

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :03.06.2021

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THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.No.12354 of 2021 and
WMP No.13123 of 2021

Adyar Gate Hotels Limited,
rep. by its Director Mr.Manav Goyal,
No.132, TTK Road, Alwarpet,
Chennai 600 018. Petitioner

Vs.

1. The Tamilnadu Generation and Distribution Corporation Limited (TANGEDCO), rep by its Chairman cum Managing Director, No.144, Annasalai, Chennai 600 002.
2. The Tamilnadu Generation and Distribution Corporation Limited (TANGEDCO), rep by its Chief Financial Controller-Revenue, NPKRR Maligai, No.144, Annasalai, 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.
5. The Superintending Engineer, Tamilnadu Generation and Distribution Corporation Limited, Chengalpattu. ... Respondents

Prayer: Writ 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 leading to the issuance of impugned High Tension Bill (Provisional) for the months of April to August 2020 in Bill Nos. 9094111091052001 dated 08.05.2020; 9094111091062001 dated 05.06.2020, 9094111091072001 dated 06.07.2020; 9094111091082002 dated 10.08.2020; 9094111091092002 dated 05.09.2020, pertaining to service connection HP No.099094111091, issued 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 excess amounts already paid for the month of April to August 2020, towards future bills.

For Petitioner : Mr. J.Srinivasa Mohan
for M/s TVJ Associates

For Respondents : Mr. Gunaraj (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 leading to the issuance of impugned High Tension Bill (Provisional) for the months of April to August 2020 in Bill Nos. 9094111091052001 dated 08.05.2020; 9094111091062001 dated 05.06.2020, 9094111091072001 dated 06.07.2020; 9094111091082002 dated 10.08.2020; 9094111091092002 dated 05.09.2020, pertaining to service connection HP No.099094111091, issued 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 excess amounts already paid for the month of April to August 2020, towards future bills and not to levy any penalty during the lock down period in respect of the petitioner's property.

2. According to the Petitioner, the petitioner company is in Hotel Industry and it runs a Resort in Mahabalipuram. 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.Gunaraj, Learned 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 Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman cum Managing Director,
The Tamilnadu Generation and Distribution
Corporation Limited (TANGEDCO),
No.144, Annasalai, Chennai 600 002.
2. The Chief Financial Controller-Revenue,
The Tamilnadu Generation and Distribution
Corporation Limited (TANGEDCO),
NPKRR Maligai, No.144, Annasalai, Chennai 600 002.
3. Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.

4. The Secretary to Government, Energy Department,
The Government of Tamil Nadu,
Fort St George, Chennai 600 009.

5. The Superintending Engineer,
Tamilnadu Generation and Distribution
Corporation Limited, Chengalpattu.

+1cc to M/s TVJ Associates, Advocate SR.No.27395

W.P.No.12354 of 2021 and
WMP No.13123 of 2021

BR(CO)
GMY(12/07/2021)



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