

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. S. Devarajan, Electricity Ombudsman

A.P.No. 58 of 2021

M/s. Evita Constructions Pvt. Ltd.,
Thriveni Academy Thriveni Nagar,
Vadakkupattu Village,
Oragadam – 603 204,
Kancheepuram district.

. Appellant
(Rep. by Thiru N. Senthil Viswarooban, Advocate
and Thiru Franklin Stephen, Advocate)

Vs.

1. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

2. The Superintending Engineer,
Chengalpet Electricity Distribution Circle,
TANGEDCO,
No.130 GST Road,
Chengalpattu - 603 001.

3. The Chief Engineer/Distribution,
Chennai South region,
TANGEDCO,
791, Anna Salai, Chennai -600 002.

4. The Chief Engineer/Commercial,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

. . . . Respondents
(Thiru S. Manoharan, SE/Chengalpet EDC(IC))

Petition Received on: 08-07-2021

Date of hearing: 30-09-2021

Date of order:- 19-01-2022

The Appeal Petition received on 08.07.2021 filed by M/s. Evita Constructions Pvt. Ltd., Thriveni Academy Thriveni Nagar, Vadakkupattu Village, Oragadam – 603 204, Kancheepuram district was registered as Appeal Petition No. 58 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 30.09.2021. 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 refund the excess amount collected based on the revision of Non-Tariff Miscellaneous charges giving retrospective effect.

2.0 Brief History of the case:

2.1 The appellant is a infrastructure developer applied for 318 Nos. of domestic service connections to the AE/O&M/Oragadam section for a demand of 8 KW for each service connection.

2.2 The consumer was restricted to pay only for 4 kw due to the software based on the instruction issued for one day service connection.

2.3 The appellant has filed a petition with the CGRF of Chengelpet EDC on 09.11.2020. The application was taken on the file of the Chairman, CGRF of Chengelpet Electricity Distribution Circle but order has not been passed. Hence, the appellant preferred this appeal petition before the Electricity Ombudsman.

3.0 Hearing held by the Electricity Ombudsman:

3.1 To enable the Appellant and the Respondent to put forth their arguments, a

hearing was conducted on 30.09.2021 through video conferencing.

3.2 On behalf of the Appellant Thiru N. SenthilViswarooban and Thiru Franklin Stephen, Advocates of M/s. Stephen & Stephen Advocates Associates have attended the hearing and put forth their arguments.

3.3 The respondent Thiru S. Manoharan, SE/Chengalpet EDC(IC) has attended the hearing and put forth his arguments.

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

4.0 Arguments of the Appellant :

4.1 The Appellant has stated that M/s.Evita Constructions Pvt. Ltd. is an infrastructure developer who has developed housing projects in Sengamangalam Village, Oragadam area comprising of 768 dwelling units of Multi Tower MSB under the jurisdiction of Chengalpet EDC /TANGEDCO for which service connections were partially effected and remaining applications are under processing. The towers of the Projects are completed and finishing works are in progress and electricity connections are pending to be effected at TANGEDCO's end.

4.2 The Appellant has stated that the company has submitted the remaining applications for 318 Nos. of flats to the distribution licensee and got registered on 27.02.2019.

4.3 The Appellant has stated that the petitioner has complied with all the statutory provisions envisaged in the regulations of TNERC in providing space for erection of Substation and TANGEDCO has erected the 110/33/11 kv substation inside the petitioner premises. Also the petitioner has undertaken to develop the necessary infrastructure inside its premises including the

distribution Transformers, Ring main Units, Cable & ducts for effecting the service connection to the entire project at his own cost. TANGEDCO has no obligation except supervising the above jobs and fixing the necessary meters. In-principle approval was given by the TANGEDCO in this regard in the year 2013 and the petitioner has procured all the materials including the switch gears, Distribution Transformers & cables as per the TANGEDCO specification and erected under the supervision of TANGEDCO. Consequent to the in-principle approval given by the TANGEDCO permitting the petitioner to develop the infrastructure at his own cost, the petitioner have developed the same got the service connections for 450 Nos of flats initially. Remaining flats were under construction and completed during early 2019. And therefore the petitioner submitted the applications for the service connections for the remaining 318 flats during February 2019 and the same was registered vide Reg.No.5570219111 to 5570219428 dated 27-2-2019.

