



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai
Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 17 of 2024

Thiru M.S. Loganathan,
D.No. 9, Periyannan Street,
Periyamodachur,
Gobichettipalayam – 638476.

. Appellant
(Rep. by Thiru R.Praveen, Advocate)

Vs.

1. The Executive Engineer/O&M/Gobi,
Gobi Electricity Distribution Circle,
TANGEDCO,
D. No. 34, Venkatraman St,
Gobichettipalayam -638452.

2. The Assistant Executive Engineer/O&M/West/Gobi,
Gobi Electricity Distribution Circle,
TANGEDCO,
D. No. 34, Venkatraman St,
Gobichettipalayam -638452.

3. The Assistant Engineer/O&M/Pudupalayam,
Gobi Electricity Distribution Circle,
TANGEDCO,
24, Bharathi Street, Gobichettipalayam -638452.

. . . . Respondents
(Thiru B. Gunasekarapandian, EE/O&M/Gobi
Thiru M.Namasivayam, AEE/O&M/West/Gobi
Thiru B.AnandaKumar AE/O&M/Pudupalayam)

Petition Received on: 18-03-2024

Date of hearing: 08-05-2024

Date of order: 16-05-2024

The Appeal Petition received on 18.03.2024, filed by Thiru M.S. Loganathan, D.No. 9, Periyannan Street, Periyamodachur, Gobichettipalayam – 638 476 was registered as Appeal Petition No. 17 of 2024. The above appeal petition came up for hearing before the Electricity Ombudsman on 08.05.2024. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to set aside the order dt. 07.02.2024 passed by CGRF and to cancel the excess demand charges in SC No. 04-307-010-1468.

2.0 Brief History of the case:

2.1 The Appellant has prayed to cancel the excess demand charges levied in SC No. 04-307-010-1468.

2.2 The Respondent has stated that the Appellant had exceeded the sanctioned load during the month of 02/2020, hence the excess demand charges collected.

2.3 As the grievance was not resolved with the Respondent, the Appellant filed a petition with the CGRF of Gobi Electricity Distribution Circle on 14.10.2023.

2.4 The CGRF of Gobi Electricity Distribution Circle issued an order on 07.02.2024. Aggrieved by the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Gobi Electricity Distribution Circle issued its order on 07.02.2024. The relevant portion of the order is extracted below: -

“Order:

"5.1. மேற்கண்ட மனுதாரர் திரு . எம்.எஸ்.லோகநாதன் அவர்கள் நடைபெற்ற விசாரணை கூட்டத்தில் முன்னிலையானார் . மேற்கண்ட

மனுதாரர் தரப்பு வாதங்களையும் மற்றும் மின் உரிமத்தாரர்கள் அவர்களது தரப்பு வாதங்கள் , சமர்ப்பிக்கப்பட்ட ஆவணங்களையும் ஆய்வு செய்யப்பட்டது.

5.2. அதில் மனுதாரர் தன்னுடைய மின் இணைப்பில் மிகை மின்பளு பயன்படுத்தியதன் காரணமாக மாதத்திற்கு அபாரத் தொகை விதிக்கப்பட்டதாகவும், எனவே கூடுதல் மின்பளு வேண்டி (112 KW to 149 KW) 07/08/2023 அன்று விண்ணப்பித்ததாகவும், 21.09.2023 தேதியன்று மதிப்பீட்டு தொகை உட்பட அனைத்து தொகையும் செலுத்தப்பட்டும் 09/2023 மாதத்திற்கு மிகை மின்பளு காரணமாக ரூ.8,08,018.17/- அபாரத் தொகை கணக்கீடு செய்து வசூலிக்கப்பட்டதாகவும் தெரிவித்தார்.

5.3 மேலும், தமிழ்நாடு ஒழுங்குமுறை ஆணைய வழங்கல் விதிகள் 02.09.2023 தேதியிட்ட திருத்தத்தின் படி அபாரத் தொகை ரூ.1.5% விதிக்கப்பட வேண்டும். ஆனால் 3% விதித்து வசூலிக்கப்பட்டது தவறு எனவும் வாதிட்டார்.

5.4 மேலும் தன்னுடைய மின் இணைப்பிற்கு 21.09.2023 அன்றே கூடுதல் மின்பளுவிற்கான அனைத்து தொகையும் செலுத்தி விட்டதாகவும், கூடுதல் மின்பளு தாமதமாக 06.10.2023 அன்று வழங்கப்பட்டதால் 09/2023 மாதத்திற்கான மிகை மின்பளு அபாரத் தொகையை இரத்து செய்ய வேண்டும் எனவும் கோரினார்.

5.5 எதிர்மனுதாரர்கள் தன்னுடைய வாதத்தில் LT billing மென்பொருளில் TNERC திருத்தம் அமல்படுத்தாத காரணத்தால் பழைய விதிகளின் படி அபாரத் தொகை மென்பொருளில் கணக்கிடப்பட்டு, அதன் படியே அபாரத் தொகை வசூலிக்கப்பட்டதாகவும் தெரிவித்தனர்.

5.6 மேலும் மனுதாரரின் மின் இணைப்பில் கூடுதல் மின் இணைப்பு தமிழ்நாடு ஒழுங்குமுறை ஆணையத்தால் வரையறுக்கப்பட்டுள்ள காலத்திற்குள் வழங்கப்பட்டதாகவும் காலத்திற்குள் வழங்கப்பட்டதாகவும், எனவே மனுதாரரின் கோரிக்கையான 09/2023 மாதத்திற்கான மிகை மின்பளு அபாரத் தொகையை இரத்து செய்ய இயலாது எனவும் மின் உரிமத்தாரர்கள் தெரிவித்தனர்.

5.7 இரு தரப்பு வாதங்கள் மற்றும் ஆவணங்களை ஆராய்ந்ததில் 09/2023 மாதத்திற்கான கூடுதல் மின் பளு அபாரத் தொகை கணக்கிட்டது தவறு என இம்மன்றம் கருதுகிறது. அதே சமயம் கூடுதல் மின்பளு தாமதமாக வழங்கப்பட்டதால் 09/2023 அபாரத் தொகையை இரத்து செய்ய வேண்டும் என்ற கோரிக்கையை ஏற்க தமிழ்நாடு

ஒழுங்குமுறை ஆணைய விதிகளில் வழிவகை இல்லை என இம்மன்றம் கருதுகிறது.

5.8 எனவே 09/2023 மாதத்திற்காக அபராதத் தொகையை TNERC திருத்தப்பட்ட விதிகளின் படி கணக்கீட்டு, செலுத்தப்பட்டுள்ள கூடுதல் தொகையை வரும் மாதத்திற்கான மின் கட்டணத்தில் சரி செய்து கொடுக்குமாறு மின்உரிமத்தாரர்களுக்கு இம்மன்றம் உத்தரவிடுகிறது."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 08.05.2024 through video conferencing.

4.2 On behalf of the Appellant, his authorized representative Thiru R.Praveen, Advocate attended the hearing and put forth his arguments.

4.3 The Respondents Thiru B. Gunasekarapandian, EE/O&M/Gobi, Thiru M.Namasivayam, AEE/O&M/West/Gobi and Thiru B.AnandaKumar, AE/O&M/Pudupalayam of Gobi Electricity Distribution Circle attended the hearing and put forth their arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant:

5.1 The Appellant has submitted that the Appellant has an electricity connection since 25.08.2011 bearing No. 04-307-010-1468 in West/Gobi Sub-Division/Pudupalayam, Gobi Electricity Distribution Circle, Gobichettipalayam, Erode District, was used for purpose of running textile spinning mill.

5.2 The Appellant has submitted that the above said electricity connection

No. 04-307-010-1468 with Contracted Load only up to 112 (KW). So, the Appellant on 07/08/2023, taken an application for extra load on the said electricity connection for conversion service from 112 (KW) to 149 (KW), Reference No: 2000430708231078 was submitted to the Assistant Executive Engineer /West / Pudupalayam, TANGEDCO, Gobi Electricity Distribution Circle, Gobichettipalayam and paid the application fee, development fund, and proposed fees on the dates (01.09.2023 and 21.09.2023) specified by the electricity board, and obtained a receipt and only on 06.10.2023 the said service from 112 (KW) to 149 (KW) was changed by the Respondent no. 2 to 4 and his officials.

