

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos. 8164, 8522 and 8670 of 2020
and WMP.Nos.9712, 10294 to 10296 of 2020, 10448, 10455
and 10504 to 10506 of 2020

W.P.No.8164 of 2020

M/s. Shri PKP Spintex Mills (P) Ltd.,
Represented by its Managing Director,
P.K.Pounraj,
Having registered office at
No.5-A, South Railway Road, Kumarasampet,
Dharmapuri - 636 703. ... Petitioner in W.P.No.8164/2020

Vs

1. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer,
Distribution - Vellore Region,
Vellore.
3. The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Dharmapuri.
4. The Executive Engineer,
Operation & Maintenance,
Dharmapuri. ... Respondents in W.P.No.8164/2020

PRAYER in W.P.No.8164 of 2020: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders of the third respondent dated 29.05.2020 and 01.06.2020, bearing Reference No.Lr.No.SED/DEDC/DFC/RCS-HT/F.HTSC.No.421/D.No.0/4/2020 and No.Lr.No.SED/DEDC/DFC/RCS-HT/F.HTSC.No.421/D.No.015/2020 and quash the same as illegal, arbitrary in so far as it relates to the demand for Belated Payment Sur-Charge and to permit the petitioner to pay the arrears of the consumption charges for the period from 01/2020 to 05/2020 in four quarterly installments and to restore electricity supply to H.T.S.C. No.421 of the petitioner.

W.P.No.8522 of 2020

Sangeeth Textiles Private Limited,
Represented by its Managing Director,
HTSC No.136,
No.551, Ganesapuram Post,
S.S. Kulam (via)
Annur, Coimbatore - 641 107. .. Petitioner in W.P.No.8522/2020

Vs

1. The Tamil Nadu Electricity Generation and
Distribution Company (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
TANGEDCO,
Coimbatore Electricity Distribution Circle (North),
Coimbatore - 641 012.
3. The Chief Financial Controller-Revenue,
TANGEDCO,
7th Floor, 144, Anna Salai, Chennai.
... Respondents in W.P.No.8522/2020

PRAYER in W.P.No.8522 of 2020: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, to call for the records contained in the monthly current consumption bill (CC Bill) issued by the second respondent herein dated 07.06.2020 for the billing period May, 2020 with regard to the petitioner's service connection HTSC No.039094300136 and quash the same in as much as the CC bill has failed to take into consideration the excess Additional Security Deposit paid by the petitioner company lying with the second respondent and consequently direct the second respondent to issue a fresh CC Bill for the billing period May, 2020 and subsequent months after adjusting the excess Additional Security Deposit paid by the petitioner company.

W.P.No.8670 of 2020
Southern India Mills Association,
Represented by its Secretary General,
No.41, Race Course,
Coimbatore - 641 018. .. Petitioner in W.P.No.8670/2020

Vs

- 1.The Tamil Nadu Electricity Generation and
Distribution Company (TANGEDCO),
Represented by its Chairman,
No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Financial Controller-Revenue,
TANGEDCO,
7th Floor,
144, Anna Salai, Chennai - 600 002.
3. Chief Engineer - NCES/ Wind Power,
TANGEDCO,
144, Anna Salai, Chennai - 600 002.
4. Tamil Nadu Electricity Regulatory Commission (TNERC),
Represented by its Secretary,
TIDCO Office Building No.19-A,
Rukmani Lakshmipathy Salai,
Marshall's Road, Egmore,
Chennai - 600 008. ... Respondents in W.P.No.8670/2020

PRAYER in W.P.No.8670 of 2020: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the respondents 1 to 3 to redraw the CC Bills for the HT consumers from the month of April by calculating the Current Consumption Deposit in line with the Regulations and deleting the levy with respect to Power Factor penalty during period of lockdown imposed by the Government and consequently effect adjustments to the CC Bills of the members of the petitioner Association for such period to give effect to the same.

For Petitioner in
[W.P.No.8164/2020] : Mr. T. Sai Krishnan

For Petitioner in : Mr. Rahul Balaji
[W.P.Nos.8522 & 8670/2020] for S. Parthasarathy

For Respondents : Mr. P. H. Aravind Pandian
[in all W.Ps.] Additional Advocate General
assisted by Mr. M. Varun Kumar
Standing Counsel

COMMON ORDER

The main issue involved in all the writ petitions pertain to adjustment of the Additional Security Deposit towards the payment due under the current consumption bills to the TANGEDCO.

