



## **TAMIL NADU ELECTRICITY OMBUDSMAN**

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### **BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI**

**Present : Thiru. S. Devarajan, Electricity Ombudsman**

#### **Appeal Petition No.36 of 2017**

M/s Harrisons Malayalam Limited,  
Wentworth Estate,  
Cherambadi,  
The Nilgiris – 643 205.

..... Appellant  
(Thiru. J.Ravikumar,  
Counsel for the Appellant)

Vs

The Assistant Engineer/O&M,  
Cherambadi,  
Nilgiris Electricity Distribution Circle,  
TANGEDCO,  
No15/17/B1, Goles Land, Near manu tea stall,  
Cherambady-643205.

..... Respondent  
(Rep by Thiru. B. Tamilarasan, AE/Cherambadi)

**Date of hearing : 29-8-2017**

**Date of order : 14-9-2017**

The petition dated 29.4.2017 filed by M/s Harrisons Malayalam Limited, Wentworth Estate, Cherambady, Nilgiris was registered as Appeal Petition No. 36 of 2017. The above appeal petition came up before the Electricity Ombudsman for hearing on 29.8.2017. Upon perusing the appeal petition, counter affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

## **ORDER**

### **1. Prayer of the Appellant:**

The prayer of the Appellant is to set aside the order of the Respondent bearing LR. No.175/2016-2017 dt.22.11.2016 and to direct him to change the tariff for the service connection no.413-006-336, from domestic tariff to commercial tariff, within a time stipulated by this Hon'ble Court.

### **2. Brief History of the case:**

2.1 The Appellant had applied to the Respondent for conversion of existing domestic tariff into commercial tariff to enable the appellant to run a holiday heritage home at its Goldsland bungalow within the Wentworth Estate. The Respondent issued an order stating that the request of the Appellant cannot be complied with due to the pendency of a writ petition filed by the Appellant against TANGEDCO in Madras High Court. There was a final assessment order passed by the Respondent in respect of another factory owned by the Appellant namely Mayfield Tea Factory in The Nilgiris District. The said final assessment order dated 6.1.2010 was challenged by the Appellant before the Hon'ble Madras High Court in W.P.No.623/2010. In the said Writ Petition, the demand of the Respondent was stayed by the Hon'ble High Court upon payment of 50% of the impugned demand. The Appellant had paid 50% of the demand as per the interim order of the High Court. The said writ petition is still pending.

2.2 Meanwhile, the petitioner approached the AE/O&M/Cherambadi to convert the existing domestic tariff to commercial tariff for their Goldsland bungalow (SC No.413-006-336) within its Wentworth estate.

2.3 The said application was rejected by the AE/O&M/Cherambadi informing that the department is not in a position to comply with the above request since there is litigation pending between the Company and TANGEDCO at Hon'ble High Court of Madras.

2.4 The Appellant filed a petition before the CGRF of Udhagamandalam Electricity Distribution Circle to redress the above grievance.

2.5 The CGRF of Udhagamandalam Electricity Distribution Circle issued its order on 01.03.2017 rejecting the request of the Appellant for change of tariff for his service connection.

2.6 Aggrieved over the order of the CGRF, the Appellant filed this appeal petition before the Electricity Ombudsman.

### **3. Order of the CGRF:**

The CGRF of Nilgiris Electricity Distribution Circle issued its order on 1.3.2017, the relevant portion of the order is extracted below:-

#### ***“Conclusion***

*The Grievance of petitioner relates to the conversion of tariff from domestic to commercial of SC No.413-006-336 owned by M/s Harrison Malayalam Ltd., HT SC No.18 is also owned by M/s Harrison Malayalam Ltd, against whom a case of energy theft has been booked and 50% of the amount is yet to be paid to TANGEDCO.*

*Section 17(8) of the supply code of the Tamil Nadu Electricity Regulatory Commission provides for even disconnection of service connection by the license if the consumer defaults in payment of dues relating to any one of the service connection of the consumers.*

*The spirit of this ruling is that even though different service connections of a single consumer are covered under different agreements, defaults in any one service authorizes the licensee to take action through any other service connection owned by the consumer.*

*In view of the above, the forum concludes that the request of the petitioner is*

*not feasible for compliance.*

*Moreover, the petitioner M/s Harrisons Malayalam Ltd. has been booked for offenses detailed under section 135 of the Electricity Act 2003 and such acts are excluded from the ambit of this forums as per the Regulations for the CGRF and Electricity Ombudsman 2004 of TNERC. Hence, the petition is dismissed accordingly. ”*

#### **4. Contentions of the Appellant :**

4.1 M/s Harrisons Malayalam Ltd., (HML) owns estates both tea and rubber in the State of Kerala and Tamil Nadu. Wentworth and Mayfield are the two tea estates owned by HML in the Padalur & Gudalur Taluk of the Nilgiris District.

