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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.8957 & 8960 of 2022

WP.No.8957 of 2022

Sripathi Paper and Boards,
HT SC No.039094340401
No.1/173, Kedimedu Thottam,
Gomangalam Pudhur,
Pollachi Taluk, Coimbatore,
Repd. by its Partner Aswin Kumar

...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,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
TANGEDCO, Udumalpet.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, 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 a 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 Respondent to cause to issue the fresh CC bills for the months of April 2020 falling in the lockdown periods and also, to further direct the Respondents to refund the excessively collected demand charges from the petitioner.



AND

WP.No.8960 of 2022

Sri Venkatesa Fabrics Ltd.,
HT SC No.059094500154,
Palani Road, Venkatesa Mills Post,
Udumalpet,
Repd. by its Signatory R.S.Sampath Nehru

... 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,
Dindigul Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
TANGEDCO, Dindigul.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, 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 a 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 Respondent to cause to issue the fresh CC bills for the months of April 2020 falling in the lockdown periods and also, to further direct the Respondents to refund the excessively collected demand charges from the petitioner.

(In both WPs)

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.Abul Kalam

Standing Counsel



COMMON ORDER

Mr. Abul Kalam, learned Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter finally. Hence, by consent of both sides, these Writ Petitions are disposed finally even at the stage of admission.

2. The petitioners seek a mandamus directing the respondents to extend the benefit of order dated 14.08.2020 passed by this Court in W.P.No.7678 of 2020 to the petitioners and consequently direct the third respondent to revise and issue fresh consumption bills in respect of the petitioners' service connection for the periods when the establishment was under lockdown consequential to Government Orders.

3. The petitioner has approached this Court earlier in W.P.No.19906 of 2020 seeking an identical prayer. That Writ Petition has come to be allowed on 04.01.2021 following the ratio laid down in W.P.No.7678 of 2020 and applying the same to these petitioners as well. The relevant portion of the order reads as follows:

The Hon'ble High Court of Madras has passed an order on 14.08.2020 in W.P.No.7678 of 2020 and others batch and the operative portion of the order is reproduced below:

"45.....

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



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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.

46. All the writ petitions are accordingly allowed..."

3.0 However, TANGEDCO has filed appeals against the above order vide W.A.No.836 of 2020 and etc. before the Hon'ble Division Bench of Madras High Court and the appeals are yet to be heard. Hence, the Superintending Engineer/EDCs are instructed to implement the above order scrupulously without prejudice to the outcome of appeal filed as stated above. The above order may be implemented only to the petitioners and also to those who have obtained similar order in this matter.

(By order of the JMD/TANGEDCO)

Sd/- dated 16.10.2020

Chief Financial Controller/Revenue" .

4. Though the aforesaid order passed on 04.01.2021 would, in my view, suffice to protect the interests of the petitioners for the subsequent periods as well, since the prayer therein was for protection in respect of all periods falling under lockdown consequential to Government Orders, learned counsel for the petitioners would seek a specific direction in respect of the periods of lockdown from 2021 onwards.



5. Thus the benefit of the aforesaid order stands extended for the periods commencing from 01.01.2021 as well when the establishment was under lockdown pursuant to Government Orders passed in this regard.

6. These Writ Petitions are disposed as aforesaid. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Chairman & Managing Director,
The Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
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,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
TANGEDCO, Udumalpet.
4. The Superintending Engineer,
Dindigul Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
TANGEDCO, Dindigul.

+2ccs to Mr.R.S.Pandiaraj, Advocate, S.R.No.25238

W.P. Nos.8957 & 8960 of 2022

SSN(CO)
CT 27/04/2022