2. When the matter came up for admission, this Court passed the following order on 15.07.2020:

"The issue involved in all these writ petitions pertains to the adjustment of the additional security deposit wherever it is found in excess of the requirement towards the payment due to the Electricity Board.

Rule 5 of the Tamil Nadu Electricity Supply Code, 2004, mandates that the adequacy of the security deposit must be reviewed once in a year in case of the HT consumers and once in every two years in case of LT consumers taking into account the interest due for credit. These reviews should be normally undertaken in the month of April/May. However, due to the pandemic situation, the Electricity Department was not able to undertake this exercise. In the meantime, HT consumers have approached this Court for a direction to the Electricity Department to adjust the bills from the excess of the additional security deposit in the hands of the department. On the alternative, a suggestion was made to the effect that the consumers themselves will make a self-assessment in accordance with Rule 5 of the Code and adjust the excess additional security deposit and make the payments accordingly and if in case it is found by the department in future that the self-assessment is erroneous, whatever deficit amount requires to be paid can be collected with belated payment surcharge. Failure to make the payment can also result in disconnection of electricity.

2. This Court needs to find a balance to protect the rights of the consumers and at the same time ensure that the Electricity Department is not put to undue hardship. This Court has to take into consideration the prevailing situation and the difficulties faced by the industries in carrying on with their operation. In the given circumstances, the learned Additional Advocate General is directed to take instructions from the department in line with what has been suggested by the learned counsel appearing on behalf of the petitioners and report to this Court during the next date of hearing.

3. Post this case under the caption "for orders" on 22.07.2020."

3. When the matter was called today, the learned Additional Advocate General brought to the notice of this Court the notification issued by the Chief Finance Controller/Revenue dated 18.07.2020. By pointing out to the said notification, the learned Additional Advocate General submitted that the HT software has been enabled for the calculation of the security deposit and all the Superintending Engineers have been instructed to follow Regulation 5(5) (ii) of the Tamil Nadu Electricity Supply Code, 2004.

4. For better appreciation, the said notification is extracted hereunder:

"Through E-Mail
Very Urgent

TANGEDCO
ACCOUNTS BRANCH

Memo No.CFC/REV/FC/REV/DFC/AAO/JA/F.ASD Review/D.400/20,
dated 18.07.2020

Sub: Electricity-Review of adequacy of Security
Deposit(SD) for HT during 2019-20 &
allowing of interest on MCD for HT Servies -
Instructions -Issued -Reg. \

Ref: 1. TNERC Order No.1 of 2020 dated
17.02.2020

2. Circular
Memo.No.CFC/REV/FC/REV/DFC/AAO/JA/F.ASD
Review/D.172/20 dt, 09.03.2020.

3. Memo
No.CFC/REV/FC/REV/DFC/AAO/JA/F.ASD
Review/W.I/D.272/2020, dt.
07.05.2020.

4. D(D)/TG & D(F)/TG Note Approval
dated.10.07.2020

5. CMD/TG approval dated.18.07.2020

1.0) Instructions have been issued for
the review of adequacy of security deposit for
HT & LT services (LTCT and III B Industries)
during the year 2019-20, vide ref.(2) cited.

2.0) Now, as per the approvals cited,
the HR softward have been enabled for the
calculation of security deposit requirement,
issue of Notices for security deposit demand
and procedure to be adopted for refund of
excess deposit. In this regard, the following
instructions are issued:

2.1) The Superintending
Engineers/EDCs are instructed to follow the
Regulation 5(5)(ii) of Tamil Nadu Electricity
Supply Code for ensuring the adequacy of
Security Deposit.

2.2) Further, the Superintending
Engineer/EDCs are instructed to follow the
Regulation 5(5)(iv) & 5(5)(v) of the Tamil
Nadu Electricity Supply Code with regard to
issue of demand Notices to the HT consumers
for Additional Security Deposit.

All the Superintending Engineers/EDCs.
Copy to All the Chief Engineers/Distribution Regions.
Copy to Chief Financial Controller/General/TG,
Copy to Chief Financial Controller/Regulator Cell/TG.
Copy to Chief Engineer/Information Technology (For necessary action).
Copy to Chief Internal Audit Officer/TANGEDCO.
Copy submitted to Director (Finance) & Director (Distribution)/TANGEDCO.
Copy to Stock file.

