

TAMIL NADU ELECTRICITY REGULATORY COMMISSION, CHENNAI

PRESENT:-

Thiru K. Venugopal ... Member

Thiru S. Nagalsamy ... Member

Date of Order: 10-04-2012

In the matter of withdrawal of petition by M/s. Bannari Amman Sugars Ltd. even before numbering and listing of the petitions – Orders issued for deduction of reasonable expenses in exercise of inherent powers.

Three dispute resolution petitions were filed before the Registry of the Commission by Bannari Amman Sugars Ltd. on 18-1-2012 with a prayer to direct TANGEDCO to pay interest at the rate of 18% for delayed payments in respect of invoices raised by the said company. The claim made by M/s. Bannari Amman Sugars Ltd. in respect of said three petitions are as follows:

Sl. No.	Period	Amount (Rs.)	Fees paid (Rs.)
1	April 2008 to 2011	1,98,35,944	1,98,360
2	February 2010 to January 2011	8,12,949	20,000
3	April 2008 to December 2010	62,69,392	62,694

All the above dispute resolution petitions were filed on 18-1-2012 and the said petitions were being processed by the registry of the Commission for placing the same before the Commission for admission. However, before the processing of the petitions could be completed, Ms. Revathi M. Kannan, the advocate for M/s. Bannari Amman Sugars Ltd. has submitted a petition on 19-1-2012,

enclosing a letter received from her client, requesting to withhold the said three petitions and also stating that her client have instructed not to proceed with the matter without any further instructions from them. Subsequently, on 24-01-2012, M/s. Bannari Amman Sugars Ltd, filed affidavits for withdrawal of said petitions. The reasons given for withdrawal of the said dispute resolution petitions were that there were errors in the petitions viz, calculation of interest. The company prayed the Commission to permit it to withdraw the three dispute resolution petitions with liberty to file fresh petitions in future. A prayer was also made for refund of fees which was paid earlier.

In this connection, it may be noted that the procedure to be followed in respect of petitions filed before the Commission and the fees payable thereon are governed by the Conduct of Business Regulation, 2004 and Fees and Fines Regulation, 2004.

The request of the petitioner for withdrawal of the DRPs alongwith fees has been examined in depth by the Commission. It is felt that the reasons given for withdrawal of the dispute resolution petitions by the petitioner are far from convincing. If the errors in the petition are the only reason for the withdrawal of the petitions, the petitioner could have filed fresh petitions amending its earlier petitions without a request for refund of fees.

The affidavits withdrawing the three petitions do not clearly set out the reasons leading to the withdrawal of the petitions. The fact as to whether any compromise has been reached with TANGEDCO has also not been set out in the

petition. It must be pointed out that much of the time of the Commission and its Registry has been wasted due to the conduct of the petitioner in seeking sudden withdrawal of the petitions even before they could be numbered. There is prima facie case of abuse of process of the Commission which requires to be discouraged.

The Commission, therefore, in exercise of its power under Regulation 48 of the Conduct of Business Regulation, 2004, hereby directs that a sum of Rs.5,000/- (Rupees five thousand only) shall be deducted towards administrative expenses from the fees paid by the petitioner in respect of each petition and the balance be refunded to the petitioner. By doing so, Commission believes that ends of justice would be met. Out of the total amount of Rs.2,81,054/- (Rupees two lakhs eighty one thousand and fifty four only) paid by M/s. Bannari Amman Sugars Ltd. in receipt Nos. 157, 158 and 159 dated 18-1-2012, after deducting Rs.15,000/- (Rupees fifteen thousand only) i.e. at the rate of Rs.5,000/- for each petition, the balance amount of Rs. 2,66,054/- (Rupees two lakhs sixty six thousand and fifty four only) be refunded to the party by the Assistant Secretary of the Commission.

(By order of the Commission)

Secretary

To
M/s. Bannari Amman Sugars Ltd.
1212, Trichy Road,
Coimbatore – 641 018.

Copy to:

- 1) Accounts section, TNERC, Chennai – 8.
- 2) AD/Computer, TNERC, Chennai – 8.