5.3 The Appellant has submitted that though the said application for change of service is pending, the Appellant was astonished to find out that the electricity board levied excess demand penalty of Rs.2,38,064.89/- and Rs.8,08,018.07/- more than the electricity consumption of his electricity connection in the monthly calculation from 26/07/2023 to 25/08/2023 and from 26/08/2023 to 29/09/2023 respectively and it is said that the Appellant was penalized for exceeding the admitted load which is 112 (KW). The Electricity Board has not notified the Appellant regarding the excess demand penalty either through notice **or any other mode of communication** as per provisions of Tamil Nadu Electricity Supply Code. The Appellant noticed that the excess demand penalty charge is paid only after paying the electricity bill.

5.4 The Appellant has further submitted that in this circumstances, the Appellant came to know about the recent amendment on Tamil Nadu Electricity Supply Code by the Tamil Nadu Electricity Regulatory Commission by Notification No. TNERC/SC/7-48, dated 02.09.2023. By verifying the said amendment the Appellant get to know that he has been excess charged even assuming that he had been excessively consumed as per the Tamil Nadu Electricity Supply Code are as follows:-

"Tamil Nadu Electricity Regulatory Commission, Chapter 2 of Tamil Nadu Electricity Supply Code, Section 5 (2) (Excess Demand Charge) (ii) -provides the

following guidelines.

(ii) In case of LT supply (which means excess consumption of electricity beyond the Contracted Load)

(C) (ii) Where the recorded demand exceeds 112 KW for every KW (or) Part there is in sanctioned demand:-

- *At the rate of 1% of the charges for electricity supplied for every KW or post thereof up to 112 KW.*
- *And at the rate of 1.5% for every KW (or) part there of over and above 112 KW for the first two occurrences.*
- *And for the third occurrence at the rate of 3% for every KW (or) part there of over and above 112 KW.*
- *• And thereafter, that is fourth and subsequent occurrences at the rate of 10% for every KW or part there of over and above 112 KW".*
- *• "The first, second, third and consequent occurrences specified in the above mean the occurrences within a period of 12 months preceding the date of regular assessment of any billing cycle. Counting of occurrences shall be begun only for the first occurrence that has taken place within the said period of 12 months irrespective of number of recurrences happened in the past before the commencement of this period"*
- *"The Licensee shall issue a notice to the consumer pursuant to the first and second occurrences of excess demand over and above the sanctioned demand, advising the consumer to control the recorded demand within the sanctioned demand. The notice shall also contain the entire terms and conditions of this sub-regulation to create awareness to the consumer and to sensitize him to take remedial measures in time."*

5.5 The Appellant further submitted that knowing this the Appellant preferred a complaint on 14.10.2023 against the excess demand penalty levied, defect in calculation of consumption and non-issuance of notice in this regard by the Respondent no. 2 to 4 and his officials before the 1st Respondent herein.

5.6 The Appellant further submitted that in partly relying on the Tamil Nadu Electricity Supply Code the ^{1st} Respondent has totally ignored this fact about the pendency of application for service change is pending since 07.08.2023 before the said Respondent No.2 to 4 and his officials were not issued any notice to the Appellant regarding the excess consumption and the excess demand penalty charges and also delayed in changing the service from 112 (KW)

to 149 (KW) and only upon the notice the Appellant may take a timely remedial measures to control the recorded demand within the sanctioned demand and avoid recurrence. Non consideration of this vital aspect has led to miscarriage of justice.

5.7 The Appellant humbly submitted that in view of specific stipulations under the pendency of application for service change and non-issuance of notice to maintain the sanctioned demand and the provisions of the Tamil Nadu Electricity Supply Code, the excess demand penalty levied by Respondent no. 2 to 4 is totally unwarranted, uncalled for and without jurisdiction. The 1st Respondent has failed to consider these aspects.

5.8 The Appellant therefore humbly prayed that the impugned order of the 1st Respondent deserves to be set aside and the excess demand penalty charges paid to the 2nd Respondent to be returned to the Appellant and the Appellant is also entitled to compensation.

5.9 The Appellant humbly submitted that the impugned order have been received by the Appellant only on 17.02.2024 and the appeal has been filed within time.

5.10 The Appellant has stated to consider the following grounds;

- The impugned order of the 1st Respondent is without jurisdiction, contrary to law, in violation of principles of natural justice and hence deserves to be set aside.
- The 1st Respondent has relied grossly erred in relying on the Tamil Nadu Electricity Supply Code, as regards non-issuance of any notice to the Appellant regarding the excess consumption and the excess demand penalty charges and also delayed in changing the service from 112 (KW) to 149 (KW), while ignoring the other provisions of the Tamil Nadu Electricity Supply Code in deciding the issue of excess demand penalty

charges.

- The Appellant further submits that in spite of complying with the direction of the Respondent no. 2 to 4 and having deposited the amount asked for, the Respondent no. 2 to 4 granted 149KW service connection only on 06.10.2023. On one hand the Respondent no. 2 to 4 kept the Appellants application of 149KW service connection from 07.08.2023 in complete violation of Section 43 of the Electricity Act, 2003 and regulation 27 of Tamil Nadu Electricity Distribution Code and regulation 6 of TNERC Distribution Standards of Performance Regulation. On the other hand the Respondent continued to levy excess demand charges on various months by alleging that the Appellant has exceeded the maximum demand of 112 KW provided of their LTCT Service No 04-307-010-1468. Such action of the Respondent no. 2 to 4 is arbitrary, illegal and able to set aside on this ground alone.
- The ^{1st} Respondent failed to see that this is a special case, where the application for service change is pending before the Respondent no. 2 to 4 since 07.08.2023.
- The ^{1st} Respondent failed to see that the existing Respondent no. 2 to 4 have power to excess demand penalty charges, when the application was pending for the same in this regard.
- The ^{1st} Respondent failed to see that, the application changing the service from 112 (KW) to 149 (KW) by the Appellant is clear that the Appellant is in need of additional electricity supply.
- The impugned order dated 07.02.2024 issued by the ^{1st} Respondent as arbitrary and contrary to section 43 of the Electricity act 2003 and regulation 27 of Tamil Nadu Electricity Distribution Code and regulation 6 of TNERC Distribution Standards of Performance Regulation.

- The 1st Respondent failed to see that excess demand penalty charges levied by the Respondent no. 2 to 4 unwarranted.
- The 1st Respondent in having rightly held that the other Respondents has in calculation of consumption was erroneous for the said period ought not to hold that there is no provision in the rules and regulations to cancel/ set-aside the excess demand penalty. Therefore the impugned order to this extent is erroneous and challenged in this appeal.
- The ^{1st} Respondent, in view of the excess demand penalty being huge ought to have directed the other Respondents to refund the same to the Appellant then the same to be set off.
- To this extent the impugned order is erroneous and liable to be set-aside and the Respondent no. 2 to 4 to be directed to return the amount illegally collected from the Appellant so far along with interest at applicable rate of interest of justice.
- This Hon'ble Ombudsman also ought to see that there was gross violation of principles of natural justice as no prior notice was issued to the Appellant by the Respondent prior to imposing the excess demand penalty as mentioned under Tamil Nadu Electricity Supply Code of the amended regulation.
- The Respondent no. 2 to 4 failed to see that in view of the factual matrix of this case, the levying of excess demand penalty charges for excess consumption would not arise and hence the same is uncalled for without jurisdiction and also deserves to be set aside.
- It is erroneous to say that the Electricity Consumer Grievance Redressal Forum has no power to issue an order of refund, the acts and regulations of electricity was enacted to provide a simpler and quicker access to redressal of consumer grievances and provides means to protect

consumers from getting cheated or harassed by suppliers. As a tribunal it has its own discretionary powers to render justice to the aggrieved costumer. With regard to the resolution of the disputes over the consumer grievances between the licensee and the consumer, the Grievance Redressal Forums or the Ombudsman alone is a competent authority to deal with the grievances of the consumers and get their grievances redressed.

