

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 10835 of 2021
and
W.M.P. Nos. 11470 and 11472 of 2021

R.Sabapathy (HTSC No.099094001042)

...Petitioner

Vs.

1. The Tamil Nadu General and Distribution
Corporation Limited (TANGEDCO)
Represented by its Chairman & Managing Director
144, Anna Salai
Chennai - 600 002.

2. The Accounts Officer (Revenue/CEDC/Chennai South)
TANGEDCO), Deputy Financial Controller
K.K.Nagar, Chennai - 600 078.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records of the Second Respondent in so far as the High Tension Bill (Provisional) for the months of April 2020 dated 09.05.2020, May 2020 dated 08.06.2020 and June 2020 dated 06.07.2020 pertaining to High Tension Consumer Connection vide Service No. 099094001042 and quash the same and consequently direct the Respondents to rework the HT Bill with Service No. 099094001042 and the excess amount shall be adjusted towards the future bills by levying the minimum charges alone by the Second Respondent for the months of April 2020, May 2020 and June 2020 and not to levy any penalty for the lock down period under which the Petitioner's Textiles showroom building situated at No. 106, (SF No.72/5), Mount Poonamalee Road, Porur, Chennai - 600 116.

For Petitioner :Mr. R.Mohan

For Respondents :Mr. P.R.Dilip Kumar (For R1 & R2)

O R D E R

This Writ Petition has been filed for issuance of Certiorarified Mandamus, calling for the entire records of the Second Respondent insofar as the High Tension Bills

(Provisional) dated 09.05.2020, 08.06.2020 and 06.07.2020 pertaining to service connection bearing No.099094001042 and quash the same and consequently, direct the respondents to rework the HT bills and adjust the excess amount towards future bills by levying minimum charges for the months from April to June 2020 and not to levy any penalty during the lock down period in respect of the petitioner's property.

2. According to the Petitioner, he is running a Textile showroom at No.106, (SF No.72/5), Mount Poonamallee Road, Porur, Chennai - 600 116 and having High Tension Service Connection bearing No.099094001042. During the Covid-19 pandemic period, pursuant to the lock down announced by the Government, no business operation was done by the petitioner in the said property. But, the Respondent Board has raised bills 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.R.Dhilip Kumar, 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 no business operation was done by the petitioner in the subject property 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, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Chairman & Managing Director
Tamil Nadu General and Distribution
Corporation Limited (TANGEDCO)
144, Anna Salai, Chennai - 600 002.
2. The Accounts Officer
(Revenue/CEDC/Chennai South)
TANGEDCO), Deputy Financial Controller
K.K.Nagar, Chennai - 600 078.

+1cc to Mr.R.Mohan, Advocate SR.No. 26137

W.P. No.10835 of 2021

RLD (CO)
A.SK(08.07.2021)

सत्यमेव जयते

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