4.2 Wentworth Estate is a consumer under the TANGEDCO for supply of electricity to its Tea Factory, Bungalows, worker line room etc within the estate. The subject matter of the present appeal is concerned with its Goldsland Bungalow within its Wentworth Estate.

4.3 In order to convert the above bungalow in to a holiday heritage home, the Appellant had submitted a separate application (Application dated 22.10.2016 - consumer No.413-006-336) before the Assistant Engineer, TNEB, Cherambadi seeking conversion of the existing domestic tariff to commercial tariff.

4.4 All the required documents were also submitted before the Assistant Engineer, Cherambadi in connection with the above application. The said application was rejected by the Assistant Engineer/O&M/Cherambadi on 22.11.2016 informing that the Department is not in a position to comply with the above request since there is litigation pending between the company and TANGEDCO at Hon'ble High Court of Madras.

4.5 The above action of the Assistant Engineer/O&M/TANGEDCO, Cherambadi denying the application of the complainant is highly arbitrary, illegal and against the provisions of the Indian Electricity Act, Tamil nadu Electricity Supply Code. As a matter of fact, it is submitted that a writ petition is pending before the Hon'ble High Court of Madras between the company and TNEB as W.P.No.623 of 2010. The writ petition was filed for quashing the final assessment order dated 6.1.2010 passed by the Executive Engineer, TNEB under section 135 of the Indian Electricity Act for alleging theft of electricity in Mayfield Tea Factory owned by the Company in the year 2009. The Hon'ble High Court of Madras admitted the writ petition and passed an interim order dated 12.1.2010 directing the TNEB to restore the electricity service to the Mayfield Factory upon payment of 50% of the amount assessed. In compliance with the above order, Mayfield estate had remitted 50% of the amount and supply was restored to the factory. The above writ petition is currently pending before the Hon'ble High Court of Madras.

4.6 The Assistant Engineer, Cherambadi ought to have seen that the pendency of the above writ petition is no ground to deny the bonafide application filed by the complainant for conversion of existing domestic tariff to commercial tariff for Goldsland Bungalow in Wentworth Estate. Moreover, Mayfield Estate is having a separate electric connection bearing consumer No.HT SC No.18 and the proceeding initiated in respect of the said service connection in the said estate under section 135 of the Electricity Act is pending before the Hon'ble High Court of Madras and that the same has no connection with the subject matter of the present application filed by the Appellant which relates to Wentworth Estate.

4.7 The Assistant Engineer, Cherambadi is duty bound to consider the application submitted by the complainant on merits as per the provisions contained

in the Electricity Act, 2003 and the Tamil Nadu Electricity Supply Code, 2004. An application filed by the consumer cannot be rejected merely on the ground that there is litigation pending between the TANGEDCO and the consumer in respect of a different service connection. The exercise of statutory right by a consumer cannot be a ground to reject genuine applications filed before the authorities.

#### **5. Contentions of the Respondent :**

5.1 M/s Harrison's Malayalam Limited had submitted the tariff change application for service connection number 413 - 006 - 336 vide letter dt 22.10.2016 from domestic to commercial tariff due to conversion of this building as a Heritage Holidays Home. The service connection is in the name of Manager, M/s Harrison's Malayalam Ltd, Cherambady.

5.2 Respondent had given a reply to M/s Harrison's Malayalam Ltd. that due to a case pending against TANGEDCO at Hon'ble High Court Chennai, the department is not in a position to comply with the applicant's request.

5.3 Respondent stated that Theft of energy by using bogus MRT seals was detected by the Anti Power Theft Squad on 10.09.2009 in HT service connection No.18 pertaining to M/s.Harrison's Malayalam Ltd, Mayfield estate, Nelakottai, Nilgiris District. Compounding fees was assessed for the above theft of energy as Rs.10,25,000/- and intimated, the extra levy was assessed as Rs.32,49,002/- and communicated by EE/O&M/Ooty vide his letter dated 12.09.2009. Final assessment order was issued to M/s. Harrison's Malayalam Ltd dt.06.01.2010 for an amount of Rs.35,81,102/-. However, M/s.Harrison's Malayalam Ltd. had not paid the compounding fees, hence the HT SC No.18 was disconnected on 10.09.2009.

5.4 M/s Harrisons Malayalam Ltd. Nellakottai Gudalur filed Writ Petition vide WP No. 18914 of 2009 before the Hon'ble High Court of Judicature at Madras and an interim direction order was given by the Hon'ble High Court of Madras on 15.09.2009.

