

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

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THE HON'BLE MR. JUSTICE B. PUGALENDHI

WP No.4754 of 2021
and WMP.No.5365 of 2021

M/s.Pick Fab Engineers Private Limited
Rep.by Harish Sanghi
Managing Director
HT SC No.1657
No.57 (SP) Industrial Estate
Ambattur, Chennai 600 058. Petitioner

Vs.

1. Tamil Nadu Electricity Regulating Commission
Rukmani Salai Marshal Road,
Egmore, Chennai - 8.
2. The Tamil Nadu Electricity Board,
Rep.by its Chairman
No.800, Anna Salai, Chennai 600 002.
3. The Superintending Engineer (West)
Chennai Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Anna Nagar, Chennai 600 040. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling the records leading to the issuance of the impugned High Tension Bills (Provisional) by the third respondent for the month of April 2020 in Bill No.9094061657052002 dated 04.05.2020 for Service Connection No.019094061657 issued in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 and quash the same and direct the respondents to raise the monthly Bill calculating the Maximum demand charges at the rate of 20% as per 6(b) of the Tamil Nadu Electricity Supply Code, 2004, till the extended period of Lock Down by the Government of Tamil Nadu and not to levy power factory penalty till the present Covid-19 lock down is lifted and operation of industry commences in so far the petitioner is concerned and further direct the respondents to refund the excessively collected demand charges in contrary to

the Rule 6(b) of the Tamil Nadu Electricity Supply Code pertaining to the petitioner's industry.

For Petitioners : Mr.S.Ravichandran

For Respondents : Mr.P.R.Dhilip Kumar
Standing Counsel for R1 to R3

ORDER

The petitioner is a Company having High Tension Electricity Supply and the Company was locked down due to the orders of the Government on account of the Covid-19 pandemic situation. During the complete lock down period from 24.03.2020 upto September 2020 also, the 3rd respondent raised invoices by calculating the amount at the rate of 90% of the sanctioned demand, even though the petitioners were not running the Company during the said period.

2. Learned counsel for the petitioner by relying upon the order passed by this Court in W.P.No.7678/2020 dated 14.08.2020 submitted that as per the relevant provisions under section 6 (b) of the Supply Code, the respondents shall claim only 20% of the sanctioned demand or the actual usage during the period of similar nature.

3. Considering the relevant provisions, this Court has allowed similar batch of writ petitions on the following terms:

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. However, the learned Standing Counsel for the Electricity Board raised certain objections and submitted that the order passed by this Court in W.P.No.7678/2020 etc. batch have been challenged by way of Writ Appeal before the Division Bench of this Court.

5. Considering the relevant provisions of law and the order passed by this Court and that the Company was not permitted to function on account of lock down announced by the Government, the Writ Petition is allowed in terms of the order passed in W.P.Nos.7678/2020 etc. batch dated 14.08.2020. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. Tamil Nadu Electricity Regulating Commission,
Rukmani Salai Marshal Road,
Egmore, Chennai - 8.
2. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai 600 002.
3. The Superintending Engineer (West)
Chennai Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Anna Nagar, Chennai 600 040.

+1cc to Mr.S.Ravichandran, Advocate Sr.12728

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