51% of the energy generated. In view of this, the generating plant of the petitioner cannot be treated as a captive generating plant. Hence, the petition is dismissed at the admission stage.

Appeal:-

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

(Sd.....)
(K.Venugopal)
Member

(Sd.....)
(S.Kabilan)
Chairman

/ True Copy /

Assistant Secretary
Tamil Nadu Electricity
Regulatory Commission