



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.4850 of 2016

The Director,
Central Electrochemical Research Institute,
Karaikudi - 630 006.

... Petitioner

Vs.

1.The Chairman cum Managing Director,
TNGEDCO, 10th Floor, TNEB Building,
144, Anna Salai, Chennai - 2.

2.The Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshipathi
Salai (Marshal Road),
Egmore, Chennai - 600 008.

3.The Executive Engineer,
Distribution, TANGEDCO (formerly TNEB),
Karaikudi.

4.The Assistant Engineer (Town),
TANGEDCO (formerly TNEB) Town South,
Karaikudi.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the third respondent in A.P No.42 of 2015 dated 31.08.2015 and quash the same, consequently direct the third and fourth respondents to refund the amount of Rs.4,46,866/- (Rupees Four Lakh Forty Six Thousand Eight Hundrend and Sixty Six Only).

For Petitioner : Mr.K.P.S.Palanivel Rajan
For Respondents : Mr.S.M.S.Johnny Basha

The writ petitioner is one of the National Laboratories functioning under Council of Scientific & Industrial Research

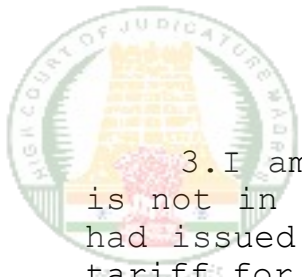


(CSIR). It comes under the Department of Scientific & Industrial Research, Ministry of Science & Technology, Government of India. Since it is a premier research institute, it comes under Low Tension Tariff II-B(1). The stand of the TANGEDCO is that while the institute as such would come only under the aforesaid Low Tension Tariff II-B(1) category, the street lights installed in the campus will fall only under Tariff - V category. Demand was raised on this basis by TANGEDCO and the writ petitioner complied with the said demand under protest. It filed an appeal before the Tamil Nadu Electricity Ombudsman, Chennai. The Ombudsman also rejected Appeal Petition No.42 of 2015 filed by the petitioner by order dated 31.08.2015. This is under challenge in this writ petition. The writ petitioner also seeks refund of the amount of Rs.4,46,866/- earlier paid by them under protest.

2.The respondents have filed a detailed counter affidavit. It has been stated therein that the writ petitioner is having 10 service connections and the same are as follows :

S.No	Service Connections	Tariff	Service Connection effected	Purpose
1	05-402-032-199	IIB1	12/30/05	B.Tech Hostel
2	05-402-032-200	IIB1	12/30/05	Kendra Vidhaya School
3	05-402-032-201	IIB1	12/30/05	Kendra Vidhaya School
4	05-402-032-202	IIB1	12/30/05	B.Tech Hostel
5	05-402-032-203	IIB1	12/30/05	B.Tech Hostel
6	05-402-032-213	V	01/23/06	Street Light
7	05-402-032-214	V	01/23/06	Street Light
8	05-402-032-137	IIB1	08/20/04	Dispensary
9	05-402-032-140	V	08/20/04	Ganapathy Temple
10	05-402-032-136	V	08/20/04	Anjaneyar Temple

The employees of the institute are residing inside the campus and they are having 245 separate electricity connections. Even though the street lights should have been billed only under Tariff-V, by mistake it was entered as Tariff II-A and the bill was raised accordingly. When the audit unit discovered the error, revised demand was raised vide letter dated 28.09.2013. The writ petitioner paid the amount on 02.12.2013. Thereafter, they moved the Consumer Grievance Redressal Forum, Sivagangai and the same was dismissed. Challenging the same, they moved Ombudsman, Chennai. The Ombudsman upheld the stand of the TANGEDCO. The TANGEDCO wanted this Court to sustain the same and dismiss this writ petition.



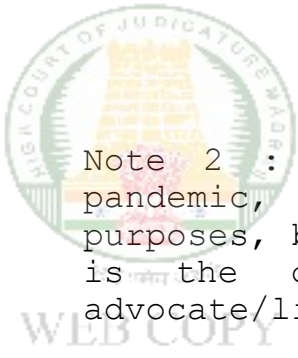
3.I am unable to agree with the stand of the respondents. It is not in dispute that Tamil Nadu Electricity Regulatory Commission had issued Order No.1 of 2012 dated 30.03.2012 for determination of tariff for generation and distribution. Clause 10 of the said order pertains to tariff schedule. Clauses 10.1 to 10.8 pertain to High Tension Supply Consumers. Clauses 10.9 to 10.22.2 pertain to Tariff Low Tension Supply Consumers. The petitioner's institute comes under Low Tension Tariff II-B(1). This is because Clause 10.14.2 makes the said tariff II-B(1) applicable to Government aided educational institutions and research institutions. Of course, the petitioner's campus comprises not only the academic building but also the residential quarters of the employees. Such provisions are made to optimize efficiency and save time. Therefore, the petitioner's campus is a composite complex comprising Government aided research institute and the residential quarters. In respect of multi tenements/residential complexes supply used for common lighting, water supply, lift alone may be given separate connection and charged LT-I(A). In respect of multi storied buildings/residential complexes having both domestic and commercial utilities common facilities such as common lighting, common water supply and lift will be charged under this tariff only if the commercially built up area does not exceed 25% of the total built up area.

4.It is not the case of the respondents that the petitioner is a commercial establishment. It is not. That is why, it is billed under LTT II-B(1). Tariff V is applicable to all commercial establishments, private communication providers, cinema studios, cinema theatres and consumers not categorized under LT IA, IB, IC, IIA, IIB(1), IIB(2), IIC, IIIA(1), IIIA(2), IIIB and IV. The petitioner is not a commercial establishment. The petitioner will not come under any of the named categories. It will not fall under the residual category also. Since common lighting has already been dealt with under LTT IA, electricity supply provided for such common lighting ought to have been billed under LTT IA.

5.Therefore, the respondents shall rework the charges payable by the writ petitioner institute by classifying the streetlights facility provided to the petitioner under the said category. The refund of the amount already remitted by the petitioner will depend on the outcome of the said computation. The third and fourth respondents are directed to give an opportunity of personal hearing to the writ petitioner before passing final orders.

6.Accordingly, the order impugned in this writ petition is quashed. This writ petition is allowed on these terms. No costs.

Note 1 : Issue order copy within one day after the same is received by the Court Officers' Section.



Note 2 : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Chairman cum Managing Director,
TNGEDCO, 10th Floor, TNEB Building,
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- 2.The Tamil Nadu Electricity Ombudsman,
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- 4.The Assistant Engineer (Town),
TANGEDCO (formerly TNEB) Town South,
Karaikudi.

+1 CC to M/s.K.P.S.PALANIVELRAJAN, Advocate (SR-58483[F] dated 03/04/2019)

WP (MD) No. 4850 of 2016

02.04.2019

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