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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 12266 of 2021

and

W.M.P.No.13039 & 13041 of 2021

M/s.MFAR Hotels & Resorts Private Limited
Unit: Westin Velacheri,
Rep.by its General Manager,
154, Velacheri Main Road, Velacheri,
Chennai-600042.

...Petitioner

Vs

1.Tamil Nadu Generation and
Distribution Corporation Ltd,
Rep.by its Chairman,
144, Anna Salai,
Chennai - 600002.

2.Government of Tamilnadu,
Energy Department,
Fort St. George,
Chennai.

3.Accounts Officer/Revenue,
TANGEDCO,
CEDC / SOUTH,
K.K.Nagar SS Complex,
Chennai-600078.

4.Superintending Engineer,
TANGEDCO,
CEDC / SOUTH,
K.K.Nagar SS Complex,
Chennai-600078.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified mandamus, calling for records of the 3rd and 4th Respondent herein in Bill Nos. 9094010885052002 dated 04.05.2020, 9094010885062001 dated 04.06.2020, 9094010885072002 dated 02.07.2020, 9094010885082001 dated 05.08.2020 and 9094010885092002 dated 04.09.2020



respectively raised for Petitioner's Service Connection No. 099094010885 quash the same and consequently direct the Respondents herein to issue fresh Bills for the period of lockdown, in terms of Regulation 6 (b) of TN Electricity Supply Code and adjust the excess sums paid on 04.05.2020, 04.06.2020, 02.07.2020, 05.08.2020 and NIL respectively with future bills.

For Petitioner : MrK.Senthil Kumar

For Respondents : Mr.A.Selvendran, GA- R1 & R2

: Mr.Jai Venkatesh,
Standing Counsel - R3 & R4

ORDER

The grievance of the petitioner in the writ petition relates to challenge of the levy of Demand Charges by the TANGEDCO in violation of the order passed by the Tamil Nadu Electricity Regulatory Commission as also in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004.

2. The issue involved in the writ petition was already raised in W.P.Nos.7678 of 2020 etc., batch, wherein the learned Judge, after considering the elaborate arguments made by the learned counsels for the parties and also taking into consideration, Regulation 6(b) of the Tamil Nadu Electricity Supply Code, has allowed the said writ petitions, vide common order dated 14.08.2020, with the following directions:

"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



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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."

Following the aforesaid order passed by this Court, the respondent Board has issued a Circular in Memo No.CFC/REV/FC/REV/DFC/AO/D.698/20 dated 07.10.2020.

3. Now the learned counsel appearing for the petitioner seeks similar relief as granted by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020. According to the writ petitioner two set of writ petitions are filed viz., one set with regard to demand of CC Bills for the current period and other set, where the petitioners have already paid the CC Bill amount to the respondent Board with protest and seeking refund or adjustment of amount in the future bills.



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4. The learned Standing Counsel for the respondents Board would submit that they have preferred a Writ Appeal in W.A.No.836/2020 before this Court and the same is pending without any interim orders.

5. In view of the aforesaid common order passed by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020 and the Circular of the Respondents Board dated.7.10.2020, the respondent Board is directed to consider the individual claim of the petitioners by revising the bills, as per the directions issued by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020, by taking note of the lockdown notification issued by the State Government from time to time and to take appropriate decision and to communicate the same to the writ petitioners individually, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that any decision taken by the respondents Board, will be subject to the outcome of the orders passed in W.A.No.836/2020 filed by the respondent Board.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd,
144, Anna Salai,
Chennai - 600002.

2.The Government of Tamilnadu,
Energy Department,
Fort St. George,
Chennai.



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