5. The learned counsel appearing on behalf of the respective petitioners submitted that normally the review of the additional security deposit takes place during the Month of April/May and the adjustment takes place during the month of June. However, due to the pandemic conditions, there was a delay in undertaking this exercise and now only the process has been started. It was further submitted that the industries are facing severe financial crunch and therefore if the exercise of the review of the security deposit is completed, the pending bill can be adjusted and if there is any balance, it can be refunded in accordance with Regulation 5(5)(ii) of the Tamil Nadu Electricity Supply Code, 2004. This amount will help the industries to take care of other essential commitments.

6. In reply, the learned Additional Advocate General submitted that already instructions have been issued to the Superintending Engineers across Tamil Nadu to strictly follow Regulation 5(5)(ii) of the Tamil Nadu Electricity Supply Code, 2004 and the process of reviewing the security deposit has already started by enabling the HT software. The learned Additional Advocate General therefore submitted that the adjustment and refund of the balance security deposit, if any, will be strictly made in accordance with the Regulations.

7. This Court takes into consideration the subsequent development that has taken place in this case and also records the submissions made by the learned Additional Advocate General. In view of the specific stand taken by TANGEDCO, no further directions are required to be made and it is expected that the process of reviewing the security deposit will be completed at the earliest and if it is found to be in excess, the same will be adjusted against the current consumption demands and the balance will also be refunded to the consumers and the same shall be done strictly in accordance with regulation 5(5)(ii) of the Tamil Nadu Electricity Supply Code, 2004.

In the result, all the writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(ADI MDU)

//True copy//

Sub Assistant Registrar

mp/vkr

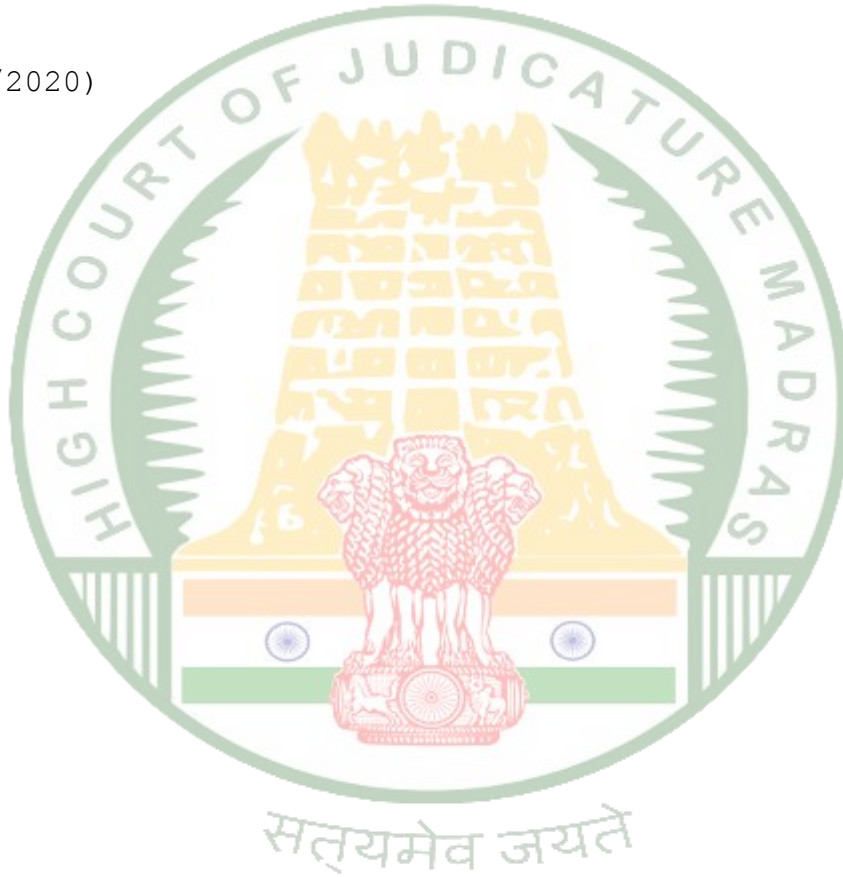
To

1. The Chairman,
Tamil Nadu Electricity Board,
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Chennai - 600 002.
2. The Chief Engineer,
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3. The Superintending Engineer,
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9. Chief Engineer - NCES/ Wind Power,
TANGEDCO,
144, Anna Salai, Chennai - 600 002.

10. The Secretary,
Tamil Nadu Electricity Regulatory Commission (TNERC),
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PP (CO)
GMY (08/09/2020)



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