4.4 The Appellant has stated that while registering of the applications itself the petitioner has remitted all the claims as made thereof by the TANGEDCO towards Registration fee, Meter Caution Deposit, Current Consumption Deposit, Development Charges & Service Connection charges along with CGST & SGST to the tune of Rs. 21,81,162 (Twenty one Lakhs Eighty one Thousand one hundred and sixty two only) on 13.03.2019.

4.5 The Appellant has stated that having paid all the necessary charges /deposits as claimed by the TANGEDCO, it is obligatory on the part of the distribution licensee to effect the service connections immediately by testing the equipment's erected as per TANGEDCO Spec apart from collecting the establishment & supervision charges. As the infrastructure development was carried out by the petitioner relieving the TANGEDCO from incurring huge burden of expenditure, it is the onus of TANGEDCO to effect the service connections immediately to the petitioner's premises.

4.6 The Appellant has stated that even otherwise, the distribution licensee is obligated to effect the service connections not later than 90 days from the date of

registration of application as per TNERC Regulations, in case of erection of Distribution transformers and delay of one day from the 90th day will attract penalty clause under Distribution Standards of Performance Regulations 2004.

4.7 The Appellant has stated while the regulations specified so, attracting penalty clause for any delay in effecting service connection, the distribution licensee is least bothered about any of the stipulated regulations framed by the Hon'ble TNERC. Though all the necessary infrastructures are indeed to be developed by the petitioner, the distribution licensee in order to collect the 22% of the Establishment Charges has taken more than 8 months to sanction the estimate & approval. The estimate was sanctioned on 12.11.19 and an advice slip for an amount of Rs.65,27,330 was issued on 25.11.2019 for the establishment & supervision charges along with a fresh deposit of Rs.59,14,800/- towards the revision of Non- Tariff miscellaneous charges as per the order dated 3.10.2019 in MP No.07/2018.

4.8 The Appellant has stated that the Hon'ble TNERC vide its order dated 03.10.2019 in MP. No.07/2018, revised the Non- Tariff Miscellaneous charges with a prospective effect from 05.10.2019, revising all the relevant deposits & other charges taking into consideration of all the relevant factors involved in effecting service connection including infrastructure development.

4.9 The Appellant has stated that the distribution licensee taking advantage of the revision of Non-tariff related miscellaneous charges, from 05.10.2019 , in order to extract more money from consumers, issued a revised advice slip for an additional burden of Rs.59,14,800/-, keeping the estimate/approval in shelves without giving approval for more than 8 months. The delay is on the part of the distribution licensee violating all the stipulated regulations in the regard of sanctioning the estimate.

4.10 The Appellant has stated that the variation in the deposits because of the abnormal delay caused by the distribution licensee is tabulated as follows:

Head of account	Paid by applicant on 13.03.2019 per service connection	To be paid by applicant if statutory DSOP norms are followed by Distribution Licensee(i.e. before 12.06.2019)	Additional burden caused due to delay on the part of distribution Licensee
MCD	2500	2500	200
CCD	2400	2400	2400
DEV. CHARGES	1400	1400	18600
SC CHARGES	500	500	250
REG.FEE	50	50	-
	6850	6850	21450

The above difference in deposits per service for Rs.21,450 was issued as an additional demand slip for 318 Nos. of service connections to the tune of Rs.59,14,800.

4.11 The Appellant has stated that the petitioner having been aggrieved by the additional advice slip issued by the distribution licensee causing financial burden on the company for no fault on its part, has made an earnest effort requesting all the officials concerned to cancel the additional deposits, but the same was not at all considered. The officials concerned are least bothered and failed to consider the genuine request of this petitioner, knowing very well the defect on its part. As the applications for service connections were yet to be sanctioned on the date of passing the order on revision of Non-Tariff miscellaneous charges, the officials were of the opinion and wrong understanding as if it is applicable to all pending applications, since there is no specific mention about the pending applications in the said order.

