

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION**

**(Constituted under section 82 (1) of the Electricity Act, 2003**

**(Central Act 36 of 2003)**

**R.A. No. 4 of 2013**

**PRESENT:-**

**Thiru. K. Venugopal** ..... Member

**and**

**Thiru. S. Nagalsamy** ..... Member

**In the matter of implementation of Judgment dated 31-10-2012 of the Appellate Tribunal for Electricity in Appeal Nos. 36 of 2012, 37 of 2012, 49 of 2012, 50 of 2012, 55 of 2012 and orders dt. 17-1-2013 in Appeal Nos. 261 of 2012 and 262 of 2012.**

**Date of Order : 25-2-2013**

Consequent to the aforesaid judgment and the orders passed by the Hon'ble ATE setting aside the Order dt. 28-12-2011 of the Commission in R.A. Nos. 1 of 2011, 2 of 2011 and 3 of 2011 and further directing the Commission to pass the consequential order, it has been decided by the Commission to treat the direction of the ATE as a remanded matter and the following order is passed.

The subject matter of the aforesaid appeals is the final order passed by the Commission on 7-9-2010 in MP Nos. 6, 9 and 17 of 2010 and DRP No. 9 of 2010 permitting all the HT consumers who are procuring power from captive sources and third party sources to get additional demand and energy quota over and above the demand and energy quota from the TNEB's source subject to the

sanctioned demand. In the said order Commission restricted the benefits of the order with effect from 17-8-2010 i.e. the date of the interim order which was the subject matter of challenge before the Hon'ble Tribunal in the appeals under reference.

The question framed by the Hon'ble ATE in the aforesaid matter is as follows:

*“Whether the State Commission is justified in restricting the benefit of the order dated 7.9.2010 passed by the State Commission earlier only from the date of the interim order dated 17.8.2010 and not before?”*

The relevant portions of the summary of findings of the Hon'ble ATE are reproduced as below:

*“5.1 Summary of our findings:-*

*(i) xxx xxx xxx ...*

*(ii) TNEB issued two memos dated 30.12.2008 and 17.7.2009 permitting to go upto the sanctioned demand by third party purchase to HT consumers with connected load upto 500 KW and 250 KW respectively. In the memo dated 17.7.2009 issued by the Chairman, TNEB it has been specifically stated that the purchaser can use the purchased power over and above the original quota fixed for him under restriction and control measures upto the sanctioned demand. TNEB cannot take a contrary stand to its own memos dated 30.12.2008 and 17.7.2009.*

*(iii) In the order dated 7.9.2010, the State Commission after taking note of the memo dated 17.7.2009 from Chairman, TNEB directed the TNEB to act in accordance with its own stand. Thus, the State Commission has erred in deciding the date of effect of its order to 17.8.2010.*

*(iv) The procurement of power through open access from third party is protected under the Electricity Act, 2003 and the State Commission could not restrict the Appeal No.36, 37, 49, 50 & 55 of 2012 operation of its order effective from 17.8.2010 as the same has to be made effective from the date when third party purchase through open access was permitted by the Electricity Board.*

*xxx xxx xxx ...”*

It may be seen from the above that the decision of the Commission in MP Nos. 6, 7 and 17 of 2010 and DRP No. 9 of 2010 was overruled by the Hon'ble ATE and directions have been given that the date of effect of the Commission's order should be the date on which the TANGEDCO (formerly TNEB) issued the communication permitting the HT consumers to procure power on open access over and above the quota demand i.e. from 17.7.2009 and not 17-8-2010 which is the date of the interim order of the Commission.

In line with the aforesaid directions of the Hon'ble ATE, it is hereby directed that the date of effect of the Order dt. 7-9-2010 of the Commission in MP No. 6 of 2010, 9 of 2010 and 17 of 2010 and DRP No. 9 of 2010 shall be 17-7-2009 i.e. the date on which the TANGEDCO permitted open access to HT consumers. Consequently, TANGEDCO is directed to effect refund to the HT

consumers accordingly. This exercise shall be done with the period of two months from the date of the issue of this order.

(Sd.....)  
**(S. Nagalsamy)**  
**Member**

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

**/True Copy/**

**Secretary**  
**Tamil Nadu Electricity**  
**Regulatory Commission**

To

1. M/s. Asahi India Glass Ltd.  
Plot No. F-76 to F-81,  
SIPCOT Industrial Park,  
Sriperumbudur,  
Kancheepuram District,  
Tamil Nadu, Pin – 602 105.
2. M/s. Technical Stamp Lings Automotive Ltd.  
Plot No. G, 16-18,  
SIPCOT Industrial Park,  
Irungatukottai, Sriperumbudur,  
Kancheepuram District,  
Tamil Nadu, Pin – 602 105.
3. M/s. National Textile Corporation Ltd.  
Scope Complex, Core IV,  
7, Loadhi Road,  
New Delhi – 110 003.
4. M/s. CAMBODIA Mills,  
A unit of National Textile Corporation Ltd.  
Trichy road, Ondipudur,  
Coimbatore – 641 016.
5. M/s. Pankaja Mills,  
A Unit of National Textile Corpn Ltd.,  
Pankaja Mills Road,  
Ramanathapuram,  
Coimbatore-641 045

6. M/s. Sri Ranga Vilas SPG & WVG Mills,  
A Unit of National Textile Corpn Ltd.  
Aviashi Road, Peelamedu,  
Coimbatore-641 004.
7. M/s. Kaleeswara Mills "B"Unit,  
HTSC No.15, Kalayarkoli,  
Sivagangai,  
Tamil Nadu-630 551
8. M/s. Pioneer Spinners,  
HTSC No.5, Paramakudi,  
1, Ramanathapuram,  
Tamil Nadu-623 719.
9. M/s. TMT Muthammal Textile Mills Pvt. Ltd.  
Boothakudi Village,  
Erasanayakanpatti Post,  
Viralimalai, Puddokottai-621 316.
10. M/s. The Southern India Mills Association  
No.41, Race Course Road,  
Coimbatore-641 018.
11. M/s Aruppukottai Shri Ramalinga Mills Ltd.  
3/315, T.R.S. Nagar,  
Melakandamangalam,  
Arupukkottai – 626 101.
12. M/s Ramalinga Mills Ltd.  
212, Ramasamy Nagar,  
Arupukkotai 626 101.
13. The Chairman & Managing Director  
TANGEDCO,  
NPKR Malaigai,  
144, Anna Salai,  
Chennai – 600 002.
14. The Superintending Engineer,  
Chengalpattu Electricity Distribution Circle,  
TANGEDCO (TNEB),  
Chengalpattu-603 001.

15. The Superintending Engineer (Metro),  
Coimbatore Electricity Distribution Circle,  
TNAGEDCO (TNEB)  
Coimbatore-641 012
  
16. The Assistant Director (Computer)  
Tamil Nadu Electricity Regulatory Commission  
No.19A, Rukmini Lakshmipathy Salai  
Egmore,  
Chennai – 600 008. - for hosting in the website.

