

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.Nos.571, 576, 578 and 581 of 2021

and

W.M.P.Nos.632, 642, 643 and 644 of 2021

Sree Balaje Paper Board,

HTSC No.431,

Amaravathi Sugar Mill Back Side,

Myvadi Village, Krishnapuram Post,

Represented by its Authorized Signatory

T.Sudha

... Petitioner in WP.571/2021

Govaan Steel (P) Ltd.,

HTSC No.229,

S.F.No.544/1,2,3 Sengalipalayam Pirivu

Chinnakanur(PO)

Kanur Village, Annur-641 655

rep by its Director

R.Elangovan

... Petitioner in WP.576/2021

Uma Spinning Mills Ltd.,

HTSC No.170,

No.2/176/1, First Floow ' Cotton Villa'

KMS Garden, Alagapuram Pudur,

Salem-636 016.

Represented by its Authorized Signatory

S.Manikandan

... Petitioner in WP.578/2021

Covai Castings India Private Limited

HTSC No.581,

S.F.No.879/1B, 1C 1D Karegoundenpalayam

Annur Block,

Coimbatore 641697

Represented by its Managing Director

P.M.Balasubramanian

... Petitioner

(WP.No.581 of 2021)

Vs.

1. The Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
Rep.by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, 144 Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer,
TANGEDCO,
Udumalpet, Electricity Distribution Circle,
Udumalpet.

...Respondents

(WP.No.571 of 2021)

1. The Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
Rep.by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, 144 Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer,
TANGEDCO,
Tiruppur Electricity Distribution Circle,
Tiruppur.

...Respondents

(WP.No.576 of 2021)

1. The Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
Rep.by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, 144 Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer,
TANGEDCO,
Salem Electricity Distribution Circle,
Salem.

...Respondents

(WP.No.578 of 2021)

1. The Tamil Nadu Generation and
Distribution Corporation Ltd., (TANGEDCO),
Rep.by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, 144 Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer,
TANGEDCO,
Coimbatore North Electricity Distribution Circle,
Coimbatore.

...Respondents

(WP.No.581 of 2021)

Common Prayer: The writ petitions filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to extend the benefit of the order of this dated 14.08.2020 passed in W.P.No.7678 of 2020 in a similar batch matter and to apply the order of this Court as per Article 14 of the Constitution of India, to the petitioners also and consequently direct the 3rd respondents to cause to issue the fresh CC bills for the months of March 2020-September 2020 falling in the lockdown periods and also, to further direct the respondents to refund the excessively collected demand charges from the petitioners.

For Petitioners : Mr.R.S.Pandiyaraj

For Respondents : Mr.N.Damotharan,
Standing Counsel

COMMON ORDER

(These cases have been heard through video conference)

The petition has been filed to direct the respondents to extend the benefit of the order of this dated 14.08.2020 passed in W.P.No.7678 of 2020 in a similar batch matter and to apply the order of this Court as per Article 14 of the Constitution of India, to the petitioners and consequently direct the 3rd respondents to issue the fresh CC bills for the months of March 2020-September 2020 which was falling in the lockdown periods and also, to further direct the respondents to refund the excessively collected demand charges from the petitioners.

2.The petitioners are running the Industry having HTSC No.431, coming under the 3rd respondent and is a company incorporated under the repealed Companies Act, 1956 and covered by the Companies Act 2013. The petitioners fall within the electricity distribution circle of the 3rd respondent and the CC Bill was found to be issued by the 3rd respondent for the months of March, April, May, June, July, August, September & October 2020 in so far as assessment has been made invariably @ 90% of sanction demand even though the petitioner has not run the industry during the lockdown, however, the Respondents' Board has calculated at 90% levy as demand charges. In the similar such demands made during the lockdown period, this Court had entertained the Writ Petition in W.P.Nos.7678 & 7679 of 2020 dated 14.08.2020, wherein, this Court has passed the order as follows;

"6(b) For the H.T. Services disconnected on the request of the consumer, the monthly minimum charges based on the KVA demand shall be the actual recorded demand (when the disconnection is for part of a month) or such percentage of sanctioned demand declared by the commission whichever is higher.