4.12 The Appellant has stated that the distribution licensee having very well known the mistake on its part, however preferred to reiterate its demand through the dated LR. No. SE/ CEDC/CGL./AEE-PRO/AE.DEV/SDM/F.EVITTA / D. No.1418 /20 Dt 16.03.2020 insisted us to pay the demand as claimed by the distribution licensee instead of getting clarificatory order from Hon'ble TNERC. The petitioner was forced to pay all the demands claimed by the distribution licensee under protest to avoid further delay in effecting service connections with a hope that Hon'ble Ombudsman will come for its rescue through an order.

4.13 The Appellant has stated that the act of the Distribution licensee is clearly arbitrary in nature. While asking for revision of Non-tariff miscellaneous charges, they want the revision of development charges based on the cost involved in infrastructure to be developed by the distribution licensee. However in our issue the infrastructure development was completely carried out on our own cost and the distribution licensee indeed have no authority to collect development charges and needs to be refunded. The statement of the distribution licensee for substantiating the claim of the development charges are as follows: “3.12 *Development charges: TANGEDCO has stated that Development charges are being collected to recover at least a part of the cost of erection of necessary infrastructure facility for extension of supply and to provide quality of supply.*” But in our case all the infrastructure necessary for effecting service connections for the flats developed in our township are being developed by us and indeed the Distribution licensee does not have any role to collect the development charges.

4.14 The Appellant has submitted that in a recent order dt 25.08.2020 the Distribution licensee has preferred to cancel the additional demand made on the similar issue, but reiterated its demand on us which clearly shows the arbitrariness on the part of the distribution licensee. It is clearly a colorful exercise. The relevant content is shown as follows:

“As per the letter received from the Executive Engineer/O&M/Perambur, it is understood that Tmy. NagaSoundaram had applied for 5 Nos. domestic service connections with the AE/O&M/Perambur/ West with a demand of 7 kW and the applications were registered on 27-09-2019 and the service connections were effected on 16-10-2019. Further, the consumer had paid Rs, 6859/- per service connection for 4 kW on 27-09-2019 as per the old rate ordered by the Hon'ble TNERC vide M. P. No. 41 of 2003 and as per the instruction issued for one day service connection scheme vide Memo No.CE/Comm//SE/Comm//EE31A EE3/F. One day SC scheme/D. 104/2017, dated 14. 06.2017. While so, the system had generated auto slip for R5.18,350/- towards additional miscellaneous charges for each service connection on 17-10-2020 towards difference in amount arised due to revision of miscellaneous charges by the Hon'ble TNERC vide M. P. No. 7 of 2018.

Though the consumer has applied for 7KW on 27.09.2019, the consumer was restricted to pay only for 4 kW as per the TANGEDCO software based on the instruction issued for one day service connection issued vide Memo dated 14-6-2017. Therefore, there is no fault of the consumer here.

In view of the above, the Chief Engineer/Distribution/Chennai North Region is instructed to cancel the auto-generated additional slip to Tmt.S.Naga Soundaram, Perambur in coordination with the Chief Engineer/IT and raise the additional slip in respect of initial current consumption deposit (ICCD) only for 3 kW at the rate of Rs.600/- per kW, totaling to Rs.1800/- per service since he has already paid ICCD for 4 kW. The compliance report on the above shall be sent to the Chief Engineer/Commercial on or before 29-08-2020.”

4.15 The Appellant has stated that the intention in the mind-set of *the* law makers or the rule framers is to give only prospective effect to new rules framed or amendment made thereon unless otherwise it is specifically mentioned on the applicability of retrospective in nature which will not affects the rights of the individual the Amendment by its very nature is prospective in Delegated legislation is ordinarily prospective in nature and a right or a liability created for the first time cannot be given retrospective effect. Further the very language of the Amendment does not makes its operation retrospective in any manner. It is thus clear that the Amendment applies only for the applications registered on or after 05.10.2019.

