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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.9178 of 2022 &
WMP.No.9055 of 2022

M/s.Hyundai Motor India Ltd.,
Represented by its Asst.General Manager,
Legal & Secretarial Department,
Plot No.H-1, SIPCOT Industrial Park,
Irrungattukottai,
Sriperumbudur - 602 117. ... Petitioner

Vs

- 1.The Government of Tamil Nadu
Rep. by its Secretary to Government,
Energy Department, Fort St.George, Chennai - 600 009.
- 2.The Chairman cum Managing Director,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.
- 3.The Chief Financial Controller - Revenue,
TANGEDCO, NPKRR Maligai, 144,
Anna Salai, Chennai - 600 002.
- 4.Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.
- 5.The Accounts Officer/Revenue,
TANGEDCO, NPKRR Maligai, 144,
Anna Salai, Chennai - 600 002.
- 6.The Superintending Engineer,
Chenglepet Electricity Distribution Circle,
TANGEDCO Ltd., Chenglepet. ... Respondents



PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Bill bearing No.9094110277052002 relating to Service No.099094110277, dated 8.5.2020 for the month April 2020 in so far as claiming maximum demand of 90 percentage instead of minimum demand of 20 Percentage on the file of the fifth respondent and quash the same in so far as demanding maximum demand of 90 percentage of sanctioned demand instead of Minimum demand of 20 percentage of total sanctioned demand and consequently directing the 1st, 2nd, 3rd, 5th and 6th respondents or their subordinates to refund or adjust the said amount of Rs.1,17,60,000/- for the subsequent month bills.

For Petitioner : Mr.U.Karunakaran

For Respondents : Mr.TNC Kaushik,
Additional Government Pleader - R1

Ms.Keerthana Shenoi,
for Mr.L.Jai Venkatesh,
Standing Counsel - R2 to R6

O R D E R

Mr.TNC.Kaushik, learned Additional Government Pleader accepts notice for R1 and Ms.Keerthana Shenoi, learned Counsel on behalf of Mr.L.Jai Venkatesh, learned Standing Counsel accepts notice for R2 to R6 and are armed with instructions to proceed with the matter finally. Hence, by consent expressed by all the counsel, this Writ Petition is disposed finally even at the stage of admission.

2. The petitioner in this Writ Petition seeks a Writ of Certiorarified Mandamus, calling for the records relating to Bill bearing No.9094110277052002 relating to Service No.099094110277, dated 8.5.2020 for the month April 2020 insofar as it claims maximum demand of 90 percentage instead of minimum demand of 20 Percentage and a consequent direction to 1st, 2nd, 3rd, 5th and 6th respondents or their subordinates to refund or adjust the said amount of Rs.1,17,60,000/- as against bills for the subsequent periods. Ms.Shenoi would concur on the position that the issue raised in this Writ Petition is covered by a slew of orders passed by this Court.



3. I have had an occasion to consider the similar issue in W.P.No.8205 of 2022 and vide order dated 04.04.2022, I have reiterated the position that the demand by TANGEDCO should relate to the minimum demand of 20% and not the maximum demand of 90%.

4. The operative portion of the order is as follows:
".....

3. I have in W.P.No.2384 of 2022, vide order dated 09.02.2022 considered the issue and passed the following order:

".....

2. The petitioner seeks 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 petitioner and consequently direct the third respondent to revise and issue fresh consumption bills in respect of the petitioner's 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 this petitioner 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;



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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 petitioner 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 petitioner 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.

5. In light of the admitted facts and legal position as between the aforesaid Writ Petition and the present Writ



Petition, the same order is taken to be passed in this Writ Petition as well.

6.This Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

sl/kbs

To

1.The Secretary to Government,
The Government of Tamil Nadu
Energy Department, Fort St.George, Chennai - 600 009.

2.The Chairman cum Managing Director,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002.

3.The Chief Financial Controller - Revenue,
TANGEDCO, NPKRR Maligai, 144,
Anna Salai, Chennai - 600 002.

4.Tamil Nadu Electricity Regulatory Commission,
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5.The Accounts Officer/Revenue,
TANGEDCO, NPKRR Maligai, 144,
Anna Salai, Chennai - 600 002.

6.The Superintending Engineer,
Chenglepet Electricity Distribution Circle,
TANGEDCO Ltd., Chenglepet.

+1cc to Mr.U.Karunakaran, Advocate Sr.25697

+1cc to the Government Pleader Sr.26371

W.P.No.9178 of 2022 &
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srg 01/06/2022