

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24/2/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition Nos.3932, 3940 and 3941 of 2021
a n d

M.P.Nos.4488, 4493 and 4498 of 2021

Aditya Aswin Paper Mills (P) Ltd
rep. By its Managing Director
Mr.M.Balasubramanian
Erode. Petitioner
in W.P.No.3932 of 2021

Blue Mount Paper and Boards Ltd
rep. By its Managing Director
Mr.M.Balasubramanian Petitioner
in W.P.No.3940 of 2021

Needle Industries India Private Ltd
rep. By its Director - HR
Mr.P.Rajaseelan. Petitioner
in W.P.No.3941 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. Respondents 1 and 2
in all the writ petitions.
3. The Superintending Engineer
TANGEDCO
Gobi Electricity Distribution Circle
GobiThird respondent
in W.P.No.3932 of 2021

The Superintending Engineer
TANGEDCO

Tirunelveli Electricity Distribution Circle
Tirunelveli

... Third respondent
in W.P.No.3940 of 2021

The Superintending Engineer
TANGEDCO

Nilgiris Electricity Distribution Circle
Nilgiris

... Third respondent
in W.P.No.3941 of 2021

COMMON PRAYER:

Prayer in all the writ petitions: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to extend the benefit of the order of this Court, dated 14/8/2020, 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 third respondent 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.P.R.Dhilip Kumar
Standing Counsel for TANGEDCO

C O M M O N O R D E R

These Writ Petitions have been filed to direct the respondents to extend the benefit of the order of this Court, dated 14/8/2020, passed in W.P.No.7678 of 2020 to the petitioners as well, without discrimination as guaranteed under Article 14 of the Constitution of India and consequently, direct the third respondent 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.

2. The brief facts which are necessary for the disposal of the writ petitions are as follows:-

The petitioners Industry are involved in the manufacture of Paper related products and have obtained HT Electricity service connection from the respondent Board. During the pandemic period, pursuant to the lock down announced by the Government,

operations of the petitioner Companies were stopped. But the respondent Board has raised a bill at the rate of 90% of the sanctioned demand. Proviso 6 (b) of the Supply Code provides for collection of minimum charges of 20% of the billable demand or recorded demand, whichever is higher, besides charges for the actual consumption of electricity.

3. Considering this relevant provision, this Court, in a batch of writ petitions in W.P.No.7678 of 2020 held that maximum demand charges and the compensation charges levied by the TANGEDCO against the HT consumers as illegal, unsustainable and in violation of statutory regulations.

This Hon'ble Court, allowed those writ petitions with certain directions which read 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 directions 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.

4. Mr.P.R.Dhilip Kumar, learned Standing Counsel for the Electricity Board submits that as against the abovesaid order, writ appeals have been filed before the Hon'ble Division Bench and the same are yet to be taken. Industries were not in operation due to the lock down announced by the Government.

5. Since Regulation 6 (b) of the Supply Code provides for collection of minimum demand charges at the rate of 20% whereas in all these cases, the demand has been made at the rate of 90%, on the sanctioned demand, these writ petitions are allowed, on the directions issued by this Court in W.P.No.7678 of 2020 batch. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Chairman & Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO)
10th Floor, No.144 Anna Salai
Chennai 600 002.
2. The Chief Financial Controller - Revenue
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7th Floor, 144 Anna Salai
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3. The Superintending Engineer
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Gobi.
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Tirunelveli Electricity Distribution Circle
Tirunelveli.
5. The Superintending Engineer
TANGEDCO
Nilgiris Electricity Distribution Circle
Nilgiris.

+3cc to Mr.R.S.Pandiyaraj, Advocate Sr.11175

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srg 02/03/2021

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