

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.02.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.NOS.19400, 19405 & 19408 OF 2020
AND

W.M.P.NOS.23986, 23993 & 23995 OF 2020

Poppys Vista Hotel Pvt.Ltd.,
Rep by its Managing Director,
Sakthivel Kaleswara Vignesh.

.... Petitioner in
W.P.No.19400/2020

Poppys Knitwear Pvt.Ltd.,
Rep by its Managing Director,
Sakthivel Kaleswara Vignesh,
SF.No.27, Maruduraiyan Valasu,
Tirupur South, Tirupur District.

....Petitioner in
W.P.No.19405/2020

Poppys Knitwear Pvt.Ltd.,
Rep by its Managing Director,
Sakthivel Kaleswara Vignesh,
SF.No.451/2, Sambandamapalayam Road,
Padiyur Village, Kangayam Taluk,
Tirupur District.

....Petitioner in
W.P.No.19408/2020

Vs.

सत्यमेव जयते

- 1 Tamil Nadu Generation and Distribution Corporation Limited., (TANGEDCO)
Represented by its chairman and Managing Director,
144, Anna Salai, Chennai 600002
- 2 The Accounts officer / Revenue
Tirupur electricity Distribution circle
TamilNadu Generation and Distribution Corporation Ltd, 208/650, KRBS Towers,
3rd floor, P.N.Road,
Tirupur-641 602.

- 3 The Superintending Engineer
Tirupur Electricity Distribution circle
TamilNadu Generation and Distribution Corporation Ltd.,
208/650, KRBS Tower, 3rd floor, P.N.Road,
Tirupur 641 602.

... Respondents 1 to 3 in WP.No.19400 & 19405 of 2020

- 4 The Executive Engineer
Tirupur Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation Ltd.,
Managalam Road, Avinashi,
Tirupur-641654

- 5 The Assistant Executive Engineer,
Tirupur Electricity Distribution Circle,
Tamilnadu Generation and Distribution Corporation Ltd.,
Mangalam Road, Avinashi,
Tirupur 641654.

- 6 The Assistant Engineer
Tirupur Electricity Distribution circle
TamilNadu Generation and Distribution Corporation ltd
Thirumuruganpoondi, Avinashi Taluk,
Tirupur 641652

... 4th to 6th Respondents in WP.No.19400 of 2020

- 4 The Executive Engineer
Tirupur Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation Ltd.,
Kumar Nagar, Avinashi Road,
Tirupur-641 603

5. The Assistant Executive Engineer,
Tirupur Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Rakkiyalayam Pirivu, Kangeyam Road,
Tirupur-641 606

6. The Assistant Engineer,
Tirupur Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Peruntholuvu-641 665,
Tirupur South, Tirupur.

... 4th to 6th Respondents in WP.No.19405 of 2020

1. Tamil Nadu Generation & Distribution Corporation Ltd., (TANGEDCO),
Rep by its Chairman and Managing Director,
144, Anna Salai, Chennai - 600 002.
2. The Accounts Officer/Revenue,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.56-B, Trichy Road, Palladam - 641 664.
3. The Superintending Engineer,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.56-B, Trichy Road, Palladam - 641 664.
4. The Executive Engineer,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Near Bus Stand, Kangeyam - 638 701.
5. The Assistant Executive Engineer,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Palayakottai Road, Kangeyam - 638 701.
6. The Assistant Engineer,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Padiyur, Kangeyam Taluk,
Tirupur District.