- Then the question arises how a consumer will seek protection? The answer is the Electricity Act and the Regulations has provided a machinery whereby consumers can file their complaints which will be entertained by the Consumer Forums here it is the ^{1st} Respondent with special powers so that action can be taken against erring suppliers and the possible compensation may be awarded to consumer for the hardships he has undergone.
- Even assuming that the ^{1st} Respondent has no such power this Hon'ble Ombudsman has powers to pass an award or order of refund and for any consequential loss suffered by the Appellant, the Ombudsman shall have the power to provide a compensation for the loss of the Appellant's time, expenses incurred and for harassment/ mental anguish suffered by the Appellant.
- The ^{1st} Respondent ought not to direct the other Respondents to set off/ adjustment of the excess demand penalty amount collected illegally from the Appellant and in violation of the principle of natural justice and ought to have directed it repayment to the Appellant with suitable interest.
- The ^{1st} Respondent ought to see that irrespective of rules and regulation it being a tribunal has inherent power to direct repayment of excess demand penalty amount collated illegally by the other Respondents from the Appellant. Therefore failure to do so has resulted in gross injustice to be done to the Appellant is amounting to miscarriage of justice.
- The act of the 1st Respondent in failure to excise his jurisdictional powers and direct the refund of the excess demand penalty illegally collated by the other Respondents to the Appellant amounts to failure of justice warranting interference by this Hon'ble Ombudsman.

- The 1st Respondent in having rightly held that the other Respondents has grossly erred in calculation of consumption of the Appellant and that the amended regulation rule 5 sub rule 2 has not been followed ought to have directed refund of the amount illegally collected as excess demand penalty as the imposing and collection of the same being contrary to and in violation of the said regulation. Failure to do so has resulted in gross injustice be held to the Appellant and it against the interest of justice.
- Despite the Consumer Grievance Redressal Forum Regulations has a provision for remedy by a way of settlement by agreement through conciliation and mediation. The forum the 1st Respondent have not given this opportunity to the Appellant.
- The Appellants crave leave of this Hon'ble Ombudsman to raise additional grounds and if there is any inadequacy in the filing of the appeal, it may be brought to our attention so that we can rectify it in the interests of justice.
- The Appellant humbly prayed to set-aside the Order dt.07.02.2024, passed in M.P. No. CGRF/035/2023, dated 25.10.2023 on the file of the Consumer Grievance Redressal Forum, Gobichettipalayam the 1st Respondent herein to the extent its holds that there is no provision in the rules and regulations to cancel the excess demand charges illegally levied towards the alleged excess consumption of over and above the sanctioned demand of 112 KW in SC No. No. 04-307-010-1468 for the period from 26/07/2023 to 25/08/2023 and consequently direct other Respondents to refund of amount illegally collected from the Appellant so far along with interest at applicable rate from the date of payment and till the date of refund and also award compensation for the loss of the Appellant's time, expenses incurred and for harassment/mental anguish suffered by the Appellant and to allow this appeal and pass such further or other orders as this Hon'ble Ombudsman may deem fit and proper in the facts and

circumstances of the case and thus render justice.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the Appellant had availed an electricity connection No.04-307-010-1468/ TF IIB having a sanctioned load of 111.28KW from 25.08.2011 for the purpose of Textile Industry.

6.2 The Respondent has submitted that the Appellant had exceeded the sanctioned load of 111.28 KW in to 112.16 KW during the month of 02/2020 assessment and the excess demand charges of Rs.10711.71 was collected from the Appellant on 12.03.2020.

6.3 The Respondent has submitted that the TNERC's Tamil Nadu Electricity supply code Chapter 2, Clause 5, Section 2 (IB) (Excess demand charges) read as follows:-

“Where the recorded demand exceeds 112KW, for every KW (or) Part thereof in excess sanctioned demand.

** at the rate of 1% of charges of electricity supplied for every KW on part of there of up to 112 KW.*

**and at the rate of 1.5% for every KW on part there of over and above 112 KW for the first two occurrences.*

**and for the third occurrences at the rate of 3% for every KW or part there of over and above 112 KW.*

**and thereafter, that is fourth and subsequent occurrences at the rate of 10% for every KW (or) part thereof over and above 112 KW” .*

The Appellant exceeded the sanctioned load in the above LT service during 2/2020 assessment, which was the First occurrence and the penalty had worked out at the rate of 1.5% of charges of electricity supplied for every KW, i.e.2KW and the amount was collected from the Appellant.

6.4 The Respondent has submitted that in the above LT service connection, during the month of 08/2023 assessment, the Appellant had exceeded the sanctioned load of 112 KW in to 138.2 KW and it was the Second occurrence. Hence, the excess demand charges was worked as per TNERC's, supply code, clause 5(2(IB)), at the rate of 1.5% electricity supplied for every KW, i.e.27KW and

the amount was worked out in to Rs.2,38,064.89/- and the Appellant had remitted the amount along with CC charges on 14.09.2023.

6.5 The Respondent has submitted that in the above LT service connection during the assessment for the month of 09/2023, the MD has recorded as 145.28 KW instead of 112 KW and the Appellant had exceeded the demand and it was Third occurrence. Hence, the excess demand charges was worked as per TNERC's, supply code, clause 5(2(11)), at the rate of 3.0% electricity supplied for every KW, ie.34KW and the amount was worked out in to Rs. 8,08,018.07/- and the Appellant had remitted the amount along with the CC charges.

6.6 The Respondent has submitted that in the above LT service connection, the readings were taken from 26.07.2023 to 25.08.2023 for 08/2023 assessment on 25.08.2023 and from 26.08.2023 to 29.09.2023 for 09/2023 assessment on 29.09.2023 respectively and the assessment was made through "Mobile Application". Once the readings were downloaded from the meter through this 'Application' the billing parameters automatically generated and sent to the consumer's mobile number linked in the above LT service. The Appellant is able to download the billing parameters and the bill on the reading date itself.

6.7 The Respondent has contended that in the above LT service connection the Appellant made the payment for the month of 08/2023 and 09/2023 through online, the online generated bill having the split up details for payment such as CC Charges, E Tax, FC and Excess Demand Charges Etc. Hence the Appellant knew very well about excess demand charges levied in the above LT Service connection. Hence separate intimation was not necessary.

6.8 The Respondent has submitted that the Appellant knew very well that the sanctioned load of the above LT service connection is not adequate for the total connected load of the Appellant's Textile Industry and applied for an additional load of 37KW and registered an application vide Regn. No.2000430708231078 on 07.08.2023 through online. While verifying the status of the application it was found that the acknowledgement issued and demand raised (Application Registration fees-

Rs.205/-,EMD for Industrial SC- Rs.34040/-, Development charges Rs.72665/-, Testing Fees Rs.155/-,CGST- 32.40,SGST-32.40/-) on 07.08.2023 and pending for Registration payment. The application was kept pending for more than 25 days and the Appellant had remitted the Registration fees and other charges only on 01.09.2023. The Application was registered only on 01.09.2023 and after that it was processed for verification of documents and dues if any to be collected from the Appellant.

6.9 The Respondent has submitted that TNERC's, Tamil Nadu Electricity Supply code Chapter- 2,Clause: 3, Section 1 read as follows:-

- 1) "Supply of Electricity shall be availed by the consumer under following categories:-
 - a) Single phase 2 wire 240 volts between phase and neutral for supply to a total connected load not exceeding 4000 watts(including Power loads);
 - b) Three phase 4 wire 415 volts, between phases, and 240 volts between phase and neutral for supply to a total connected load exceeding 4000Watts but not exceeding a demand of 150 KW.
 - c) Provided that for a consumer requiring a sanctioned demand above 112 KW but below (or) up to 150 KW, availing of supply shall be subject to the following conditions:
 - i. Space for erection of Distribution Transformer by the licensee shall be provided by the consumer free of cost and such space for erecting Distribution Transformer shall either be provided with in the consumer's premises (or) in a private land within a radius of 50 meters from the consumers premises. The site provided for erection of Distribution Transformer should have free access for inspection and maintenance.
 - ii. Where possible, the licensee may erect a single pole Distribution Transformer in the consumer's premises with separate mounting arrangement that can support and hold the Distribution Transformer like providing a stud/ plinth or concrete pillar like arrangement etc. Works for mounting arrangements shall be carried by the consumer at consumer's cost.
 - iii. Installation of Distribution Transformer with associated equipments/accessories viz. AB switch, HG fuse, DT structure / Poles shall be carried out by the Licensee at Licensee's cost.
 - iv. The cost of installation works from the Distribution Transformer to the Consumer's meter, portion of any HT line with in the consumer's premises when the Distribution Transformer is erected inside the consumer's premises shall be borne by the consumer. Works of erection of OH lines/ laying of cables, equipments/accessories necessary for supply of electricity to the consumer's premises may be carried out in compliance of safety norms notified by the Authority and by the Commission, and other relevant regulations of the Distribution code.

