BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.527, 531 and 536 of 2021
and
W.M.P.(MD)Nos.454, 457 and 460 of 2021

W.P(MD)No.527 of 2021:-

The Kaka Indian Foundy, HTSC No.079094620416,
No.729, Sivakasi - Virudhunagar Road,
Thiruthangal - 626 136, Sivakasi,
Virudhunagar District,
Rep. by its Partner C.Shumuganathan. ... Petitioner

Vs.

1.The Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Rep. by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai, Chennai - 600 002.

2.The Chief Financial Controller - Revenue,
TANGEDCO, 7th Floor, 144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer, TANGEDCO,
Virudhunagar Electricity Distribution Circle,
Virudhunagar. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extend the benefit of the order of this Court dated 14.08.2020 passed in W.P.No.7678 of 2020 in similar batch matter and to apply the order of this Court as per Article 14 of the Constitution of India, to the petitioner also and consequently direct the 3rd respondents to cause to issue the fresh CC bills for the months of March 2020 September 2020 falling in the lockdown periods and also, to further direct the respondents to refund the excessively collected demand charges from the petitioner.

W.P(MD)No.531 of 2021:-

Athavan Paper and Boards,
HT SC No.449,
Nallur Village, Pushpathur,
Palani Taluk, Dindigul,
Rep by its Partner Mr.G.Manivannan. ... Petitioner

Vs.

1.The Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
Rep. by its Chairman & Managing Director,
10^{th} Floor, No.144, Anna Salai,
Chennai - 600 002.

2.The Chief Financial Controller - Revenue,
TANGEDCO,
7^{th} Floor, 144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extend the benefit of the order of this Court dated 14.08.2020 passed in W.P.No.7678 of 2020 in similar batch matter and to apply the order of this Court as per Article 14 of the Constitution of India, to the petitioner also and consequently direct the 3^{rd} respondents to cause to issue the fresh CC bills for the months of March 2020 October 2020 falling in the lockdown periods as per the above order dated 14.08.2020 and also, to further direct the respondents to refund/adjust the excessively collected demand charges from the petitioner.

W.P(MD)No.536 of 2021:-

Caparo Engineering India Limited,
HT SC No.451,
Plot No.C-3, To C 7, D-5 to D-9, Sipcot Industrual Compled,
Pallapatti Village, Nilakottai Taluk, Dindigul,
Rep by its Authorized Signatory M.S.Harikrishnan ... Petitioner

Vs.

1.The Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Rep. by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.

2.The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, 144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extend the benefit of the order of this Court dated 14.08.2020 passed in W.P.No.7678 of 2020 in similar batch matter and to apply the order of this Court as per Article 14 of the Constitution of India, to the petitioner also and consequently direct the 3rd respondents to cause to issue the fresh CC bills for the months of March 2020 September 2020 falling in the lockdown periods and also, to further direct the respondents to refund the excessively collected demand charges from the petitioner.

(in all W.Ps)

For Petitioner : Mr.Pandiyaraj.R.S.

For Respondents : Ms.M.Paramaeswari
For Mr.S.M.S.Johnny Bhasha

COMMON ORDER

Petitioners are industries enjoying high tension service connection with TANGEDCO. The petitioners could not run their industries during the lockdown period. Therefore, they felt aggrieved by the demand of the respondents to pay charges to the extent of 90% of the sanctioned demand. They have therefore filed these writ petitions.

2.The learned counsel for the writ petitioners points out that the issue on hand is no longer *res integra* and that it is covered by the order dated 14.08.2020, passed by the Principal Seat in W.P.No.7678 of 2020, etc., batch.

3.The learned standing counsel points out that this Court would not be justified in directing the TANGEDCO to levy 20% of the sanctioned demand. This was because at least in the case of the petitioner in W.P.(MD)No.527 of 2021, the recorded demand is higher than the sanctioned demand.

4.Be that as it may, I am of the view that directions issued by the learned Judge in the aforesaid order takes care of the said situation also. The learned Judge had issued the following directions:-

> *"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.It is seen that regulation 6(b) of Electricity Supply Code has been referred. Regulation 6(b) of Electricity Supply Code reads as follows:-

"(b) For the HT services disconnected on the request of the consumer, the monthly minimum charges based on the kVA demand shall be the actual recorded demand (when the disconnection is for part of a month) or such percentage of contracted demand is declared by the Commission, whichever is higher.
Provided that where the Licensee is prevented from supplying electricity owing to cyclone, floods, storms, fire, strike or lockout in the Licensees' establishment or other occurrences beyond the control of the Licensee, or if the consumer is prevented from consuming electricity is either in whole or in part for similar reasons, the Licensee may recover from the consumer a minimum charge at twenty percent of the contracted demand or recorded demand whichever is higher besides charges for the actual consumption of electricity."

6.From a reading of the aforesaid provisions, it can be seen that the licensee is entitled to recover from the consumer a minimum charge at 20% of the contracted demand or recorded demand, whichever is higher besides charges for the actual consumption of electricity. Therefore, I am of the view that since the petitioners are identically placed, the writ petitions can be allowed on the very same terms as set in the aforesaid order dated 14.08.2020 in W.P.No.7678 of 2020 etc., batch. These writ petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

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10th Floor, No.144, Anna Salai, Chennai – 600 002.

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4.The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul.

W.P(MD)Nos.527, 531 and 536 of 2021
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