Provided that where the licensee is prevented from supplying electricity owing to cyclone, floods, storms, fire, strike or lockout in the licensee, or if the licensee is satisfied that the consumer has been prevented from consuming electricity either in whole or in part for similar reasons, the licensee may recover from the consumer a minimum, charges at twenty per cent of the billable demand or recorded demand whichever is higher besides charges for the actual consumption of electricity".

3.The case of the petitioners is also falls under 6(b) and covered under the issue as decided by this Court.

4.Mr.N.Damodharan, learned standing counsel takes notice for the Respondents' Board and also conceded that the issue of the petitioner is covered under the order of this Court in W.P.Nos.7678 & 7679 of 2020 dated 14.08.2020, under 6(b) of the Regulation Code. He would further submit that the Respondents' Board had preferred an appeal against the order in W.A.No.836 of 2020 and the same is still pending before this Court.

5.A similar batch of Writ Petitions challenging the levy of 90% of sanction demand during the lockdown period have challenged in a batch of Writ Petitions in W.P.Nos.7678 of 2020 etc., batch and this Court vide a common order dated 14.08.2020 disposed of all the Writ Petitions as follows;

"45.The above discussion leads this Court to the only conclusion that the maximum demand charges and the compensation charges levied by TANGEDCO against the petitioners who are HT consumers, is illegal, unsustainable and in violation of the statutory regulations. Accordingly, the Maximum Demand Charges and the compensation towards low PF that have been questioned in the impugned bills raised by the TANGEDCO for each of the consumers who are parties in these batch of writ petitions, is hereby quashed. The following direction are also issued by this Court:

a)TANGEDCO shall issue a revised bill to the petitioners by applying Regulation 6(b) of the Supply Code for the entire period when the establishment was under shut down;

b)If TANGEDCO has already recovered the entire dues from any of the petitioners, the bill shall be reworked in accordance with the direction given in Clause (a) and the excess amount shall be adjusted towards the future bills;

c)If the demand made by TANGEDCO has been adjusted from the security deposit and any of the petitioner has been asked to pay any amount towards additional security deposit on that count, the said claim shall be withdrawn forthwith and the calculation of the additional security deposit shall be independently done under Regulation 5 of the Supply Code and demand/adjustment shall be done in accordance with the said Regulation;

d)The TANGEDCO shall not levy compensation charges towards low PF from the petitioners during the period of lockdown. Even if such levy is made in future, show cause notice shall be issued to the consumer and an opportunity shall be given to the consumer before levying any compensation under Clause 6.1.1.6 of the Tariff Regulation;

e) If any amount has already been recovered towards levy of compensation charges for low PF from any of the petitioners, the said amount shall be adjusted towards future bills.

f) These directions will apply only for the period during which the establishment was under total lockdown due to the orders issued by the Government and it is made clear that it pertains only to the Minimum Charges payable under Regulation 6(b) of the Supply Code and there is no exemption or concession insofar as the charges payable for the actual consumption of electricity (Energy Charges); and

g) If any of the establishments continue to be under lockdown due to the Government Orders passed in this regard, the minimum charges alone shall be collected till the lifting of the lockdown.

46. All the writ petitions are accordingly allowed. Before parting with this case, this Court wishes to appreciate the efforts taken by each and every counsel who assisted this Court to conduct the entire hearing through video conferencing and particularly on a Court holiday. If not for the cooperation of the learned counsels, this Court would not have been able to decide these batch of writ petitions. This Court wishes that this trend continues and this institution proves itself effective in dispensing justice even during this pandemic situation. No costs. Consequently, the connected miscellaneous petitions are closed."

The petitioner is also similarly issued with a demand charges @ 90% of the sanction demand.

6. Accordingly, these writ petitions are allowed on the above terms. Consequently, the connected miscellaneous petitions are closed. No costs.

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-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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4. The Superintending Engineer,
TANGEDCO,
Tiruppur Electricity Distribution Circle,
Tiruppur.
5. The Superintending Engineer,
TANGEDCO,
Salem Electricity Distribution Circle,
Salem.
6. The Superintending Engineer,
TANGEDCO,
Coimbatore North Electricity Distribution Circle,
Coimbatore.

+4 ccs to M/s.R.S.Pandiyaraj Advocate sr1533

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