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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.23678 OF 2021

AND

W.M.P.NOS.24922 AND 24924 OF 2021

Shri Coimbatore Jewellers India Private Limited
Represented by its Director,
Mr.K.R.Premnath

...Petitioner

Vs.

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

2.The Accounts Officer / Revenue,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
E & OE, Palapatti.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue 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 April, 2021 dated 06.05.2021, May 2021 dated 07.06.2021 and June 2021 dated 07.07.2021 pertaining to Service No.049094240323 in violation 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 049094240323 and the excess amount shall be adjusted towards the pending/ future bills and the minimum charges alone shall be collected by the second 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 : No Appearance



O R D E R

The petitioner has filed this writ petition seeking issuance of 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 April, 2021 dated 06.05.2021, May, 2021 dated 07.06.2021 and June, 2021 dated 07.07.2021 pertaining to Service No.049094240323 in violation of Regulation 6 (b) of the Tamil Nadu Electricity Supply Code, 2004 and to quash the same and to direct the respondents to rework the HT bill with service number 049094240323 and the excess amount shall be adjusted towards the pending/ future bills and the minimum charges alone shall be collected by the second respondent for the period from April, 2021 to June, 2021 and not to levy any penalty for the period of Lock Down.

2.The petitioner is a high tension consumer and aggrieved by the bill of demand charge issued by the second respondent, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner would submit that there was complete lockdown during the period between April, 2021 and June, 2021 and all the industrial, commercial and private establishments were asked to temporarily shut down and there was virtually no service activity and minimum electricity was used by the petitioner for maintenance purpose. However, the second respondent has issued the impugned bills in violation of Regulation 6 (b) of the Tamil Nadu Electricity Supply Code, 2004.

4.The learned counsel appearing for the petitioner would further submit that the issue involved in the writ petition has already been elaborately discussed by this Court in W.P.Nos.7678 of 2020 etc., batch and after 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, the relevant portion of which reads as follows:

"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:



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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;

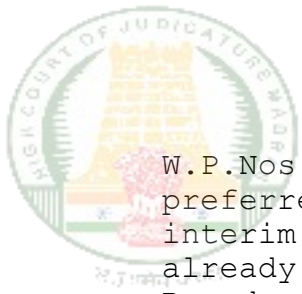
d) The TANGEDCO shall not levy compensation charges towards low PF from the petitioners during the period of lockdown. Even if such levy is made in future, show cause notice shall be issued to the consumer and an opportunity shall be given to the consumer before levying any compensation under Clause 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."

5. The learned counsel appearing for the petitioner would further submit that following the aforesaid order, the respondent Board has issued a Circular in Memo No.CFC/REV/FC/REV/DFC/AO/D.698/20 dated 07.10.2020. The learned counsel would further submit that as against the order passed in



W.P.Nos.7678 of 2020 etc., batch, the respondent Board has preferred W.A.No.836 of 2020 and the same is pending without any interim orders. He would further submit that the petitioner has already paid the entire amount as demanded by the respondent Board and prays that the said amount may be refunded to the petitioner or may be adjusted in the future bills.

6. There is no representation for the respondents.

7. The petitioner claims that as per Regulation 6 (b) of the Tamil Nadu Electricity Supply Code the petitioner is entitled to pay only 20% of the amount during the lockdown period, however, the respondent Board claims 90% of the amount. It appears that as against the order passed in W.P.Nos.7678 of 2020 etc., batch, the respondent Board has preferred W.A.No.836 of 2020 and the same is pending without any interim orders.

8. The common order in in W.P.Nos.7678 of 2020 etc., batch was passed in favour of persons similarly situated like the petitioner and the respondent Board has also issued a Circular in Memo No.CFC/REV/FC/REV/DFC/AO/D.698/20 dated 07.10.2020. In view of the said position, this Court is inclined to extend the same relief to the petitioner.

9. Since the petitioner has not made any representation for refund of the amount as per Regulation 6 (b) of the Tamil Nadu Electricity Supply Code, subject to the outcome of the appeal in W.A.No.836 of 2020, this Court directs the petitioner to send a detailed representation to the respondents by enclosing the copy of the common order dated 14.08.2020 made in W.P.Nos.7678 of 2020 etc., batch, within a period of two weeks from the date of receipt of a copy of this order. If any such representation is filed, the respondent Board, shall consider the same, in terms of the common order dated 14.08.2020 made in W.P.Nos.7678 of 2020 etc., batch, and pass appropriate orders, within a period of twelve weeks from the date of the representation.

10. The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

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

2. The Accounts Officer / Revenue,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
E & OE, Palapatti.

W.P.No.23678 of 2021
And
W.M.P.Nos.24922 and
24924 of 2021

KSM(CO)
RVM(26/11/2021)