

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.04.2021
C O R A M

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

Writ Petition No.10016 of 2021

Gestamp Automotive Chennai Private Limited
Represented by its Additional Director
Mr. Manish Upadhyaya
Registered office at Plot No. B-12
SIPCOT Industrial Park
Phase - II, Vengadu Village
Pallipakkam Post
Sriperumbudur Taluk
Kancheepuram District. Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO)
rep. by its Chairman cum Managing Director
No.144 Anna Salai, Chennai 600 002.
2. Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO)
rep. by its Chief Financial Controller - Revenue
NPKRR Maligai, 144, Anna Salai
Chennai - 600 002.
3. Tamil Nadu Electricity Regulatory Commission
No.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

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling 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 No. 9094110955052001 dated 08.05.2020, pertaining to Service connection H.P. No. 099094110955, 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

... Mr. J.Srinivasa Mohan
For M/s. TVJ Associates

For Respondents

... Mr.P.Gunaraj (For R1 to R4)
Standing Counsel

O R D E R

This Writ Petition has been filed praying for the issuance of a writ of Certiorarified mandamus to call for the records of the Second Respondent relating to the High Tension Bill (Provisional) for the month of April 2020 in Bill No. 9094110955052001 dated 08.05.2020, pertaining to Service connection H.P. No. 099094110955 and 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.

2. According to the Petitioner, they are involved in the business of Automotive parts. For electricity needs, they entered into an agreement with the First Respondent. During the Covid-19 pandemic period, pursuant to the lock down announced by the Government, the operations of the petitioner Company 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. Aggrieved over the same, the petitioner has come up with this writ petition for the aforesaid relief.

3. The learned counsel for the Petitioner submitted that in similar circumstances, 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, 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. P.Gunaraj, 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 Company 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.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

Maya

To

1. Chairman cum Managing Director
Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO)
No.144 Anna Salai, Chennai 600 002.
2. Chief Financial Controller - Revenue
Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO)
NPKRR Maligai, 144, Anna Salai
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3. Tamil Nadu Electricity Regulatory Commission
No.19-A, Rukmani Lakshmipathy Road
Egmore, Chennai - 600 008.
4. The Secretary to Government
Energy Department
Fort St. George, Chennai - 600 009.

+1cc to M/s. TVJ Associates, Advocate SR.No. 24157

W.P. No. 10016 of 2021

ssd (CO)

A.SK(22.06.2021)