- v. The fixed / demand charges of electricity for the sanctioned demand shall be at the rate applicable to the relevant HT category of service notified in the Commission's Tariff orders issued from time to time, that is to say, the rate notified per KVA shall be applied on per KW basis without any conversion of the sanctioned demand in KW to KVA. To illustrate, for a sanctioned demand of 130KW, the fixed/demand charges shall be 130 multiplied by (Rs.350/-) demand charges applicable per KVA for the HT category. The energy charges shall be the applicable LT Tariff rate notified in the Commission's tariff orders. The losses in the Distribution Transformer shall be borne by these consumers of the LT category as per the formula prescribed in sub-regulation (7) of regulation 7 of this code.

Explanation:-

- i) Existing consumers i.e.LT consumers prior to the notification of the amendment in the Government Gazette which is the effective date of coming in to force of this regulation, whose demand exceeds 112KW but less than or equal to 150KW or who require additional demand over and above 112KW may opt to avail supply under LT Category subject to the above conditions in the above provisions to clause (b) of this sub-regulation. Existing LT Consumers whose demand exceeds 112KW who do not opt to avail supply as per the conditions in the provisions to clause(b) of the sub-regulation shall pay excess demand charges in accordance to clause (ii)(c) I in sub-regulation (2) of Regulation 5 of this code.
- ii) New consumers who require demand above 112KW but less than or equal to 150KW and who are unable to comply with the conditions in the provision to clause(b) of this sub regulation shall obtain supply under HT category. This is also applicable for existing consumers with sanctioned demand of 112KW and below who require additional demand over and above 112KW.

6.10 The Respondent has submitted that the sanctioned load of the above service connection is 112KW and after including the additional load of 37KW, total load is 149 KW and the Appellant opt to avail the supply under LT category. Hence as per Tamil Nadu Electricity supply code clause (3), Section (1)(b), The Appellant had provide a space for erection of Distribution Transformer inside the Appellant's premises. The estimate was prepared, sanctioned and the sanctioned estimate (Sanction, No. 626/E2/031/23- 24,Dt. 20.09.2023) involves the following works:

- i. 0.110 KM, Extension of new HT,11KV 3-Phase 3wire line with ACSR 7/3.15mm conductor (5 Pole Extension)
- ii. 0.022KM, Extension of new LT, 3-Phase, 4wire line with guarding.

- iii. Erection of new Distribution Transformer structure with 250 KVA/11KV Distribution Transformer.
- iv. Existing 200/5A LT.CT coil is propose to be replaced by 300/5 LT.CT coil.

The Appellant had made payment of Rs.2,76,375/- on 21.09.2023 towards Meter Caution Deposit and estimate charges.

6.11 The Respondent has submitted that the Tamil Nadu Electricity Regulatory Commission Tamil Nadu Electricity Distribution Standards of Performance Regulation (Notification No. TNERC/SPR/9/1/dt.21.07.2004 chapter 2 Distribution Standards of Performance Clause 4. (Duties of the Licensee to supply on Request) read as follows:

"Section 43 of the Act deals with duty to supply and read as below:

"43. (1) Every distribution licensee, shall, on an application by the owner or occupier of any premise, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or with in such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

2) It shall be the duty of every distribution licensee to provide if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

3) If a distribution licensee fails to supply the electricity with in the period specified in sub-section(1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."

The licensee shall endeavor to give supply within a week but not exceeding 30days wherever no extension or improvement works are involved in giving supply.

The Licensee shall observe the following time schedule for supply of electricity involving of distribution lines etc.,

<i>Category</i>	<i>Time Schedule for LT</i>
<i>a) Involving no extension or improvement work.</i>	<i>Preferably within a week but not exceeding 30 days.</i>
<i>b) Involving extension and improvement without Distribution Transformer</i>	<i>60 days.</i>
<i>c) Involving extension and improvement with Distribution Transformer</i>	<i>90 days</i>

- i. The Licensee shall issue advice slip / notice / letter indicating the prescribed charges payable with proper acknowledgement.*
- ii. The Consumer shall remit the above charges within the stipulated period but not exceeding fifteen days from the date of receipt of advice slip/notice/letter.*
- iii. In exceptional / deserving cases, permission may be granted by the respective Chief Engineer and Superintending Engineer or the person designated for this purpose by the Licensee for remittance of charges by the Consumer beyond the prescribed fifteen days for HT/EHT and LT services respectively.*
- iv. The time taken by the consumer to remit the prescribed charges from the date of receipt of demand notice will not be covered in the above time schedule.*
- v. The time schedule is also applicable for additional loads.*

6.12 The Respondent has submitted that the Appellant had paid the registration charges and the application was registered on 01.09.2023, Estimate charges were remitted on 21.09.2023. The HT and LT Extension works and Distribution Transformer structure works were completed and the additional load was effected to the above LT service connection on 06.10.2023. The additional load was effected to the above LT service connection with in 36 days from the date of registration of application where as in Distribution Standards Of Performance, the time schedule for supply of electricity involving extension and Improvement with Distribution Transformer is 90 days. Hence the additional load was effected to the above service connection well in advance.

6.13 The Respondent has submitted that the TNERC's Tamil Nadu Electricity Distribution code, chapter 6, clause 42 read as follows "Knowledge of acts, rules, regulations, orders etc.... Subject to the provisions contained in note 1 to sub-regulations (13) of regulation 29, the consumer will be deemed to have full

knowledge of the provisions of applicable acts, rules and all regulations, notifications" made there under. The consumer shall act in due conformity with all the applicable acts, rules and all regulations and notification mentioned above. The Appellant is an Industrialist and running the Textile Industry, Should know and update the rules and regulations framed by the Tamil Nadu Electricity Regulatory Commission from time to time is mandatory.

6.14 The Respondent has submitted that the Appellant registered an additional load application through on line vide application no. 2000430708231078 on 07.08.2023. After registration application the Appellant not remitted the application registration and charges with in time and not following the Tamil Nadu Electricity Supply code Chapter- 2, clause(3)section (1)(b) for regularizing the load above112 KW and up to 150KW. But the Appellant continuously running the machineries and exceeded the demand continuously during the billing cycle is not acceptable and Appellant is entitled to pay the Excess demand charges for not following the regulations is mandatory.

6.15 The Respondent has submitted that the recent amendment on Tamil Nadu Electricity Supply Code by the Tamil Nadu Regulatory Commission by Notification No. TNERC/SC/7-48, Dated 02.09.2023 read as follows:

"Tamil Nadu Electricity Regulation chapter 2 of Tamil Nadu Electricity Supply Code, Section 5(2), Excess demand charges provides following guide lines.

Where the recorded demand exceeds 112KW for every KW (or) part there is in sanctioned demand.

- At the rate of 1% of the charges for electricity supplied for every KW (or) part thereof up to 112KW*
- And at the rate of 1.5% for every KW (or) part thereof over and above 112KW for the first two occurrences.*
- And for the third occurrence at the rate of 3% for every KW (or) part thereof over and above 112KW*
- And there after that is fourth and subsequent occurrences at the rate of 10% for every KW (o) part thereof and above 112KW.*

The first, Second, Third and consequent occurrence specified in the above mean the occurrences with in a period of 12 months preceding the date of regular assessment of any billing cycle. Counting of occurrences shall begin only for the first occurrence

that has taken place within the said period of 12 months in respective of number of recurrences happened in the past before the commencement of this period.

