

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12/2/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition No.2925 of 2021

Gulzar Industries
rep. B Mr.Amarit Singh
Chennai.

... 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
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

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for 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.9094061724052020 dated 4/5/2020, the High Tension Bill (Provisional) and for the month of July 2020 in Bill No.9094061724082019 dated 3/8/2020 for service connection No.019094061724 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 petitioner ... Mr.S.Ravichandran

For respondents ... Mr.P.R.Dhilip Kumar
Standing Counsel for TANGEDCO

O R D E R

This Writ Petition has been filed to quash the order passed by the third respondent for the month of April 2020, in Bill No.9094061724052020 dated 4/5/2020, the High Tension Bill (Provisional) and for the month of July 2020 in Bill No.9094061724082019 dated 3/8/2020 for service connection No.019094061724 issued in violation of Regulation 6 (b) of the Tamil Nadu Electricity Supply Code, 2004 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.

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

The petitioner is a manufacturer of steel products and has 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 Company 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.Dilip 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, this writ petition is allowed, on the directions issued by this Court in W.P.No.7678 of 2020 batch. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mvs

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+1cc to Mr.S.Ravichandran, Advocate, SR.No.8016.

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