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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 15765 of 2021
and
W.M.P.No.16671 & 16672 of 2021

Appu Hotels Limited,
Rep. by its Authorized Signatory,
A.Paul Dhas,
Having office at No.762,
Avinashi Road,
Chinniampalayam, Neelambur,
Coimbatore-641062. ..Petitioner

Vs

1. Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Rep. by its Chairman and Managing Director,
No.144, Anna Salai, Chennai 600 002.

2. The Superintending Engineer (A/C),
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Coimbatore Electricity Distribution Circle (Metro),
Coimbatore-641012.

3. The Accounts Officer/Revenue (E & OE),
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Coimbatore Electricity Distribution Circle (Metro),
Coimbatore-641012. ..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified Mandamus, calling for the records leading to the issuance of the original impugned High Tension Bills (Provisional) issued by the Third respondent for the month of April 2021 dated 06.05.2021, May 2021 dated 08.06.2021 and June 2021 dated 07.07.2021 pertaining to Service No.039094350361 in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 and quash the same and direct the respondents to rework the HT bill with service number 039094350361 and the excess amount shall be adjusted towards the

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pending/ future bills and the minimum charges alone shall be collected by the Third respondent for the period from April 2021 to June 2021 and not to levy any penalty for the period of Lock Down.

For Petitioner : Mr.Vijayan Subramanian

For Respondents : Mr.M.A.Kalam, TNEB

O R D E R

The grievance of the peritioner in the present writ petition relates to challenge of the levy of demand charges by the TANGEDCO in volation of the order pased 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 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

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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 respective learned counsel appearing for the petitioners seek similar relief as granted by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020. According to the writ petitioners 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.

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

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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-III)

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Sub Assistant Registrar

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To

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Corporation Limited (TANGEDCO),
Rep. by its Chairman and Managing Director,
No.144, Anna Salai, Chennai 600 002.

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3. The Accounts Officer/Revenue (E & OE),
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Coimbatore Electricity Distribution Circle (Metro),
Coimbatore-641012.

+1cc to Mr.M.A.Kalam, SC TNEB, S.R.No.37069/21

W.P.No.15765 OF 2021and
W.M.P.No.16671 & 16672 of 2021

NK(CO)
RGA(26/08/2021)

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