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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.24811 OF 2021

Mrs.Malini Ravindran,
Rep by her Power Agent Mr.T.R.Jayanandan,
S/o.T.C.Ravindran,
No.39/18, Nungambakkam High Road,
Chennai - 600 034

...Petitioner

Versus

1.The Chairman Cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Limited,
Chennai E.D.U/South - II,
110 KV Sub Station Complex,
Anna Main Road,
Chennai - 600 078.

2.The Chief Financial Controller - Revenue,
Tamil Nadu Generation and Distribution Corporation Limited,
Chennai E.D.U/South - II,
110 KV Sub Station Complex,
Anna Main Road,
Chennai - 600 078.

3.Tamil Nadu Electricity Regulation Commission,
No.19A, Rukmini Lakshmipathy Road,
Egmore, Chennai - 600 008.

4.The Government of Tamil Nadu,
Represented by its Secretary of Government,
Energy Department, Fort St. George,
Chennai - 600 009.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus or any other appropriate Writ or Order or Direction in the nature of Writ directing the 1st and 2nd Respondents or their subordinates to withdraw the Maximum Demand charges of Rs.10,08,000/- for the months of April 2021 till July 2021 for the Petitioner and asses the same at 20% or to the extent of Recorded Demand and also to raise the monthly bill calculating



the Maximum Demand charges at the rate of 20% or to the extent of Recorded Demand for the months of May 2021 till August 2021 charges and to refund the amount collected so far from the petitioner or to adjust the same in future bill till the extended period of Lock Down, if any, by the Government of Tamil Nadu and not to levy Power Factor penalty during the Lock Down period.

For Petitioner : Mr. Raj and Raj Associates

For Respondents : Mr. Jai Venkatesh
Standing Counsel for Electricity Board

O R D E R

This writ petition has been filed for seeking for issuance of Writ of Mandamus or any other appropriate Writ or Order or Direction in the nature of Writ directing the 1st and 2nd Respondents or their subordinates to withdraw the Maximum Demand charges of Rs.10,08,000/- for the months of April 2021 till July 2021 for the Petitioner and assess the same at 20% or to the extent of Recorded Demand charges at the rate of 20% or to the extent of Recorded Demand for the months of May 2021 till August 2021 charges and to refund the amount collected so far from the petitioner or to adjust the same in future bill till the extended period of Lock Down, if any, by the Government of Tamil Nadu and not to levy Power Factor penalty during the Lock Down period.

2. The case of the petitioner is that the petitioner is the power agent of his mother. It is further that the petitioner's mother is the absolute owner of the property situated at SR.No.3/488B1A and 3/700 measuring 2.07 acres at No.17, Uthandi Village, East Coast Road, Sholinganallur Taluk, Kanchipuram District. The petitioner applied and obtained the planning and building permission to construct a non-residential building in the said land. The construction of the building was completed and obtained a high tension electricity service connection in HTSC No.099094011076. The first floor of the constructed premises was rented out to PVR limited for operating cinema theatres. While so, the state Government issued a G.O.No.152 of 2020 dated 23.03.2020 to enforce the lockdown in Tamil Nadu. Due to the pandemic situation, the entire building including the leased premises occupied by PVR cinemas were closed. But, the respondent Electricity Board demanded a Maximum Demand charges of Rs.10,08,000/- for the months of April 2021 till July 2021 and assess the same at 20% or to the extent of Recorded Demand for the months of May 2021 to August 2021 even though the petitioner was not running the firm. Identical Issue was considered by The Division Bench of this Court in W.P.No.7678 of



2021 etc., batch dated 14.08.2020 wherein several directions were issued and the petitioner being similarly placed in order to avail such benefits, the present Writ petition is filed.

3. Learned Counsel for the petitioner submits that this Court may issue a direction to extend the benefit of this Court's Order in W.P.No.7678 of 2021 etc., batch dated 14.08.2020 to the petitioner in the present case.

4. On the above contention, this Court heard the learned Standing Counsel for Electricity Board and perused the order passed by this Court in W.P.No.7678 of 2020, etc., batch.

5. A perusal of the order passed in W.P.No.7678 of 2020, etc., batch, wherein identical issue has been raised, the Division Bench of this Court has passed the following direction:

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



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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 Order passed in this regard, the minimum charges alone shall be collected till the lifting of the lockdown.

6. In view of the above, considering the relevant provisions of law and the order passed and the petitioner also being similarly placed, this Court inclined to allow the Writ petitions in terms of the Order passed in W.P.No.7678 of 2020 etc batch dated 14.08.2020.

7. Accordingly, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Chairman Cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Limited,
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4. The Secretary of Government,
The Government of Tamil Nadu,
Energy Department, Fort St. George,
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+1cc to the Government Pleader Sr.No.59969

W.P.No.24811 of 2021

RSV(CO)
RVM(27/01/2022)