

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.NO.5295 OF 2021

AND

W.M.P.NOS.5857 & 5858 OF 2021

M/s. The KCP Limited

8, Basin Road,

Thiruvottiyur,

Chennai - 600 019 HtSC No.1044

represented by its Authorised Signatory

Mr.Narayana Rao Myneni

... Petitioner

vs.

1. Tamil Nadu Generation and Distribution

Corporation Ltd., 10th Floor, NPKRR Maaligai,

144, Anna Salai, Chennai - 600 002

represented by its Chairman &

Managing Director.

2. The Superintending Engineer,

TANGEDCO, CEDC (North),

800, Anna Salai,

Chennai - 600 002.

3. The Accounts Officer (Revenue)

TANGEDCO, CEDC (North)

800, Anna Salai,

Chennai - 600 002.

... Respondents

Prayer

Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in High Tension Bill No.9094041044052002 dated 02.05.2020 for HTSC No.1044 issued by the 3rd respondent and quash the same insofar as it relates to demand Charges under Item 8 and Compensation charges for low Power factor under Item 14 thereof and consequentially direct the respondents to revise the said Bill for minimum demand charges at 20% of the sanctioned demand strictly in compliance with Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 and to refrain from

levying or collecting any demand charges in excess of minimum demand charges under Regulation 6(b) of the Tamil Nadu electricity Supply Code 2004 and any compensation charges for low Power Factor during the period of lockdown.

For Petitioner ... M/s.S.Ramasubramaniam
and Associates

For Respondents ... Mr.M.Varun Kumar,
Standing Counsel

O R D E R

The petitioner is having High Tension Electricity Supply for his Factory and the Factory was closed due to lock down by the order of the Government on account of the Covid-19 pandemic situation. The petitioner was not running the Company during the complete lock down period from 24.03.2020 onwards but the 2nd respondent raised invoices by calculating the amount at the rate of 90% of the sanctioned demand. Hence, the petitioner has filed the present writ petition.

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 Factories were not permitted to function on account of lock down announced by the Government, this 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 petition are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Chairman and Managing Director
Tamil Nadu Generation and Distribution
Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
TANGEDCO, CEDC (North),
800, Anna Salai,
Chennai - 600 002.
3. The Accounts Officer (Revenue)
TANGEDCO, CEDC (North)
800, Anna Salai,
Chennai - 600 002.

+1cc to M/s.S.Ramasubramaniam, Advocate, S.R.No.13994

W.P.No.5295 of 2021

JP(CO)
CS/22/03/2021