

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23/2/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition Nos.3844 and 3849 of 2021

United Industries Plastic Pvt Ltd

rep. By its Managing Director

Mr.Karthi Krishnan

...

Petitioner in both the
writ petitions.

Vs

1. The Chairman-cum-Managing Director
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO)
144 Anna Salai
Chennai 600 002.
2. The Chief Financial Controller - Revenue
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO)
NPKRR Maligai, 144 Anna Salai
Chennai 600 002.
3. Tamil Nadu Electricity Regulatory Commission
19 A Rukmani Lakshmipathy Road
Egmore
Chennai 600 008.
4. The Government of Tamil Nadu
rep. By its Secretary to Government
Energy Department
Fort St. George
Chennai 600 009.

...

Respondents in both
the writ petitions.

Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the second respondent leading to the issuance of the impugned High Tension Bill (Provisional) for the month of April 2020 in Bill Nos.9094111020052001, 9094000812052992, dated 6/5/2020 and 8/5/2020, pertaining to service connection HT.No.099094111020 and H.P.No.099094000812, respectively, in violation of scope of Regulation 6 (b) of the Supply Code and to quash the same and consequently, direct the respondents to either refund or adjust the amount already paid for the month April 2020, towards future bills.

For petitioner

... M/s.J.Amritha Sarayoo

For respondents

... Mr.M.Vijaya Mehanath

Standing Counsel

for R.R.1 and 2
Mr.Abdul Saleem
for R.3
Mr.Annai Ezhil
Government Advocate for R.4

C O M M O N O R D E R

These Writ Petitions have been filed to quash the impugned High Tension Bill (Provisional) for the month of April 2020 in Bill Nos.9094111020052001, 9094000812052992, dated 6/5/2020 and 8/5/2020, respectively, pertaining to service connection HT.No.099094111020 and H.P.No.099094000812, respectively, in violation of scope of Regulation 6 (b) of the Supply Code and consequently, direct the respondents to either refund or adjust the amount already paid for the month April 2020, towards future bills.

2. The petitioner is running a company with the sanctioned load of 2300 KVA and 490 KVA, respectively, but during COVID 19 in the month of April 2020, the petitioner has actually utilised 405 and 350 KVA, respectively, but however, the first respondent, vide, impugned bill, dated 6/5/2020 and 8/5/2020, respectively, demanded a sum of Rs.8,29,543/- and Rs.1,95,295/- respectively, as the consumption charges for the entire sanctioned load at 90% demand. This demand according to the learned counsel for the petitioner is in violation of Regulation 6 (b) of the Tamil Nadu Electricity Supply Code, 2004. In order to avoid disconnection of service, the petitioner has also paid the amount with certain protest.

3. Mr.Vijay Meghanath, learned Standing Counsel takes notice for the respondents 1 to 3 would submit that in similar circumstances, considering the Regulation 6 (b) of the Tamil Nadu Electricity Supply Code, 2004, this Court, in a batch of writ petitions in W.P.No.7678 of 2020, had 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. The petitioner in this case has already paid the amount. The learned counsel for the petitioner has confined his relief for either to refund the amount or to adjust the excess amount which they have collected more than 20% demand which they are

entitled to adjust in the future bills.

5. Learned counsel appearing for the respondents would submit 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.

6. Since similar writ petitions have already been allowed, on the same terms, 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

/TRUE COPY/

Sub-Assistant Registrar

mvs

To

1. The Chairman-cum-Managing Director
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Chennai 600 008.
4. The Secretary to Government
Government of Tamil Nadu
Energy Department
Fort St. George
Chennai 600 009.

+2cc to M/s.TVJ ASSOCIATES, ADVOCATE, SR.NO. 11296

+1cc to M/s.Special Government Pleader, SR.NO. 11397

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MG (CO)

KKN 21.04.2021