6.16 The Respondent has submitted that the in the above LT Service connection, the MD had exceeded prior to the amendment on Tamil Nadu Electricity Supply Code by the Tamil Nadu Regulatory Commission by Notification No. TNERC/SC/7-48, Dated 02.09.2023 and the details as follows:-

- "First occurrence during 2/2020 assessment 23.01.2020 to 24.02.2020.
- Second occurrence during 08/2023 assessment-24.07.2023 to 25.08.2023.
- Third occurrence during 09/2023 assessment-25.08.2023 to 29.09.2023."

6.17 The Respondent has submitted that based on the Tamil Nadu Regulatory Commission Notification dated.02.09.2023, the Appellant had requested to with draw the excess demand charges levied for the above assessment periods. Hence as requested by Appellant and as per the orders CGRF, the excess demand charges had been revised for the month 09/2023 as follows (Calculation sheet enclosed)

09/2023 Assessment Period - 25.08.2023 to 29.09.2023.

Excess MD penalty:

At the rate of 3% for the period from 25.08.2023 to 02.09.2023	} -25315.11 units : Rs.207778.00
At the rate of 1.5% for the period from 03.09.2023 to 29.09.2023	-73132.54 units : <u>Rs.300121.00</u> <u>Rs.507899.00</u>

Excess demand charges already levied	}	:Rs.808018.17
Excess demand charges to be levied as Per the Revised TNERC Regulations Notification dt: 02.09.2023		: <u>Rs.507899.00</u>
To be adjusted		: <u>Rs.300119.17</u>

Hence excess demand charges of Rs.300119/- had been adjusted during the 01/2024 assessment as per the TNERC's Notification No. in TNERC/SC/7-48, Dated

02.09.2023 amendments in Tamil Nadu Electricity Supply Code. Hence as per the recent amendment's of Hon'ble TNERC, the excess demand charges already collected from the Appellant was revised and excessively collected amount was refunded to the Appellant thro' adjustment in 01/2024 CC bill.

6.18 The Respondent has submitted that Tamil Nadu Electricity Regulatory Commission, Tamil Nadu Electricity Supply Code, Clause 17 Read as follows:-

"Every consumer shall pay the licensee from the date of commencement of supply till the agreement is terminated, Security deposit, Monthly minimum charges, Fixed charges if any and other charges as provided in the Tariff order, this code and any other order in this regard by the commission from the time to time."

Hence, the Appellant is entitled to pay the excess demand charges as per the Tamil Nadu Electricity Supply Code, Clause 5 (2). Hence, the Respondent 2 to 4 have received the additional load applications from the Appellant and after observing all formalities the additional load was effected within 90 days as the time schedule prescribed by the Hon'ble Tamil Nadu Electricity Regulatory Commission.

6.19 The Respondent has submitted that as CC bill for the month of 08/2023 and 09/2023 assessment was generated in the LT billing software as per the TNERC regulation in force prior to the amendments in Tamil Nadu Electricity Supply code (TNERC's Notification No.TNERC/SC/7-48, Dated: 02.09.2023) because the software not programmed till the date of generation of bill for the month of 09/2023 assessment.

6.20 The Respondent has submitted that the Appellant has liable to pay the excess demand charges as per the original assessment and the Appellant become eligible for refund only from the Hon'ble TNERC amendment dated 02.09.2023.

6.21 The Respondent has submitted that as per Tamil Nadu Electricity Regulatory Commission, Tamil Nadu Electricity Supply code, Chapter 2, clause 5, Section 2 (b) (iii) (B) read as follows:

"(B) In case the recorded demand has exceeded 112KW but less than or equal to 150KW, the existing load sanction shall be revised up to the level of maximum recorded demand subject to acceptance of the conditions in the proviso to clause (b)

of sub-regulation (1) of regulation 3 on payment of all relevant charges applicable. If, however the consumer does not opt to switch over to LT category limit of 150KW under the proviso to clause (b) of sub-regulation (1) of regulation 3, the existing load sanction shall, after intimation to the consumer, be revised within one month of the second occurrence, to the level of 112KW and all relevant charges applicable to the additional load shall be included in the next bill; For the third and subsequent occurrences of record demand exceeding the sanctioned demand of 112KW the licensee shall issue one month's notice for conversion of LT service to HT service Indicating relevant charges to be paid for a HT service connection for the level of recorded demand.”

6.22 The Respondent has contended that in the above LTCT service connection, the Appellant applied and registered an additional load application on 07.08.2023, before exceeding the demand as second time. The Appellant had paid the registration and other charges for additional load only after ensuring that the demand had exceeded in the above service as second time. Hence at the time of second occurrence, the Appellant had made the payment of registration and other charges pertaining to the additional load and register the application through "ON LINE". Hence a separate intimation was not given to the Appellant for regularization of the additional load in the above LT service connection.

6.23 The Respondent has stated that the contention of the Appellant that as application for additional load has been submitted on 07.08.2023, hence excess demand charges should not be levied is not acceptable. The Appellant had exceeded the sanctioned load in the above LT service connection himself without regularizing the additional load is violation and not following the agreement at the time of availing the service connection. The Appellant has liable to pay the excess demand charges till the date of effecting of an additional demand. Further the Respondents would submit that the additional load to the above LT service connection was effected 36 days from the date of registration of application where as the time limit as specified as per TNERC, Distribution Standard of Performance is 90days.

6.24 The Respondent has submitted that the TNEB / Tamil Nadu Generation and Distribution Corporation is a Public sector. If such dues amount is not recoverable,

the Board / Corporation put to much hardship and irreparable loss. Under the circumstances stated above, it is prayed to dismiss the appeal petition AP.No.17 of 2024 and render the justice.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and Respondent. Based on the arguments and documents submitted by them, the following is the issue to be decided.

Whether the Appellant's contentions are valid, stating that in spite of submission of additional load applications on 07-08-2023, which was currently pending, the action of Respondent's for having claimed the excess demand penalty was justified and prayed that the excess demand penalty charges paid by him be set aside and refunded. Is this request feasible?

Based on the above claim I have to first find whether excess demand had been taken place over the sanctioned demand or not and to decide the other claim of effecting additional demand applications.

7.2 The Appellant's electricity connection No. 04-307-010-1468 is used for the purpose of running textile spinning mill. The Appellant further stated that his service connection was sanctioned with contract load only up to 112 (KW). The Appellant stated that on 07/08/2023 he had applied for extra load on the said electricity connection for conversion of service from 112 (KW) to 149 (KW).

7.3 The Appellant further mentioned that he had paid the application fee, development fund and proposed fees on the dates of 01.09.2023 and 21.09.2023 and availed additional load on 06.10.2023 from 112 (KW) to 149 (KW) The Appellant has argued that though the application for change of service was pending, he was astonished to find out that the electricity board levied excess demand penalty of Rs.2,38,064.89 and Rs.8,08,018.07 more than the electricity consumption of his electricity connection in the monthly calculation from 26/07/2023 to 25/08/2023 and from 26/08/2023 to 29/09/2023 respectively and was penalized for exceeding the admitted load which is 112 (KW). The

Electricity Board has not notified the Appellant regarding the excess demand penalty through notice as per provisions of Tamil Nadu Electricity Supply Code. The Appellant stated that he had later only noticed the excess demand penalty charge was paid by him after paying the electricity bill.

7.4 The Appellant further submitted that in partly relying on the Tamil Nadu Electricity Supply Code the ^{1st} Respondent has totally ignored this fact about the pendency of application for service change since 07.08.2023 before the said the Respondent No.2 to 4 and his officials were not issued any notice to the Appellant regarding the excess consumption and the excess demand penalty charges and also delayed in changing the service from 112 (KW) to 149 (KW) and only upon the notice from the Respondent, he may take a remedial measures to control the recorded demand within the sanctioned demand and avoid recurrence.

