



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.18452 of 2021

and

W.M.P(MD) .No.15233 of 2021

M/s.Pothys Private Limited,
(HTSC No.059094630099),
Represented by its Director,
S.Ramesh

... Petitioner

Vs.

1.The 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),
TANGEDCO,
O/o.Superintending Engineer,
Madurai Electricity Distribution Circle,
Madurai.

... 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 Hon'ble Court passed under similar circumstances in batch of Writ Petitions and to apply the said dictum to the petitioner also as per the Article 14 of Constitution of India and to rework the CC Bills of High Tension Consumer Connection vide Service No. 059094630099 for the months of May 2021 and June 2021 falling in the second wave of the COVID-19 lockdown period by levying minimum charges as per 6(B) Supply Code and also further direct the respondents to refund the excessively collected demand charges from the petitioner.

For Petitioner : Mr.R.Mohan

For Respondents : M/s.M.Rajeswari

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 lock down 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 lock down 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 lock down 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 lock down 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 lock down 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 lock down 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.18452 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 no order as to costs. Consequently, W.M.P.(MD)No.15233 of 2021 stands closed.

Sd/-

Assistant Registrar (AE)

// 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 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),
TANGEDCO,
O/o.Superintending Engineer,
Madurai Electricity Distribution Circle,
Madurai.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-31987[F] dated 11/10/2021)

W.P (MD) No.18452 of 2021
08.10.2021

RD(21.10.2021) 4P 4C