



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18001 of 2021

and

W.M.P(MD) .Nos.14871 and 14873 of 2021

M/s.Pandyan Hotels Limited,
Represented by its Managing Director,
Dr.G.Vasudevan.

... 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), Athikulam,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling for the records leading to the issuance of the original impugned High Tension Bills (Provisional) issued by the second respondent for the months of April 2021 dated 06.05.2021, May 2021 dated 07.06.2021 and June 2021 dated 08.07.2021 pertaining to Service No.059094630017 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 059094630017 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 : M/s.M.Parameswari

For Mr.S.M.S.Johnny Basha



ORDER

This Writ Petition relates to HT bills in respect of specific months in 2021.

2. The petitioner states that the TANGEDCO has raised HT bills even during the lockdown period making a demand for demand charges as well as compensation charges towards low PF. In this regard, the petitioner relies upon the order passed by this Court in a batch of writ petitions, in which the lead petition is W.P.No.7678 of 2020. The petitioner draws the attention of the Court to the said order dated 14.08.2020 and it is pointed out that the said order was a detailed order which took into consideration all material facts, including proceedings of the TNERC and appellate proceedings before the APTEL. Upon such detailed discussion and analysis, it is pointed out that directions were issued in paragraph 45 of the said order. The petitioner states that this Writ Petition is covered by the said order and, therefore, the petitioner prays that orders be issued in terms of the said order.

3. On the contrary, TANGEDCO submits that the said order only pertains to the lockdown occasioned by the first wave of the Covid-19 pandemic in the year 2020. Therefore, it is submitted that such order should not be applied in respect of the lockdown occasioned by the second wave of the pandemic in 2021. The second submission on behalf of TANGEDCO is that the order of the TNERC pursuant to the lockdown during the first wave was carried in appeal before the APTEL. The APTEL granted an interim order whereby the order of the TNERC was stayed and proceedings before the APTEL are pending. The third contention of TANGEDCO is that Regulation 6(b) is not applicable as regards some months during which the relevant petitioner is claiming relief because there was no lockdown during the said month. The fourth contention of TANGEDCO is that the consumption by the petitioner exceeded the 20% specified in Regulation 6(b) of the Electricity Supply Code. For all these reasons, TANGEDCO submits that the relief prayed for should not be granted.

4. Without doubt, the order dated 14.08.2020 of this Court in the batch of cases of which the lead case is W.P.No.7678 of 2020 was issued in respect of the lock down during the first wave of the Covid-19 pandemic. However, the principle on the basis of which the said judgment was rendered would apply equally to the second wave of the pandemic provided such second wave resulted in a lock down during the relevant months. In fact, this aspect is also taken care of by the said order in paragraph 45(a). Such paragraph makes it clear that a revised bill should be issued to the petitioner by applying Regulation 6(b) of the Supply Code for the entire period when the establishment was shut down. Therefore, the apprehension of TANGEDCO on such count is misplaced.



5. With regard to the pending proceedings before the APTEL, as correctly pointed out by learned counsel for the petitioner, the order of APTEL was issued in May 2020, whereas the order of this Court was in August 2020. Therefore, this Court took into account the proceedings before TNERC and APTEL before issuing the order. Consequently, the contention of TANGEDCO on such basis cannot be accepted. The contention of TANGEDCO that the consumption exceeded 20% is also taken care of by Regulation 6(b) which provides that "the Licensee may recover from the consumer minimum charges at 20% of the billable demand or recorded demand whichever is higher besides charges for the actual consumption of electricity". It is a different matter that TANGEDCO may still be able to maintain that there was no lockdown at all during a relevant month and that, therefore, Regulation 6(b) is not applicable in respect of such month. As stated above, the said contingency is also provided for in the order dated 14.08.2020. It is brought to the notice of the Court that appeals have been filed in respect of the order dated 14.08.2020 by the TANGEDCO and that the said appeals are pending before the Hon'ble Division Bench. Therefore, this order would also abide by the decision of the Hon'ble Division Bench, inasmuch as the order dated 14.08.2020 has been followed herein.

6. Therefore, keeping in mind the fact that a detailed order was issued by this Court on 14.08.2020 in W.P.No.7678 of 2020 and related cases and such order was the basis of several subsequent orders, I see no reason to depart from the view taken therein.

7. Accordingly, W.P.(MD).No.18001 of 2021 is disposed of in terms of the directions issued in paragraph 45 of the order dated 14.08.2020 in W.P.No.7678 of 2020 and related cases subject to the observations in paragraphs 4 and 5 of this order. There will be no order as to costs. Consequently, W.M.P.(MD)Nos.14871 and 14873 of 2021 are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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

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

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