7.5 The Appellant submitted that in view of specific stipulations under the pendency of application for service change and non-issuance of notice to maintain the sanctioned demand and the provisions of the Tamil Nadu Electricity Supply Code, the excess demand penalty levied by Respondent no. 2 to 4 is totally unwarranted, uncalled for and without jurisdiction.

7.6 The Appellant further submits that in spite of complying with the direction of the Respondent no. 2 to 4 and having deposited the amount asked for, the Respondent no. 2 to 4 granted 149KW service connection only on 06.10.2023. On one hand the Respondent no. 2 to 4 kept the Appellants application of 149KW service connection from 07.08.2023 in complete violation of Section 43 of the Electricity Act, 2003 and regulation 27 of Tamil Nadu Electricity Distribution Code and regulation 6 of TNERC Distribution Standards of Performance Regulation. On the other hand the Respondent continued to levy excess demand charges on various months by alleging that the Appellant has exceeded the maximum demand of 112 KW provided of their LTCT Service No 04-307-010-1468.

7.7 The Appellant therefore prayed that the impugned order of the 1st Respondent

deserves to be set aside and the excess demand penalty charges paid to the 2nd Respondent to be returned to the Appellant and the Appellant is also entitled to compensation and requested to direct other Respondents to refund of amount illegally collected from the Appellant so far along with interest at applicable rate from the date of payment and till the date of refund and also award compensation for the loss of the Appellant's time, expenses incurred and for harassment/mental anguish suffered by the Appellant.

7.8 The Respondent has informed that the TNERC's Tamil Nadu Electricity supply code Chapter 2, Clause 5, Section 2 (IB) (Excess demand charges) read as follows:-

“Where the recorded demand exceeds 112KW, for every KW (or) Part thereof in excess sanctioned demand.

** at the rate of 1% of charges of electricity supplied for every KW on part of there of up to 112 KW.*

**and at the rate of 1.5% for every KW on part there of over and above 112 KW for the first two occurrences.*

**and for the third occurrences at the rate of 3% for every KW or part there of over and above 112 KW.*

**and thereafter, that is fourth and subsequent occurrences at the rate of 10% for every KW (or) part thereof over and above 112 KW” .*

7.9 The Respondent has submitted that the Appellant had exceeded the sanctioned load of 111.28 KW into 112.16 KW during the month of 02/2020 assessment and the excess demand charges of Rs.10711.71 was collected from the Appellant. During the hearing Respondent informed that the above occurrence had occurred during 02/2020, the Appellant had paid the amount without any dispute and accepted the excess demand penalty charges.

7.10 The Respondent has submitted that in the above LT service connection, during the month of 08/2023 assessment, the Appellant had exceeded the sanctioned load of 112 KW into 138.2 KW and it was the Second occurrence. Hence, the excess demand charges was worked as per TNERC's supply code, clause 5(2), at the rate of 1.5% electricity supplied for every KW, i.e.27KW and the amount was worked out in to Rs.2,38,064.89 and the Appellant had remitted the amount along with CC charges on 14.09.2023.

7.11 The Respondent also stated that in the above LT service connection during the assessment for the month of 9/2023, the MD has recorded as 145.28 KW instead of 112 KW and the Appellant had exceeded the demand and it was Third occurrence. Hence, the excess demand charges was worked as per TNERC's, supply code, clause 5(2), at the rate of 3.0% electricity supplied for every KW, ie.34 KW and the amount was worked out in to Rs. 8,08,018.07 and the Appellant had remitted the amount along with the CC charges on 19.10.2020.

7.12 The Respondent has submitted that in the above LT service connection, the readings were taken from 26.07.2023 to 25.08.2023 for 08/2023 assessment on 25.08.2023 and from 26.08.2023 to 29.09.2023 for 09/2023 assessment on 29.09.2023 respectively and the assessment was made through "Mobile Application". Once the readings were downloaded from the meter through this 'Application' the billing parameters automatically generated and sent to the consumer's mobile number linked in the above LT service. The Appellant is able to download the billing parameters and the bill on the reading date itself.

7.13 The Respondent has contended that in the above LT service connection the Appellant made the payment for the month of 08/2023 and 09/2023 through online, the online generated bill having the split up details for payment such as CC Charges, E Tax, FC and Excess Demand Charges Etc. Hence the Appellant knew very well about excess demand charges levied in the above LT Service connection

7.14 The Respondent enclosed the copy of the bill issued to the Appellant which shows the details of bills particulars such as Energy charges, Fixed charges, Excess Demand Penalty, LPF compensation, Welding surcharges, E.Tax and CC Bill along with other parameters for both 08/2023 & 09/2023 .

7.15 From the forgoing paras, it was noticed that the sanctioned load of the Appellant was effected on 25-08-2011 with a load of 111.28 KW under Tariff IIIB.

7.16 The Appellant had exceeded the sanctioned demand of 111.28 KW to 112.16 KW during the billing period 02/2020 and had paid the excess demand charges of Rs.10711.11 on 12-03-2020.

7.17 Subsequent to this the Appellant has exceeded the sanctioned demand during the billing cycle on 08/2023 for the billing period of 24-07-2023 to 25-08-2023 to 138.32 KW. As the Appellant had been registered with Mobile and his service assessment was made through Mobile applications, the billing parameters automatically generated by this application. The proof for the automated generation of bill by the Respondent on 25-08-2023 which clearly furnished the details of excess M.D charges for the month 08/2023 to the Appellant. Based on this automated generation bill, the Appellant paid the same through on line on 14-09-2023.

7.18 The proof for the automated generation of bill by the Respondent on 25-08-2023 to 29-09-2023 bill dated 29-09-2023 which clearly exhibit the details of excess M.D and penalty charges for the month 09/2023 to the Appellant. Based on this automated generation bill, the Appellant paid the same through on line on 19-10-2023.

7.19 As per the TNERC supply code regulation notified vide TNE supply code vide notification TNERC/SC/7-42, dt 27-06-2020 with effect from 17-07-2020 is produced below;

“14 A . Notice to consumers under automated meter reading system-

Notwithstanding anything contained in regulations 5, 8, 13, 14 and 16 of this code or any provision in the Distribution Code, wherever the Licensee implements, automated meter reading system through Automatic Meter Reading (AMR) Technology/Advanced Metering Infrastructure (AMI) Technology using smart meters / any other modern technology using smart meter, the billing details such as, Electricity Consumption, Consumption charges for electricity, the due date of payment, demand for additional Security Deposit, any other demand/information, etc., shall be communicated through email or SMS or Mobile App or any other electronic mode adopted by the TANGEDCO with prior intimation to the Commission and such communication shall be deemed to be the notice issued for such purposes.”

7.20 Also as per revised regulation 14 A vide notification No TNERC /SC7-48 dt 02-09-2023;

“14A Notice to consumers under automated meter reading system-

Notwithstanding anything contained in regulations 5, 8, 13, 14 and 16 of this code or any provision in the Distribution Code, wherever the Licensee implements automated meter reading system through Automated Meter Reading (AMR) Technology / Advanced Metering Infrastructure (AMI) Technology using smart meters/any other modern technology using smart meter or computerized billing, the billing details such as, Electricity Consumption, consumption charges for electricity, the due date of payment, demand for additional Security Deposit, tamper indications if displaced, any other demand/information etc., shall be communicated through e-mail or SMS to the registered mobile number/e-mail id or any other electronic mode adopted by the Licensee with prior intimation to the Commission and such communication shall be deemed to be the notice issued for such purposes.”

7.21 From the above it is noticed that the Excess demand penalty charges was informed by electronic mode to the consumers. Therefore, it was found that the Appellant has been informed as per the above provisions through the mobile application where the billing parameters including excess demand have been sent to the consumer mobile number.

7.22 Hence the claim of the Appellant that he was not informed excess demand and corresponding penalty charges for 08/2023 & 09/2023 was rejected. Further as per TNERC Supply Code Regulations 17 - Agreement with respect to supply: Issues on recovery of charges is discussed below;

“17. Agreement with respect to supply: Issues on recovery of charges

(1) Every consumer shall pay to the Licensee, from the date of commencement of supply till the agreement is terminated, security deposit, minimum monthly charges, fixed charges, if any, and other charges as provided in the Tariff Orders, this Code and any other orders in this regard by the Commission, from time to time. However, any consumer, who has not availed of reconnection even after the expiry of termination of agreement period, the monthly minimum charges (may be limited to the date of disconnection) shall be payable upto the date of termination of such agreement.”