..... Respondents in WP.No.19408 of 2020

Prayer in W.P.No.19400 of 2020:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records of the respondents which culminated in High Tension Bill for the month of March, 2020 in Bill No.9094380024042001 dated 03.04.2020, High Tension Bill for the Month of April, 2020 in Bill No.9094380024052002 dated 06.05.2020, High Tension Bill for the Month of May 2020 in Bill No.9094380024062001, dated 05.06.2020, High Tension Bill for the month of June, 2020 in Bill No.9094380024072005 dated 04.07.2020, High Tension Bill for the month of July, 2020 in Bill No.9094380024082002 dated 03.08.2020 and High Tension Bill for the month of August, 2020 in Bill No.9094380024092006 dated 04.09.2020 for service connection No.039094380024 issued by the second respondent and quash the same in the light of the orders by this Court in W.P.Nos.7678 of 2020 etc., batch dated

14.08.2020 and consequently direct the respondents to adjust the excess amount already paid by the petitioner in the future bills starting from the month of December 2020 onwards.

Prayer in W.P.No.19405 of 2020:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records of the respondents which culminated in High Tension Bill for the month of March, 2020 in Bill No.9094380560042001 dated 03.04.2020, High Tension Bill for the month of April, 2020 in Bill No.9094380560052001 dated 06.05.2020, High Tension Bill for the month of May, 2020 in Bill No.9094380560062001 dated 05.06.2020, for service connection No.039094380560 issued by the second respondent and quash the same in the light of the orders by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020 and consequently direct the respondents to adjust the excess amount already paid by the petitioner in the future bills starting from the month of December 2020 onwards.

Prayer in W.P.No.19408 of 2020:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records of the respondents which culminated in High Tension Bill for the month of March, 2020 in Bill No.9094390578042001 dated 02.04.2020, High Tension Bill for the month of April, 2020 in Bill No.9094390578052003 dated 04.05.2020 for service connection No.039094390578 issued by the second respondent and quash the same in the light of the orders by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020 and consequently direct the respondents to adjust the excess amount already paid by the petitioner in the future bills starting from the month of December 2020 onwards.

For Petitioner .. Mr.Kandhan Duraisami
For Respondents .. Mr.P.Gunaraj, Standing Counsel
(for R.1 & R.2)
Mr.S.N.Parthasarathy, GA
(for R.3 & R.4)
...in all WPs

COMMON ORDER

The petitioners are having High Tension Electricity Supply for their Companies and the Companies were closed due to lock down by the order of the Government on account of the Covid-19

pandemic situation. The petitioners were not running the Companies during the complete lock down period from 24.03.2020 onwards but the 2nd respondent raised invoices by calculating the amount at the rate of 90% of the sanctioned demand. Hence, the petitioners have filed the present writ petitions.

2. Learned counsel for the petitioners, by relying upon the order passed by this Court in W.P.No.7678/2020 dated 14.08.2020 submitted that as per the relevant provisions under section 6(b) of the Supply Code, the respondents shall claim only 20% of the sanctioned demand or the actual usage during the period of similar nature.

3. Considering the relevant provisions, this Court has allowed similar batch of writ petitions on the following terms:

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.

4. However, the learned Standing Counsel for the Electricity Board raised certain objections and submitted that the order passed by this Court in W.P.No.7678/2020 etc. batch have been challenged by way of Writ Appeal before the Division Bench of this Court.

5. Considering the relevant provisions of law and the order passed by this Court and that the Companies were not permitted to function on account of lock down announced by the Government, these Writ Petitions are allowed in terms of the order passed in W.P.Nos.7678 of 2020 etc. batch dated 14.08.2020. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrm

To

1. Tamil Nadu Generation & Distribution Corporation Ltd., (TANGEDCO),
Rep by its Chairman and Managing Director,
144, Anna Salai, Chennai - 600 002.
2. The Accounts Officer/Revenue,
Palladam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.56-B, Trichy Road, Palladam - 641 664.
3. The Superintending Engineer,
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Tirupur-641 606
14. The Assistant Engineer,
Tirupur Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Peruntholuvu-641 665,
Tirupur South, Tirupur.

+3cc to Mr.Mr.Muthumani, Advocate, S.R.No.9255

W.P.No.19400, 19405 & 19408 of 2020

AKI (CO)
CS/10/03/2021

सत्यमेव जयते

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