4.16 The Appellant has stated that in this specific order, though the Hon'ble TNERC has specifically and categorically stated for prospective effect, but the

applicability on the pending applications was left in lurch which has led to this confusion. Unless this is not clarified most of the applicants for no fault on them have to pay the revised charges, even the delay is on the part of the TANGEDCO in processing the applications and service connected. The lacuna in the amendment to the order in Non-tariff Miscellaneous charges issued by the Hon'ble commission in in MP.No. 07/2018 dated 03-10-2020 taking effect from 05.10.2020, not dealing about the pending applicants on the date of issue of order has paved the way for the distribution licensee to suit their needs knowing very well that the delay is on its part and not on the consumers/applicants. A clarification in this regard by the Hon'ble TNEO would only resolve this issue. Though the onus is on the part of the TANGEDCO to get a clarified order, this petitioner prefers to file the petition for clarification, having been aggrieved by the wrongful action of the distribution licensee.

4.17 The Appellant has stated that the very purpose of deriving such a statutory regulation/ tariff orders is for compliance/following up by the distribution licensee /Consumers in good faith and both of them have equal rights to approach the forum in case of any difficulty in compliance of the same. Different yardsticks cannot be applied on the consumers which may lead to colour full exercise to suit their whims & fancies & arbitrariness.

4.18 The Appellant has stated that though the amendment is prospective in nature and effective from 05.10.2019, the said amendment to the Non-Tariff Miscellaneous charges ought not to have been applied in a retrospective manner at-least to the pending applications, on 05.10.2019 which has crossed the TNERC norms/period for effecting service connections. The lethargy on the part of the Distribution licensee could be well established on a plain understanding of the issue; however the distribution licensee is adamant in collecting revised miscellaneous charges without rectifying their own defects/mistakes.

4.19 The Appellant has stated that having failed in all their attempt to convince the distribution licensee to abide by the statutory regulations/ Tariff orders/ Orders on miscellaneous charges, the petitioner finds no other efficacious

method rather than approaching this Hon'ble Ombudsman, reposing much faith necessary clarifications be issued to the officials concerned of TANGEDCO in this regard.

4.20 The Appellant has stated that because of such abnormal delay in processing the applications for new service connections and as the flat owners are pressurizing for EB Connections for occupying the flats. This company is being put to abnormal pressure and paid all the demands under protest but with a good faith that Hon'ble Ombudsman will come for its rescue.

4.21 The Appellant has stated that the petition was preferred before CGRF/ Chengelpet on 09/11/2020 and conducted enquiry on 19.02.2021. However till date orders have not been passed after the expiry of more than 241 days and hence this Appeal preferred reposing faith on this Hon'ble TNEO.

4.22 The Appellant has prayed that this Hon'ble Electricity Ombudsman be pleased to consider our genuine appeal and to issue an order

(i) Of clarification on the applicability of the revision of Non-tariff Miscellaneous charges order issued by the Hon'ble Commission in M.P No.07/2018 dated 03.10.2019 for the service connection applications pending due to wanton delay on the part of Distribution Licensee.

(ii) to direct the Chief Engineer/ Distribution/ Chennai, South Region, Chief Engineer /Commercial the Superintending Engineer/Chengelpet EDC and other officials/authorities concerned of TANGEDCO to refund the excess amount collected violating the order in MP No.07/2018 dt 03.10.2019.

(iii) to apply the same ratio followed in Memo. No. CE/COMML/ SE/COMML/EE3/AEE3/F.ONEDAY/FLM-CM/ 1 / 2020 Dt 25.08.2020 to the petitioner also and to pass such & further or other orders as this Hon'ble Ombudsman deems fit and proper in the ends of justice.

