

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.02.2021

Coram

The HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.Nos. 3357 and 3365 of 2021
& W.M.P.Nos. 3826 and 3837 of 2021

M/s.GRT Hotels Resorts Private Limited
Unit: Radisson Blu Resort Temple Bay
Mamallapuram, Rep. by its Chief Executive Officer,
Chengalpattu Taluk, Mamallapuram,
Tirukalukundram, Kancheepuram - 603 104. ... Petitioner in
W.P. No.3357 of 2021

M/s.GRT Hotels Resorts Private Limited
Unit: Radisson Blu Hotel GRT Chennai
Rep. by its Chief Executive Officer,
No.531, GST Road St.Thomas Mount,
Meenambakkam, Alandur,
Kancheepuram - 600 017. ... Petitioner in
W.P.No.3365 of 2021

vs.

1.Tamil Nadu Generation and Distribution
Corporation Ltd., Rep. by its Chairman,
144, Anna Salai, Chennai - 600 002.

2.Government of Tamil Nadu
Energy Department,
Fort St.George, Chennai.

3.Accounts Officer/Revenue,
TANGEDCO,
Chengalpattu Elecy. Distn. Circle,
Chengalpattu.

4.Superintending Engineer,
TANGEDCO
Chengalpattu Elecy. Distn. Circle,
Chengalpattu.

... Respondents
in W.P.No.3357 of 2021

1.Tamil Nadu Generation and Distribution
Corporation Ltd., Rep. by its Chairman,
144, Anna Salai, Chennai - 600 002.

2.Government of Tamil Nadu
Energy Department, Fort St.George, Chennai.

3.Accounts Officer/Revenue,
TANGEDCO, SEDC South Elec. Distn.Circle,
KK Nagar, Chennai.

4.Superintending Engineer,
TANGEDCO, SEDC South Elec. Distn.Circle,
KK Nagar, Chennai.

... Respondents
in W.P.No.3365 of 2021

Prayer in WP No. 3357 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of respondents 3 and 4 herein in Bill Nos. 9094110057052001 dated 11.05.2020, 9094110057062001 dated 08.06.2020, 9094110057072001 dated 08.07.2020, 9094110057082002 dated 10.08.2020, 9094110057092001 dated 05.09.2020 respectively raised for petitioner's service connection No. 99094110057 quash the same and consequently direct the respondents herein to issue fresh bills for the period of lockdown, in terms of Regulation 6(b) of the TN Electricity Supply Code and adjust the excess sums paid on 14.05.2020, 12.06.2020, 09.07.2020, 13.08.2020 and 09.09.2020 respectively with future bills.

Prayer in WP No. 3365 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of respondents 3 and 4 herein in Bill Nos. 9094000432052002 dated 09.05.2020, 9094000432062002 dated 08.06.2020, 9094000432072002 dated 07.07.2020, 9094000432082001 dated 07.08.2020 and 9094000432092001 dated 04.09.2020 respectively raised for petitioner's service connection No. 099094000432 quash the same and consequently direct the respondents herein to issue fresh bills for the period of lockdown, in terms of Regulation 6(b) of the TN Electricity Supply Code and adjust the excess sums paid on 14.05.2020, 12.06.2020, 09.07.2020, 10.08.2020 and 09.09.2020 respectively with future bills.

For Petitioner : Mr.K.Senthil Kumar in both W.Ps
For Respondents (in both WPs) : Mr.P.S.Sivashanmugasundaram for R2
Mr.Varunkumar for R1, R3 and R4

COMMON ORDER

Challenging the Bill Nos. 9094110057052001 dated 11.05.2020, 9094110057062001 dated 08.06.2020, 9094110057072001 dated 08.07.2020, 9094110057082002 dated 10.08.2020,

9094110057092001 dated 05.09.2020 respectively raised for petitioner's service connection No. 99094110057 and Bill Nos. 9094000432052002 dated 09.05.2020, 9094000432062002 dated 08.06.2020, 9094000432072002 dated 07.07.2020, 9094000432082001 dated 07.08.2020 and 9094000432092001 dated 04.09.2020 respectively raised for petitioner's service connection No.099094000432 and for a consequential direction to the respondents herein to issue fresh bills for the period of lockdown, in terms of Regulation 6(b) of the TN Electricity Supply Code and adjust the excess sums paid on 14.05.2020,12.06.2020, 09.07.2020, 13.08.2020 and 09.09.2020 and 14.05.2020,12.06.2020, 09.07.2020, 10.08.2020 and 09.09.2020 respectively with future bills, these writ petitions have been filed.

2. It is the case of the petitioners that they are the reputed leaders in the hotel business and own several hotels in various places both in Tamil Nadu and Andhra Pradesh. The petitioners made applications for High Tension electricity supply and accordingly they have been provided with HT service connection. Due to lockdown, the hotels have been completely non-operational. While so, the petitioners have been asked to pay maximum charges in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code.

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. Varun Kumar, learned Standing Counsel for the Electricity Board submits that as against the abovesaid order, writ appeals have been filed before the Division Bench and the same are yet to be taken up for hearing. Industries were not in operation due to the lockdown 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 these cases, the demand has been made at the rate of 90% of the sanctioned demand, these writ petitions are allowed in terms of the directions issued by this Court in W.P.No.7678 of 2020 etc., batch. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Anna Salai,
Chennai - 600 002.
- 2.The Government of Tamil nadu
Energy Department,
Fort St.George, Chennai.
- 3.The Accounts Officer/Revenue,
TANGEDCO,
SEDC South Elecy. Distn.Circle,
KK Nagar, Chennai.
- 4.The Superintending Engineer,
TANGEDCO,
SEDC South Elecy.Distn.Circle,
KK Nagar, Chennai.
5. The Accounts Officer/Revenue,
TANGEDCO,
Chengalpattu Elecy. Distn. Circle,
Chengalpattu.

6. The Superintending Engineer,
TANGEDCO
Chengalpattu Elecy. Distn. Circle,
Chengalpattu.

+1 cc to M/s.K.Senthil kumar, Advocate Sr.No. 9144

W.P.Nos. 3357 & 3365 of 2021

SR-II (CO)
RMP (30/03/2021)



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