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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.21197 of 2021
& W.M.P.No. 22478 of 2021

Bridgewood Owners Association,
Rep by its President,
Mr. Sairam Srinivasan
Buckingham Street,
House of Hiranandani
5/63, Rajiv Gandhi Salai, Egattur,
Thalambur Post, Chennai - 600130

... Petitioner

-Vs-

1.Tamil Nadu Generation and Distribution Corporation
Rep by its Chairman,
10th Floor, NPKKR Maligai,
Anna Salai,
Chennai - 600 002.

2.Tamil Nadu Electricity Regulation Commission
No. 19-A, Rukmani Lakshmipathi Road,
Anna Salai, Egmore,
Chennai - 600 008.

3.Assistant Engineer
O and M Siruseri,
CEDC / South-II,
Chennai 130.

4.Superintending Engineer,
CEDC / South-II Chennai 113.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, or any other appropriate writ, order or direction in the nature of Certiorarified mandamus calling for the records relating to the impugned Letter dated 1st respondent dated 25.10.2018 bearing Ref. No. Lr. No. Dir / F / CFC / Reg. Cell / FC / SE / RC / F. Tariff Clarification / D. No. 439 / 18 issued by the 1st respondent and quash the same as illegal and arbitrary and direct the 3rd respondent to refund the sum of Rs. 11,49,591/- paid by the petitioner under protest towards excess



Electricity charges levied under Commercial Tariff of Services Nos. 2960061017, 2960061018, 2960061019, 2960061021, 296004116 and 296004117 and further direct the 3rd respondent to reassess the Tariff and apply Domestic Tariff LT AI instead of LM51 or Commercial Tariff.

For Petitioner : M/S. Rohan Rajasekaran

For Respondents : Mr. L.Jaivenkatesh
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned letter dated 25.10.2018 issued by the 1st respondent and for a direction to the 3rd respondent to refund the amount that has been paid by the petitioner under protest and for a further direction to the 3rd respondent to apply the domestic tariff LTAI instead of the commercial tariff LM51.

2. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

3. The case of the petitioner association is that the property consists of 2 wings each consisting stilt and 28 floors. Totally, there are 216 apartments in the said tower. Admittedly, the Bridge Wood Tower is a residential complex. The 1st respondent has also sanctioned domestic tariff payable by the petitioner on a bi-monthly basis. While so, a letter was issued by the 3rd respondent to the effect that the existing common service will be applicable only to the electricity consumption arising out of usage of lights, motor and lift and if there is any other load used in the existing common service connection, the petitioner association must apply for a new service connection under commercial tariff.

4. The petitioner gave a reply to the effect that they did not have any facilities that would attract levy of commercial tariff and sought for a clarification. In reply to the same, the impugned letter dated 25.10.2018 came to be issued by the 1st respondent stating that LT tariff V will be adopted to the fire pumps and fire safety equipments. That apart, penalty/ arrears was also claimed from September 2017 onwards. The petitioner had no other option except to make the payment and according to the petitioner, they have paid a sum of Rs.11,49,591/- till the date of filing of the writ petition. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The issue involved in the present writ petition is squarely covered by the order passed by this Court in a batch of



writ petitions in W.P.No. 35065 of 2019 etc., dated 15.09.2021.
The relevant portions in the order are extracted hereunder :-

6. In the considered view of this Court, the action taken by the respondents has to be characterized as hasty without any basis. It is clear from the tariff order in T.P. No.1 of 2017, dated 11.08.2017 issued by the Regulatory Commission that the LT Tariff 1-A is made applicable to all those categories falling under Clause 6.2.2.1. For the sake of convenience, Clause 6.2.2.1 (h) and (i) are extracted hereunder:

(h) In respect of multi tenements/residential complexes supply used for common lighting, water supply, lift provided only to the residents alone shall be given a separate connection and in case of more than one block in a premise, only one service shall be given for each block for common lighting, water supply and lift provided only to the residents.

(i) In respect of multi tenements/multi-storey flats/residential complexes having both domestic and non-domestic utilities, common facilities such as common lighting, common water supply, lift will be charged under this tariff only if the non-residential built up area does not exceed 25% of the total built up area.

7. It is clear from the above that the tariff order has clearly provided for LT connection even for multi-tenements or residential complexes and it has been made clear that the same will not apply only where the non-residential built up area exceeds 25% of the total built up area. Only under those circumstances, LT Tariff V will apply and those cases are covered under Clause 6.2.13.2 of the tariff order.

8. In the present case, all the petitioners are governed under clause 6.2.2.1 and there is absolutely no basis for the respondents who have come to the conclusion that the petitioners have misused the energy supplied to them or that the petitioners have put the energy supplied to them for commercial usage. The impugned demand made by the respondents is completely contrary to the tariff order issued by the Regulatory Commission.

9. In the present case, it is quite unfortunate that the associations had given a detailed explanation after receipt of the provisional assessment order and



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even this was not taken into consideration by the TANGEDCO before issuing the final order and making the demand from the associations.

10. In view of the above discussion, there are absolutely no grounds to sustain the impugned demands raised by the respondents and it is a clear abuse of process of law and misuse of power which was used against the innocent residents in a residential complex.

11. As a result, all the impugned demands are hereby quashed and accordingly all these writ petitions are allowed. It is made clear that if the associations have made the payment pursuant to the demand made by the respondents, the same shall either be refunded or adjusted towards the future payment for current consumption. No Costs. Consequently, connected miscellaneous petitions are closed.

6. The above order squarely covers the case of the petitioner association also. Accordingly the impugned letter issued by the 1st respondent dated 25.10.2018 is hereby quashed and whatever excess payment has been made by the petitioner under the commercial tariff shall be adjusted from the future payments to be made by the petitioner association for the current consumption. That apart, there shall also be a direction to the 3rd respondent to reassess the tariff and apply the domestic tariff. Such reassessment shall be made effective from November 2021 onwards.

7. This writ petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sha/rka

To

1. Tamil Nadu Generation and Distribution Corporation
Rep by its Chairman,
10th Floor, NPKKR Maligai,
Anna Salai,
Chennai - 600 002.



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Chennai 130.

4.The Superintending Engineer,
CEDC / South-II Chennai 113.

+1cc to Mr.Mohan Rajasekaran, Advocate, S.R.No.54747
+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.54853

Writ Petition No.21197 of 2021
& W.M.P.No. 22478 of 2021

NMI (CO)
SB(30/11/2021)