7.23 The plain reading of the above regulation one would understand that any consumer shall pay to the licensee the penalty demand charges as long as the agreement is in existence. Also during the hearing the Appellant has not denied the usage of Excess demand but argued he was not informed. But as per the earlier

finding it was established that the Appellant was very well informed through auto generated bill. Further during the hearing the Appellant was asked whether he had any doubt over Meter and had made any efforts to challenge the meter recording. The Respondent informed that the meter in service is still intact and the Appellant never challenged the Meter for wrong recording. The above fact was accepted by the Appellant. More so it has to be noted that the Appellant had submitted additional load applications during 07-08-2023 for a load of 37 KW. The arguments of the Respondent that additional connected load machineries/equipments might be inadvertently used by him in his existing service connection during the billing period of 08/2023 & 09/2023 also to be noted. It was found that the Appellant was informed on Mobile applications auto generated bills on usage of excess demand over the sanctioned demand . Hence the arguments of the Appellant to set aside the penalty charges on usage of excess demand does not found merit.

7.24 Further the Appellant had paid the excess amount during 09/2023 for the assessment period 25-08-2023 to 20-09-2023 for the recorded demand of 145.28 KW instead of 112 KW. As the Appellant had exceeded the demand and it was claimed by the Respondent that this occurrence was third occurrence by counting 02/2020 as first 08/2023 as second and 09/2023 third occurrence. Hence, the excess demand charges was worked by the Respondent as per TNERC's, supply code, clause 5(2), at the rate of 3.0% electricity supplied for every KW, ie.34KW and the amount was worked out in to Rs. 8,08,018.07 for third occurrence and the Appellant had remitted the amount along with the CC charges.

7.25 But during the billing period of 25-08-2023 to 20-09-2023 TNERC has issued an amendments vide notification No TNERC /SC7-48 dt. 02-09-2023. Based on the notification the Appellant contented that by verifying with the said amendment the Appellant get to know that he has been charged excessively even assuming that he had been excessively consumed. Based on the arguments put forth before the CGRF, the CGRF concurred the action of the Respondent for claiming the levy on excess demand charges for 02/2020, 08/2023 & 09/2023 but directed the Respondent to revise the penalty charges from 3% to the amended penalty charges

during 09/2023 subsequent to the issue of the amendments vide notification No TNERC /SC7-48 dt 02-09-2023 which is reproduced below;

“(2) Excess demand charge:

Whenever the consumer exceeds the sanctioned demand, excess demand charge shall be:—

(i) In the case of HT supply, the maximum demand charges for any month shall be based on the kVA demand recorded in that month or such percentage of sanctioned demand as may be declared by the Commission from time to time whichever is higher. The exceeded demand shall alone be charged at double the normal rate.

(ii) In case of LT supply,

(a) The excess demand charges shall be applicable to the consumers other than domestic and agricultural categories.

(b) The demand recorded in services of domestic category shall be assessed during regular assessment. In case the recorded demand exceeds the sanctioned demand for the third time within a period of 12 months preceding the date of regular assessment of any billing cycle, the same shall be regularized as specified in the following explanation.

(c) For all services covered under the scope of regulation of excess demand, the Licensee shall install meters with demand recording facility. No excess demand charge is leviable till such time the Licensee installs meter with demand recording facility.

(d) The excess demand charges to the applicable category of consumers shall be at the rate of percentage of ‘total energy charges’ for every kW or part thereof over and above the sanctioned demand, as tabulated below.

<i>Sanctioned Demand</i>	<i>Recorded demand over and above the sanctioned demand</i>	<i>First occurrence</i>	<i>Second occurrence</i>	<i>Third occurrence</i>	<i>Subsequent occurrences</i>
<i>Upto 112 kw</i>	<i>Upto 112 kw</i>	<i>1%</i>	<i>1%</i>	<i>1%</i>	<i>Should have been regularised on 3^d occurrence</i>
<i>Upto 112 kw</i>	<i>Above 112kw & upto 150 kw</i>	<i>1.5%</i>	<i>1.5%</i>	<i>3%</i>	<i>Should have been regularised on 3^d occurrence and all the conditions stipulated under Supply Code regulation 3(1)(b) shall be applicable.</i>
<i>Above 112 kw & upto 150 kw</i>	<i>Above 150 kw</i>	<i>1%</i>	<i>1.5%</i>	<i>3%</i>	<i>10% (until HT service is availed)</i>

The plain reading of the above, it is understood that if any consumer who had sanctioned load upto 112 KW exceeds the demand above 112 KW and upto 150 KW shall pay the excess demand charges as follows

- at the rate of 1.5% for every KW (or) part thereof over and above 112KW for the first two occurrences.

- and for the third occurrence at the rate of 3% for every KW (or) part thereof over and above 112KW
- And should have been regularised on 3rd occurrence and all the conditions stipulated under supply code regulations 3(1)(b) shall be applicable
- The first, Second, Third and consequent occurrence specified in the above mean the occurrences with in a period of 12 months preceding the date of regular assessment of any billing cycle. Counting of occurrences shall begin only for the first occurrence that has taken place within the said period of 12 months irrespective of number of recurrences happened in the past before the commencement of this period.”

7.26 The Respondent during 09/2023 billing period ie for the assessment period 25-08-2023 to 20-09-2023 had noticed that the recorded demand was 145.28 KW instead of 112 KW as third occurrence. Hence the Respondent commuted penalty on excess demand at the rate of 3%. Accordingly the amount was worked out to Rs. 8,08,018.07 and the Appellant remitted the amount along with the CC charges. But as per the revised regulation it has to be commuted to 1.5% as first occurrence. Accordingly the Respondent revised the excess demand charges based on the order of CGRF. Hence as per revised supply code amendments, the occurrence of excess Demand had occurred as first incident after 02/09/2023, hence the Respondent has adjusted the same as proportionately which is discussed below

09/2023 Assessment Period - 25.08.2023 to 29.09.2023.

Excess MD penalty:

At the rate of 3% for the period from 25.08.2023 to 02.09.2023	}	-25315.11 units : Rs.207778.00
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At the rate of 1.5% for the period from 03.09.2023 to 29.09.2023	}	-73132.54 units : <u>Rs.300121.00</u> <u>Rs.507899.00</u>
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Excess demand charges already levied	}	:Rs.808018.17
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Excess demand charges to be levied as per the Revised TNERC Regulations Notification dt: 02.09.2023	}	: <u>Rs.507899.00</u>
To be adjusted		<u>:Rs.300119.17</u>

7.27 Further the Respondent informed that this amount will be adjusted in the forthcoming bills. In view of the above action of the Respondent, the dispute

revolving around claiming excess penalty over the excess demand for the billing period was 09/2023 was found resolved.

7.28 The other issue that the Appellant claimed that during the pendency of the application submitted for additional load on 07-08-2023 he should not be penalized for excess demand charges for the billing month 08/2023 and 09/2023. The Appellant further submits that in spite of complying with the direction of the Respondent no. 2 to 4 and having deposited the amount asked for, the Respondent no. 2 to 4 granted 149KW service connection only on 06.10.2023. On one hand the Respondent no. 2 to 4 kept the Appellants application of 149KW service connection from 07.08.2023 in complete violation of Section 43 of the Electricity Act, 2003 and regulation 27 of Tamil Nadu Electricity Distribution Code and regulation 6 of TNERC Distribution Standards of Performance Regulation. Such action of the Respondent no. 2 to 4 is arbitrary, illegal and able to set aside on this ground alone. The impugned order dated 07.02.2024 issued by the 1st Respondent as arbitrary and contrary to section 43 of the Electricity act 2003 and regulation 27 of Tamil Nadu Electricity Distribution Code and regulation 6 of TNERC Distribution Standards of Performance Regulation.

