

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.3.2021

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.NO.7943 OF 2021

AND

W.M.P.NO.8496 OF 2021

A.M.Ganesh

Petitioner

vs.

1. The Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO) rep. by its Chairman & Managing Director, 10th Floor, No.144, Anna Salai, Chennai - 600 002.
2. The Deputy Financial Controller, The Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO), Chennai EDC/South, Anna Main Road, K.K.Nagar, Chennai 600 078.
3. The Superintending Engineer, The Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO), Chennai EDC/South, Anna Main Road, K.K.Nagar, Chennai 600 078.

Respondents

Prayer

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus calling for the records leading to the issuance of the original impugned High Tension Bills (Provisional) issued by the Second Respondent for the month of May 2020 bill No.9094000781052001 dated 09.05.2020, June 2020 bill No.9094000781062001 dated 06.07.2020, July 2020 bill No.9094000781072001 dated 02.07.2020, August 2020 bill No.9094000781082001 dated 10.08.2020, September 2020 bill No.9094000781092001 dated 05.09.2020, October 2020 bill No.90940007811102002 dated 05.10.2020 pertaining to service No.099094000781 in violation Regulation 6(b) of the Tamil Nadu

Supply Code 2004 and quash the same and direct the respondents to raise the monthly Bill calculating the minimum charges at the rate of 20% of the contracted demand or recorded demand whichever is higher as per Regulation 6(b) of the Tamil Nadu Supply Code 2004 till the extended period of lock down, by the Government of Tamil Nadu and not levy power factor penalty till the lock down is lifted and operation of non residential buildings commences in so far the Petitioner is concerned.

For Petitioners	... Mr.D.Alexis Sudhakar
For Respondents	... Mr.P.Gunaraj, Standing Counsel

COMMON ORDER

The petitioner is in the business of running a non residential building in the name and style of "AMG Towers" and having High Tension Electricity Supply and his building 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 industries during the said period.

2. Learned counsel for the petitioners 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, Mr.P.Gunaraj, 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 in W.A.No.836 of 2020

5. Considering the relevant provisions of law and the order passed by this Court and that the Industries 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 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Chairman & Managing Director,
The Tamil Nadu Generation and
Distribution Corporation Ltd. (TANGEDCO)
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
2. The Deputy Financial Controller,
The Tamil Nadu Generation and
Distribution Corporation Ltd. (TANGEDCO),
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Anna Main Road, K.K.Nagar,
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Distribution Corporation Ltd. (TANGEDCO),
Chennai EDC/South,
Anna Main Road, K.K.Nagar,
Chennai 600 078.

+1cc to Mr.D.Alexis Sudhakar,Advocate, Sr.No.19844
+1cc to M/s.P.Gunaraj,Advocate, Sr.No.20290

W.P.No.7943 of 2021

PMK (CO)
baf 17/05/2021