5.0 Arguments of the Respondent:

5.1 The Respondent has stated that M/s.Evitta Constructions Pvt. Ltd., Oragadam village has applied for 318 Nos. HSC three phase services to a load of

8 KW each on 27-2-2019 and paid all charges applicable on that date. The payment made by the applicant is furnished below:

Sl.No.	Description	Per	Details of payment made	
1	48100-CC Deposit	4 KW	318 * 2400	763200
2	55101-Development charges	Service	318*1400	445200
3	47604-Meter Caution Deposit	Service	318*2500	795000
4	61909-Service Connection charges	Service	318*500	159000
5	67955- Estimate charges		Nil	
	Total:			Rs.21,62,400/-

5.2 The Respondent has stated that from the above M/s.Evita Constructions Pvt. Ltd., has applied for 318 Nos. domestic service connections with the AE/O&M/Oragadam section to a demand of 8 KW for each service connection application and the applications were registered on 27.02.2019 and paid all the charges (Rs.21,62,400/-) except estimate charges on 13.3.2019 as per the old Tariff rate ordered by the Hon'ble TNERC vide MP.No.41 of 2003 and as per the instruction issued for "one day service connection scheme" vide Memo No.CE/Comml/SE /Comml/ EE3/F.Oneday SC Scheme/D 104/2017 dated 14-6-2017.

5.3 The Respondent has stated that though the consumer has applied for 8 KW on 27-2-2019, the consumer was restricted to pay only for 4 KW as per the TANGEDCO software based on the instruction issued for one day service connection issued vide Memo dated 14-6-2017.

5.4 The Respondent has stated that in this case M/s.Evita Construction Pvt.Ltd., Oragadam village has willing to develop infrastructure within their premises, by supply and erection of materials such as Distribution Transformers, RMU, UG cable and allied materials as per TANGEDCO standard.

5.5 The Respondent has stated that necessary estimate has been submitted to the CED/CSR on 05.09.2019 after clarifying the queries raised by CED/CSR and got sanctioned on 26.09.2019. Since in this case M/s.Evita Construction Pvt.Ltd., Oragadam village has willing to develop infrastructure within their premises, by supply and erection of materials as per TANGEDCO standard.

5.6 The Respondent has stated that based on the sanction, the advice slip was issued to the applicant on 4-10-2019 to pay the balance CCD and estimate charges as furnished below:

Sl.No.	Description	Per	Details of payment made	
1	48100*CC Deposit (Balance)	4 KW	318 * 2400	763200
2	67955-Estimate charges			8258960
	Total:			9022160

5.7 The Respondent has stated that as the applicant raised clarification regarding estimate charges and requested to revise the estimate charges, based on the consumer request necessary revised estimate after due field verification has been submitted to the CED/CSR and got sanctioned on 12-11-2019.

Based on the revised sanction, an advice slip was issued on 25-11-2019. The detailed advice slip issued on 25-11-2019 is furnished below:

Sl.No.	Description	Already paid on 27-2-2019	Balance amount to be paid
1	48100-CC Deposit	318*2400=763200	318*2400=763200
2	55101-Development charges	318*1400=445200	318*18600=5914800
3	47604-Meter Caution Deposit	318*2500=795000	318*200=63600
4	61909-Service Connection charges	318*500=159000	(Rs.250/- to be paid at the time of service assigning)
5	67955- Estimate charges	Nil	Rs.6527330/-
	Total:	Rs.21,62,400/-	Rs.1,32,68,930/-

5.8 The Respondent has stated that since the Hon'ble TNERC revised Misc. charges order vide MP.No.7 of 2018 and with effected from 5-10-2019 the advice slip dt. 25-11-2019 was issued based on the revised Misc. charges order MP.No.7 of 2018 dt. 5-10-2019. Hence the balance CCD, Dev charges and other charges as per revised Misc. charges order MP.No.7 of 2018 was raised in the advice slip issued on 25-11-2019.

