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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.14904 OF 2021

AND

W.M.P.NOS.15780 & 15781 OF 2021

V.A.Gopal,
Licencee of M/s.Sakthi Theatre,
residing at no.33, Officers Line,
Vellore -632 001.

... Petitioner

Vs

1. The Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
Rep.by its Chairman & Managing Director,
144, Anna Salai, Chennai-600002.

2. The Accounts Officer/Revenue,
Tamil Nadu Generation & Distribution
Corporation Ltd. (TANGEDCO),
Thiruvannamalai EDC,
Vengikkal Post,
Thiruvannamalai-606 604.

3. The Superintending Engineer,
Tamil Nadu Generation & Distribution
Corporation Ltd. (TANGEDCO),
Thiruvannamalai EDC,
Vengikkal Post,
Thiruvannamalai-606 604.

... Respondents

Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records leading to the issuance of the original impugned High Tension Bills(Provisional) issued by the second respondent for the month of May, 2021(Bill no.H4140109052111 dated 01.06.2021) and for the month of June, 2021 (Bill no.H414010906212111 dated 01.07.2021) pertaining to Service no.029094140109 in violation of the Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2014 and quash the same



and direct the respondents to raise the monthly bill calculating the maximum demand charges at the rate of 20% as per Rule 6(b) of the Tamil Nadu Electricity Supply Code, 2004, till the extended period of lock down, by the Government of Tamilnadu and not to levy Power Factor penalty till the Lock Down is lifted and operation of cinema theatre commences in so far the petitioner is concerned.

For Petitioner : Mr.S.Prem Auxilian Raj

For Respondents : Mr.L.Jaivenkatesh
for RR1 to 3

ORDER

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

2. The issue involved in this 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 Clause (a) and the excess amount shall be adjusted towards the future bills;



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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 the writ petition is filed with regard to demand of fresh CC Bills for the current period and also for the CC Bill amount already paid by the petitioner to the respondent Board with protest and seeking refund or adjustment of amount in the future bills.



4. The learned Counsel for the respondent 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.

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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 petitioner 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 an appropriate decision and to communicate the same to the writ petitioner 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 respondent 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, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO)
Rep.by its Chairman & Managing Director,
144, Anna Salai, Chennai-600002.
2. The Accounts Officer/Revenue,
Tamil Nadu Generation & Distribution Corporation Ltd. (TANGEDCO),
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+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.34871

W.P.No.14904 of 2021

UM(CO)
CS/12/08/2021