IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.33326 of 2024
and
W.M.P.No.36114 of 2024

Senthil ... Petitioner

Vs.

1.The Office of the Tamil Nadu Electricity Ombudsman,
SIDCO Office Building, 4th Floor,
Thiru-Vi-Ka Industrial Estate, Guindy,
Chennai – 600 032.

2.The Executive Engineer/O&M/Vyasarpadi,
Chennai Electricity Distribution Circle/North,
TANGEDCO 110/33 KV SS Vyasarpadi,
Opp. Ramalingam Temple, Vyasarpadi,
Chennai – 600 039.

3.The Assistant Executive Engineer/O&M/Madhavaram,
Chennai Electricity Distribution Circle/North,
TANGEDCO 110/33 KV SS CMBTT,
Vadaperumbakkam, Chennai – 600 060.

4.The Assistant Executive Engineer/O&M/Vadaperumbakkam,

Chennai Electricity Distribution Circle/North,
TANGEDCO 110/33 KV SS CMBTT,
Vadaperumbakkam, Chennai – 600 060. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent made in Award No. in Appeal No.45 of 2024 dated 22.08.2024 and quash the same and consequently, direct the respondents 2 to 4 not to disconnect the electricity to the petitioner assessment No.01-020-005-2041 and reassess the electricity consumption during the disputed period by applying Regulation 11(5) of the TNERC Supply Code, considering the cyclical nature of the petitioner's business.

For Petitioner	:	Mr.P.Prabu
For R1 to R4	:	Mr.L.Jai Venkatesh Standing Counsel

O R D E R

Challenging the Award of the 1st respondent/Tamil Nadu Electricity Ombudsman, dated 22.08.2024, in Appeal No.45 of 2024, rejecting the request of the petitioner to reassess the electricity consumption during the disputed period, the present writ petition has been filed.

2.The petitioner is running a manufacturing unit specialising in the production of HDPE Pipes in the name of M/s.Shree Ram Pipes in Vadaperumbakkam, Madhavaram, Chennai. It is the specific case of the petitioner that the nature of the business is cyclical with higher demand during summer season and lower demand during the monsoon season. During the disputed period of November, 2019 to January, 2020, the petitioner's electricity unit meter was defective and the said fact has been confirmed by a Meter Relay Test (MRT) which proved the defect and indicated that no data regarding consumption could be recovered. The petitioner has paid an amount of Rs.4,39,664/- based on previous month charges as demanded by the 2nd respondent for the defective months during the said period. Subsequently, a demand notice was issued by the respondents demanding a sum of Rs.1,55,702/- based on Regulation 11(2) of the Tamil Nadu Electricity Regulatory Commission (TNERC) Supply Code (hereinafter referred to as "the Supply Code" for brevity). According to the petitioner, as the business is cyclical and the demand is higher only during pre-monsoon, the assessment ought to have been made by invoking Regulation 11(5) instead of Regulation 11(2) of the Supply Code. Therefore, the petitioner filed a complaint before the Tamil Nadu Electricity Consumer Grievance Redressal Forum (TNCGRF) and the same was dismissed. Aggrieved over the same, the petitioner filed an appeal before the 1st respondent/Electricity Ombudsman. However, the appeal was also dismissed by the impugned order dated 22.08.2024. Challenging the same, the present writ petition has been filed.

3.Though various aspects have been raised and decided before the Ombudsman, the writ petitioner has confined his submissions before this Court only with regard to re-assessment invoking Regulation 11(5) instead of Regulation 11(2) of the Supply Code.

4.A counter affidavit has been filed by the 4th respondent. The main contention of the 4th respondent is that, during the period of four months preceding to the period in question, there was no difference in consumption pattern and it remained consistent throughout the year, even during the period of the defective meter. The 4th respondent has adverted to Regulation 11 of the Supply Code which reads as follows :

"Regulation 11 : Assessment of billing in cases where the meter is defective – (1) *where the meter fixed is found to be defective or burnt or to have ceased to function and no theft of energy or violation is suspected, the quantity of electricity supplied during the period when the mater was defective, shall be assessed based on the data downloaded through CMRI from the defective meter and scrutiny of those data, load curve, etc., besides taking into consideration of site condition to corroborate the assessment so made. Wherever the data could not be downloaded, the quantity of electricity supplied during* *the period when the meter was defective, shall be assessed as mentioned hereunder.*