5.9 The Respondent has stated that while so, the system had generated auto slip for Rs.18,350/- towards additional miscellaneous charges for each service connection on 17-10-2019 towards difference in amount raised due to revision of miscellaneous charges by the Hon'ble TNERC vide MP.No.7 of 2018 and with effected from 5-10-2019.

5.10 The Respondent has stated that without paying the above amount, the applicant has given representation to the Director Distribution on 27-11-2019 to waive the development charges to be paid of Rs.59,14,800/- since they have already paid the development charges on 27-2-2019 as per the old tariff order. Moreover, the applicant has paid the development charges of Rs.59,14,800.00 vide PR.No.CHG5571AID97 to 514 dt. 15-7-2020.

5.11 The Respondent has stated that already CE/Comml/Chennai issued the memo for this type of case vide Memo. No. CE/ COMML/ SE/COMML/ EE3/AEE3/F.ONEDAY/FLM-CM/1/2020 dt. 25-8-2020 in Tmt.S.Nagasoundaram / Perambur in respect Executive Engineer/O&M/Perambur of CE/Dist/North/Chennai region. In this case the auto generated additional slip was cancelled as instructed by CE/Dist/North/Chennai region.

5.12 The Respondent has stated that from the above case pointed out that the petitioner requested to cancel the already collected additional development charges of Rs.59,14,800.00 vide PR.NO.CHG5571AID197 to 154 dt. 15-7-2020 and refund the same.

5.13 The Respondent has submitted to the CE/Commercial/Chennai through CE/Distribution/South/Chennai vide Lr.No.SE/CEDC/CGL/AEE-PRO/AE-DEV/SDM/F.Evitta/D.No.724/21 dt. 4-2-2021 and requested that necessary instruction sought for this case, since on CGRF/Chengalpattu Forum has to issue a final order to the petitioner early.

5.14 The Respondent has prayed to pass an order for the above petition in AP.No.58 of 2021 with no costs and thus render justice.

6.0 Findings of the Electricity Ombudsman:

6.1 I have heard the arguments of both the appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

6.2 The appellant M/s.Evita Constructions Private Limited has applied for 318 Nos. service connections vide Reg.No.5570219111 to 5570219428 and got registered on 27-02-2019. All these 318 applications were applied with Demand of 7.99 kW each. In this connection the Respondent Assistant Engineer/O&M/Oragadam raised an Advice slip against the 318 applications on 27.02.2019 as below:

Registration fees	–	Rs.50 x 318	=	Rs.15,900
Meter caution deposit	-	Rs.2500 x 318	=	Rs.7,95,000
CC Deposit(4 kw x Rs.600)	–	Rs.2400 x 318	=	Rs.7,63,200
Development charges	–	Rs.1400 x 318	=	Rs.4,45,200
Service con. Charges	–	Rs.500 x 318	=	Rs.1,59,000
CGST	–	Rs.4.50 x 318	=	Rs.1,431
SGST	–	Rs.4.50 x 318	=	Rs.1,431
Total	-		=	Rs.21,81,162

6.3 From the above 'Advice slip' it is seen that the Respondent has raised a demand to be paid for all the 318 service applications to a restricted load of 4 kW for each application. The Respondent also stated that the above applications were processed by them under "one day service connection scheme" as per TANGEDCO's Circular Memo.No.CE/Comml/SE/Comml/EE3/F.One day SC scheme/D.104/2017 dated 14.06.2017. Though the consumer has applied for 7.99kW in each of the application, it was restricted to pay only for 4 kW as enabled in TANGEDCO's application software so as to effect the Service under "one day service connection scheme" as stated in its CE/Commercial's above Memo dated 14.6.2017.

