

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 10759 of 2021
and
W.M.P. No. 11393 of 2021

Garuda Steels
HT SC No. 0652
No.31, S.K.Prestige Apartments
Dr. Radhakrishna Road, Tatabad
Coimbatore
Rep. by its Manager R.Gopalasamy ...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 Chief Financial Controller - Revenue
TANGEDCO
7th Floor, No.144, Anna Salai
Chennai - 600 002.
3. The Superintending Engineer
TANGEDCO
Coimbatore South Electricity Distribution Circle
Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents to extend the benefit of the order of this Court dated 14.08.2020 passed in W.P. No. 7678 of 2020, in a similar batch matter and to apply the order of this Hon'ble Court as per Article 14 of the Constitution of India, to the Petitioner also and consequently, direct the Third Respondent to cause to issue the fresh CC bills for the month of March 2020 - September 2020 falling in the lockdown periods and also to further direct the Respondents to refund the excessively collected demand charges from the Petitioner.

For Petitioner : Mr. R.S.Pandiyaraj

For Respondents : Mr. N.Damodharan
Standing Counsel

O R D E R

According to the Petitioner, they are the continuous process industry involved in the manufacture of steel related products and having High Tension Electricity Supply bearing connection No.0652 coming under the third Respondent. During the Covid-19 pandemic period, pursuant to the lock down announced by the Government, the operations of the petitioner Industry were stopped. But, the Respondent Board has raised a bill at the rate of 90% of the sanctioned demand, contrary to Proviso 6 (b) of the Supply Code, which 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.

2.The petitioner further stated that by order dated 14.08.2020, this Court, in a batch of writ petitions in W.P.No.7678 of 2020, after having held that maximum demand charges and the compensation charges levied by the TANGEDCO against the HT consumers are illegal, unsustainable and in violation of statutory regulations, allowed those writ petitions with certain directions. Therefore, the petitioner has come up with this Writ Petition for a mandamus, directing the Respondents to extend the benefit of the said order dated 14.08.2020 passed in W.P. No. 7678 of 2020, etc batch, to them as well and consequently, issue a fresh CC bills for the months of March 2020 to September 2020 falling in the lock down periods and also refund the excessively collected demand charges from the Petitioner.

3.Heard Mr.R.S.Pandiayaran, learned counsel for the Petitioner, who submitted that the Petitioner is similarly placed Industry like of the Petitioners in WP.No.7678 of 2020 etc. batch, which were allowed by this Court by order dated 14.08.2020, the operative portion of which is profitably, extracted hereunder:-

"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.”
Hence, the learned counsel prayed for similar order in this writ petition also.

4.Mr. N.Damodharan, Learned Standing Counsel taking notice for the Respondents submitted that as against the aforesaid order, the Respondent Board has filed Writ Appeals before a Division Bench of this Court and the same are yet to be taken up. However, he fairly submitted that the petitioner Industry was not in operation due to the lock down announced by the Government.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the earlier order of this Court as referred to above, this Writ Petition stands allowed, in the same lines as done in the order dated 14.08.2020 made in W.P.No.7678 of 2020 etc. batch. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya

To

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+1cc to M/s.R.S.Pandiyan, Advocate SR.26620

W.P. No. 10759 of 2021

GMI (CO)
CB(07/07/2021)