(2) *The quantity of electricity, supplied during the period in question shall be determined by taking the average of the electricity supplied during the preceding four months in respect of both High Tension service connections and Low Tension service connections provided that the conditions in regard to use of electricity during the said four months were not different from those which prevailed during the period in question.”*

According to the respondents, the consumption pattern of the petitioner premises remained consistent throughout the year. Since the meter of the petitioner premises was found to be defective from October, 2019 to January, 2020, the calculation of the short fall amount during the meter defective period was determined based on the average consumption from four consecutive months preceding the defect in accordance with Regulation 11(2) of the Supply Code. It is their contention that, since the petitioner industry is of a continuous nature, not a seasonal one, Regulation 11(5) is not applicable to the petitioner.

5.Learned counsel for the petitioner would submit that the petitioner's business is cyclical. Though the meter was found to be defective in the month of October, 2019, the meter was replaced only in the month of February, 2020. According to him, since the nature of business of the petitioner industry is cyclical, the method of assessment adopted by the respondents by invoking Regulation 11(2) of the Supply Code is not correct and according to him, the respondents ought to have made the assessment only based on Regulation 11(5) of the Supply Code, which reads as under :

> ***"11(5)*** *If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing."*

Therefore, the learned counsel would submit that, since there is difference in consumption pattern during the period of four months preceding the period in question, the average ought to have been adopted taking note of the similar consumption for consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing, which has not been done. Therefore, he prays to set aside the impugned order and to direct re-assessment.

6.Whereas, the learned Standing Counsel appearing for the respondents would submit that the Supply Code is very clear, wherein, it is stated that, if the meter is found to be defective, the quantity of electricity supplied during the period in question has to be determined only by taking the average of the electricity supplied during the preceding four months, provided that the conditions in regard to use of electricity during the said four months were not different from those which prevailed during the period in question. According to the learned counsel, during the preceding four months, there is no difference in consumption pattern. Hence, according to them, only Regulation 11(2) of the Supply Code is applicable.

7.Heard the learned counsel on either side and perused the entire materials available on record.

8.It is seen that the respondents have arrived at the average by taking into consideration the consumption during the months of June, 2019, July, 2019, August, 2019 and September, 2019, i.e., four months preceding the disputed period (October, 2019 to January, 2020). Admittedly, the meter has been replaced in February, 2020. The Consumer Ledger placed before this Court, when carefully perused, indicates that there is difference in consumption during the months June, 2019, July, 2019, August, 2019 and September, 2019. When the difference is very much, as can be seen from the Consumer Ledger, even during the four months preceding the period in question, this Court is of the view that, instead of assessing the average consumption by adopting Regulation 11(2) of the Supply Code, the respondents ought to have followed the procedure under Regulation 11(5) of the Supply Code. Once there is a difference found in the preceding four months, the next option available to the respondents is to assess as per Regulation 11(5) of the Supply Code on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing, particularly, when the petitioner clearly alleges that their business is cyclical. Instead of adopting such method, as a matter of right, the respondents cannot make an assessment on the basis of Regulation 11(2) of the Supply Code. The very purpose of assessment by adopting the method of average, is to take into consideration the entire aspects. The respondents cannot simply follow a Regulation which is beneficial to them. When the difference is very much found even among the preceding four months adopted by them, they ought to have arrived at the average as per the procedure contemplated under Regulation 11(5) of the Supply Code, which has not been done.

9.In such view of the matter, the impugned order of the 1st respondent/Electricity Ombudsman is quashed and the matter is remanded back to the 2nd respondent for re-assessment by following the procedure under Regulation 11(5) of the Supply Code. It is made clear that the petitioner has not canvassed the other points raised before the Ombudsman. The matter is remanded only for the purpose of fresh assessment by applying Regulation 11(5) of the Supply Code. Such re-assessment shall be made within a period of one month from the date of receipt of a copy of this order.

10.Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.12.2025

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Internet : Yes
Index : Yes
Speaking order : Yes
Neutral Citation : Yes

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N. SATHISH KUMAR, J.

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