6.4 Even though the applications were registered to effect the supply under one day service connection scheme, the service connections were not effected immediately. The respondent has started to prepare the estimate for erection of 11 KV indoor panels, DTs, etc., causing delay to sanction the estimate upto 11/2019 towards 22% Establishment charges for the works executed by the applicant. At last while issuing demand to pay the estimate charges, the Respondent raised an

'Advice slip' to the Appellant on 25.11.2019 towards additional Miscellaneous charges as below –

S. No.	Description	Already paid	Balance to be paid
1	CC Deposit (Rs.600 x 8 kW =Rs.4800 – Rs.2400 = Rs.2400	Rs.2400 x 318 = Rs.7,63,200	Rs.2400 x 318 = Rs.7,63,200
2	Development charges (Rs.2500 x 8 kW = Rs.20000-Rs.1400 = Rs.18600)	Rs.1400 x 318 = Rs.4,45,200	Rs.18600 x 318 = Rs.59,14,800
3	Meter caution deposit(Rs.2700- Rs.2500 = Rs.200	Rs.2500 x 318 = Rs.7,95,000	Rs.200 x 318 = Rs.63,600
4	Service connection charges	Rs.500 x 318 = Rs.1,59,000	(Rs.250/service to be paid at the time of service assigning)
	Total	Rs.21,62,400	Rs.67,41,600
5	Estimate charges (22% Estt& Supervision charges)		Rs.65,27,330

6.5 It is clear from the above notice of the Respondent that out of the total demand of 7.99 kW in every Domestic application, the Miscellaneous charges such as Security Deposit, Development charges, MCD, Service connection charges were collected initially for 4 kW; and thereafter an additional Miscellaneous slip, for the remaining 4 kW of every Domestic application was raised separately by the Respondent on 25.11.2019 as above. In this connection, the respondent has raised a slip for Rs.67,41,600/- as Miscellaneous charges apart from the Estimate charges of Rs.65,27,330/- towards Establishment and supervision charges @ 22%.

6.6 The Respondent has not explained anywhere in his counter affidavit that why the applicant was sought to pay only for 4 kW in spite of the application is made for 7.99 kW each. Though the applications were accepted for 7.99 kW as

sought for in the applications, initial load approved was only 4 kW for which the appellant was sought to pay the Miscellaneous charges at the rate as stipulated under M.P.41 of 2003. The Respondent collected the Miscellaneous charges only to the restricted load of 4 kW due to its Application tracking issue. Only after a period of 9 months, the appellant's 318 applications were regularized for its 7.99 kW and asked to pay the additional Miscellaneous charges, that too under the revised rate of Miscellaneous charges fixed by the TNERC in M.P.7 of 2018 dated 03.10.2019 which came to effective from 05.10.2019. Had the appellant's applications were registered for the entire load as sought for in the application i.e., 7.99 kW on 27.2.2019 itself, the appellant would have paid the Miscellaneous charges at the rate as prevailed on 27.2.2019. But various correspondences of the Appellant to withdraw the additional 'Advice slip' became fruitless and finally paid Rs.59,14,800 towards additional Development charges on 15.07.2020 under protest.

6.7. In this connection, it will be pertinent to mention that while dealing with a similar matter raised by the Chief Engineer / Distribution / Chennai North Region, the TANGEDCO headquarters (CE/Commercial) clarified the dispute and issued an instruction as below:

"Memo.No.CE/Comml/SE/Comml/EE3/AEE3/F.One day SC scheme/ FLM-CM/1/2020, Dated 25.08.2020.

xxxxx

xxxxx

xxxxx

Though the consumer has applied for 7 kW on 27.09.2019, the consumer was restricted to pay only for 4 kW as per the TANGEDCO software based on the instruction issued for one day service connection issued vide Memo dated 14.06.2017. Therefore, there is no fault of the consumer here.

In view of the above, the Chief Engineer/Distribution/ Chennai North Region is instructed to cancel the auto-generated additional slip to TmyS.Nagasoundaram, Perambur in coordination with the CE/IT and raise the additional slip in respect of initial Current consumption Deposit (ICCD) only for 3 kW at the rate of Rs.600/- per kW totaling to Rs.1800/- per service since he has already paid ICCD for 4 kW.

The compliance report on the above shall be sent to the Chief Engineer / Commercial on or before 29.08.2020. Further the Chief Engineer / Distribution / Chennai North Region is instructed to call for explanation against concerned officer for not effecting the Service connection.