7.29 The Respondent has submitted that the Appellant knew very well that the sanctioned load of the above LT service connection is not adequate for the total connected load of the Appellant's Textile Industry and applied for an additional load of 37KW and registered an application vide Regn. No.2000430708231078 on 07.08.2023 through online. While verifying the status of the application it was found that the acknowledgement issued and demand raised (Application Registration fees- Rs.205/-, EMD for Industrial SC- Rs.34040/-, Development charges Rs.72665/-, Testing Fees Rs.155/-, CGST- 32.40, SGST-32.40/-) on 07.08.2023 and pending for Registration payment. The application was kept pending for more than 25 days and the Appellant had remitted the Registration fees and other charges only on 01.09.2023. The Application was registered only on 01.09.2023 and after that it was processed for verification of documents and dues if any to be collected from the Appellant.

7.30 The Respondent has submitted that the sanctioned load of the above service connection is 112KW and after including the additional load of 37KW, total load is 149 KW and the Appellant opt to avail the supply under LT category. Hence as per Tamil Nadu Electricity supply code clause (3), Section (1)(b), the Appellant had provide a space for erection of Distribution Transformer inside the Appellant's premises. The estimate was prepared, sanctioned and the sanctioned estimate (Sanction, No. 626/E2/031/23- 24,Dt. 20.09.2023) involves the following works:

- v. 0.110 KM, Extension of new HT,11KV 3-Phase 3wire line with ACSR 7/3.15mm conductor (5 Pole Extension)
- vi. 0.022KM, Extension of new LT, 3-Phase, 4wire line with guarding.
- vii. Erection of new Distribution Transformer structure with 250 KVA/11KV Distribution Transformer.
- viii. Existing 200/5A LT.CT coil is propose to be replaced by 300/5 LT.CT coil.

The Appellant had made payment of Rs.2,76,375/- on 21.09.2023 towards Meter Caution Deposit and estimate charges.

7.31 The Respondent has submitted that the Tamil Nadu Electricity Regulatory Commission Tamil Nadu Electricity Distribution Standards of Performance Regulation (Notification No. TNERC/SPR/9/1/dt.21.07.2004 chapter 2 Distribution Standards of Performance Clause 4. (Duties of the Licensee to supply on Request) read as follows:

"Section 43 of the Act deals with duty to supply and read as below:

"43. (1) Every distribution licensee, shall, on an application by the owner or occupier of any premise, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or with in such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

4) It shall be the duty of every distribution licensee to provide if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

5) If a distribution licensee fails to supply the electricity within the period specified in sub-section(1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."

The licensee shall endeavor to give supply within a week but not exceeding 30days wherever no extension or improvement works are involved in giving supply.

The Licensee shall observe the following time schedule for supply of electricity involving of distribution lines etc.,

<i>Category</i>	<i>Time Schedule for LT</i>
<i>d) Involving no extension or improvement work.</i>	<i>Preferably within a week but not exceeding 30 days.</i>
<i>e) Involving extension and improvement without Distribution Transformer</i>	<i>60 days.</i>
<i>f) Involving extension and improvement with Distribution Transformer</i>	<i>90 days</i>

vi. The Licensee shall issue advice slip / notice / letter indicating the prescribed charges payable with proper acknowledgement.

vii. The Consumer shall remit the above charges within the stipulated period but not exceeding fifteen days from the date of receipt of advice slip/notice/letter.

viii. In exceptional / deserving cases, permission may be granted by the respective Chief Engineer and Superintending Engineer or the person designated for this purpose by the Licensee for remittance of charges by the Consumer beyond the prescribed fifteen days for HT/EHT and LT services respectively.

ix. The time taken by the consumer to remit the prescribed charges from the date of receipt of demand notice will not be covered in the above time schedule.

x. The time schedule is also applicable for additional loads.

7.32 The Respondent has submitted that the Appellant had paid the registration charges and the application was registered on 01.09.2023, Estimate charges were remitted on 21.09.2023. The HT and LT Extension works and Distribution

Transformer structure works were completed and the additional load was effected to the above LT service connection on 06.10.2023. The additional load was effected to the above LT service connection with in 36 days from the date of registration of application where as in Distribution Standards of Performance, the time schedule for supply of electricity involving extension and Improvement with Distribution Transformer is 90 days. Hence the additional load was effected to the above service connection well in advance.

7.33 In view of the arguments of both parties I have already decided that the Appellant has to pay the excess demand charges for the billing period of 08/2023 and 09/2023 which were covered by the agreement where his sanctioned demand was 111.28 KW. Any utilisation of excess demand over the sanctioned demand by the Appellant against the agreement in force to pay penalty. Hence, the action of Respondent to charge excess demand during 02/2020, 08/2023 & 09/2023 was found correct subject to revision of penalty for 09/2023 which has already been revised by the Respondent based on the revised TNE supply code amendments vide notification No TNERC /SC7-48 dt 02-09-2023.

7.34 Further the Appellant claim that he should not be penalised for utilisation excess demand during the pendency of his application for additional load of 37kw which was submitted on 07-08-2023. In view of the above argument put forth by the Appellant, the following TNE Distribution code regulations are discussed

As per TNE Distribution code Regulations 27 (3) (i) which is reproduced below;

“(i) The application form of new service connection is applicable for the additional demand also. The safety requirement and safety related documents as required for the new service connection shall be applicable to the additional demand also.”

7.35 From the above it is understood that the applications form for additional demand should be submitted by the Appellant which has subsequently to be executed with the new Agreement as per Form 7. Further as per TNE Distribution code 27 Requisitions for supply of Energy

“27. Requisitions for supply of energy

“ (1) the duty of Licensee to supply electricity is as below:

(a) Every Distribution Licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one week after receipt of the application requiring such supply.

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the Distribution Licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as specified in the Distribution Standards or Performance Regulations, 2004 by the Commission as amended.

Provided further that in case of village or hamlet or area wherein no provision for supply of electricity exists, the Commission may extend the said period as it may consider necessary for electrification or such village or hamlet or area.

Explanation:-

(a) For the purposes of this sub-regulation, ‘application’ means the application complete in all respects in the appropriate form, as required by the Distribution Licensee, along with documents showing payment or necessary charges and other compliances.

xxx”

7.36 From the above “**Application**” means the application in complete in all respects showing necessary payments. Further the Appellant demanding additional load for 37 KW from the existing 111.28 which shall be now 149 KW warranted erection of Distribution Transformer inside the consumer premises. The time limit to effect the service connection which involving Extension and improvement with Distribution Transformer is 90 days as per the Distribution Standard of Performance Regulation, 2004.

7.37 In view of the above the flow chart of the sequence of effecting additional demand is discussed below;

<i>Date of Registration of Application</i>	<i>07.08.2023</i>
<i>Date of acknowledgment</i>	<i>07.08.2023</i>
<i>Demand notice issued for the payment of Registration and other charges</i>	<i>07.08.2023</i>

<i>Date of payment of Registration & other charges</i>	<i>01.09.2023</i>
<i>Date of Registration of application</i>	<i>01.09.2023</i>
<i>Date of sanction of estimate</i>	<i>20.09.2023</i>
<i>Date of payment of estimate charges</i>	<i>21.09.2023</i>
<i>Date of effecting of additional load</i>	<i>06.10.2023</i>
<i>DSOP time frame as per the TNERC</i>	<i>90 days</i>
<i>Time taken for effecting of an additional load</i>	<i>36 days</i>

7.38 From the above flow chart, it was found that the Respondent had effected additional load of 37 KW well within the time of Distribution Standard of Performance Regulation, 2004. Hence the claim of the Appellant that there were violations of DSOP time limit for providing additional load was rejected.

8.0 Conclusion:

8.1 From the above finding the Appellant claim to set aside the excess demand charges for 02/2020, 08/2023 and 09/2023 was rejected. However the excess penalty for 09/2023 which now revised by the Respondent shall be adjusted to the Appellant subsequent CC bills as per regulation 12 of TNE supply code regulations. The other claim of the Appellant that there were violations on effecting additional load as per DSOP is rejected.

8.2 With the above findings A.P.No.17 of 2024 is disposed of by the Electricity Ombudsman.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

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