6.8 It is also clarified by the TANGEDCO to its subordinate offices, in its Memo No.CFC/Rev/FC/Rev/DFC/AO/HT/D.783/19 dated 03.12.2019 that "... it is stated that the miscellaneous charges has to be collected at the revised rates from the consumers w.e.f. 05.10.2019 even if they had registered their applications prior to 05.10.2019 but pending payment as on 05.10.2019, by way of issuing a revised demand notice so that collection of Miscellaneous charges on & from 05.10.2019 will only be made at the revised rates.

6.9 TNERC has clearly given under preamble of the Order in M.P.7 of 2018 dated 03.10.2019 that "*the Order shall take effect on and from the 5th day of October 2019*". Hence this Order of the Commission on Non-tariff related Miscellaneous charges cannot be given effect prior to the date of such order. Therefore the levy of Miscellaneous charges at the rate of revised charges fixed under M.P.7 of 2018 for the load of 7.99 kW in all the 318 applications is complete violation of the Commission's order. The Respondent cannot approve any partial load to the applicant when all rest of the conditions stipulated under the TNE Distribution Code 2004 were fulfilled. TANGEDCO headquarters' instructions dated 25.08.2020 is squarely applicable to the case on hand; in spite of that the Respondent is reluctant to giving similar effect to the petitioner's case.

6.10. In view of the above, it is observed that

The partial/restricted load (i.e., 4 kW) approved to the 318 service connections against the applied 7.99 kW is not correct when all the rest of conditions were fulfilled by the applicant. Having collected all the Miscellaneous charges for the restricted 4 kW load on 13.03.2019 at the pre-revised rate as per M.P.41 of 2003, regularizing the entire 7.99 kW (including the already paid 4 kW) later on 25.11.2019 at the revised rate of Miscellaneous charges as per M.P.7 of 2018 is not acceptable. Hence it is ordered that the Miscellaneous charges as stipulated under M.P.41 of 2003 (pre-revised rated) is only to be made applicable to the entire load of 7.99 kW in each and all the 318 service connections of the appellant. The amount of Rs.59,14,800/- collected towards Development charges is to be refunded to the appellant. Further, the Respondent is directed to collect the CCD for the remaining 3.99 kW for all the 318 applications by way of

adjustment against the refundable amount of Rs.59,14,800/- if the same was not collected already.

7.0 Conclusion:

7.1 As per my findings in para 6.0 above, it is ordered that the Miscellaneous charges as stipulated under M.P. No. 41 of 2003(pre-revised rate) is only applicable to the entire load of 7.99 KW in each and all the 318 service connections of the appellant. The amount of Rs.59,14,800/- collected towards Development charges shall be refunded to the appellant.

7.2 The Respondent is directed to collect the CCD for the remaining 3.99 KW for all the 318 applications by way of adjustment against the refundable amount of Rs.59,14,800/- if the same was not collected already.

7.3 A compliance report shall be submitted to the Electricity Ombudsman within 45 days from the date of receipt of this order.

7.4 With the above findings the AP No. 58 of 2021 is finally disposed of by the Electricity Ombudsman. No costs.

(S. Devarajan)
Electricity Ombudsman

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

To
1. M/s. Evita Constructions Pvt. Ltd.,
Thriveni Academy Thriveni Nagar,
Vadakkupattu Village,
Oragadam – 603 204,
Kancheepuram district.

2. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

– By Email

3. The Superintending Engineer,
Chengalpet Electricity Distribution Circle,
TANGEDCO,
No.130 GST Road,
Chengalpattu - 603 001.

4. The Chief Engineer/Distribution,
Chennai South region,
TANGEDCO,
791, Anna Salai, Chennai -600 002.

5. The Chief Engineer/Commercial,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

6. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

– By Email

7. The Assistant Director (Computer) –**For Hosting in the TNERC Website**
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
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Guindy, Chennai – 600 032.