5.5 An Interim direction directing the respondents to restore the power connection to the petitioners factory and estate at Gudalur, The Nilgiris district, forthwith on payment of Rs.5,00,000/-(Five Lakhs only). M/s Harrisons Malayalam Ltd. had paid a sum of Rs.5,00,000/- on 17.09.2009 vide Receipt No: 482N008966 dt.17.09.2009 for the reconnection. The service was reconnected on 17.09.2009.

5.6 The above Writ Petition was later dismissed by the Hon'ble High Court of Madras on 07.12.2009.

5.7 Again notice was issued to M/s Harrisons Malayalam Ltd. to pay the balance extra levy on 07.01.2010. The above company has not paid the balance extra levy. Hence HT service connection bearing SCNo.I8 was disconnected on 07.01.2010.

5.8 Against the above disconnection of service, M/s.Harrisons Malayalam Ltd had filed a Writ Petition in W.P. No.623 / 2010 before Hon'ble High Court of Judicature of Madras, in which an interim stay was granted in MP Nos. 1 & 2 of 2010 in WP.623 /2010. Dt.12.01.2010. As per direction of Hon'ble High court, the company has paid Rs.15,40,551/- on 13.1.2010 and as such HT service was reconnected on 13.1.2010.

5.9 Both Went Worth and May field estate are owned by MIs Harrisons Malayalam Ltd. As per regulation 17(8) of the Tamil Nadu Electricity Supply Code, when any consumer has more than one service connection, if he defaults in the payment of dues relating to anyone of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing

proper notice till all the arrears due for all the service connection are paid, notwithstanding the fact that the service connections are covered under separate agreements. The balance 50% of the extra levy is still pending to be paid by the consumer ie. M/s Harrisons Malayalam Ltd, and electricity supply has been restored based on the direction of the Hon'ble High Court, Chennai. As such M/s. Harrisons Malayalam Ltd. is a litigant Consumer. Hence application of M/s. Harrisons Malayalam Ltd. was not considered.

5.10 Theft of energy detected in the HT SC No 18 Pertaining to M/s Harrisons Malayalam Ltd. May field Estate Nelakottai Nilgirs district for bogus seal is a criminal offence and complaint has been lodged at Nelakottai police station under section 135 of Electricity Act against the appellant M/s Harrisons Malayalam Ltd. FIR filed vide FIR No. 67/2009. The case is still pending. Forensic sciences Department, Government of Tamilnadu ,Kamarajar salai Chennai had given his opinion for the Bogus seal vide PHY 302 / 2009 Dt.22.01.2010 as follows :-

- i) The Characteristics of the letter impressions found on the body and collar of the inner door seal and the terminal cover seal of the meter, item 1 are different from those found on the body and collar of the sample seal, item 2.
- ii) No extraneous material was found inside the meter.

5.11 Appellant had filed a Writ Petition before the Hon'ble High court of judicature at Madras in CRL.O.P.Nos.27253 & 26659 of 2009 & M.P. Nos.1 & 1 of 2009 against The Sub-Inspector of police praying to call for the records in FIR in crime No.57 of 2009 on the file of the respondent and quash the same. This Writ Petition was dismissed by the Hon'ble High Court. on 28.09.2016 that the endorsement

made by the learned counsel for the petitioners, these criminal original petitions along with connected CrI. M.Ps were dismissed as withdrawn. It is needless to state that after filing of the final report, the petitioners are always at liberty to pursue their remedy in the manner known to law.

5.12 As per appellant statement that when the demand has been stayed by the Constitutional Court, there is no demand in the eye of law. Thus the question of default in payment of dues as contemplated in Regulation 17(8) of the supply code does not arise on the fact of the case.

5.13 It is not true, this Writ Petition is related to the criminal case. The appellant has to pay the balance amount to TANGEDCO. The pending dues as on 01.06.2017 is Rs.38,03,769/- until such time the appropriate Court disposes of the criminal case and fixes the civil liability. The balance extra levy amount with BPSC as on 01.06.2017 is due from the company. In addition, criminal case judgment will also be imposed on the company. The quantum of pending balance extra levy with BPSC charges is huge. Criminal proceedings is also still pending before the Hon'ble Judicial Magistrate Court Pandalur, Nilgiris. Under these circumstance, it is requested that the requirements of the appellant cannot be considered due to reeling of pending extra levy, for the tariff change from domestic to commercial tariff.

#### **6. Hearing held by the Electricity Ombudsman:**

6.1 To enable the Appellant and the Respondents to put forth their arguments in person, a hearing was conducted on 29.8.2017.

6.2 Thiru J. Ravikumar, advocate, has attended the hearing on behalf of the Appellant and putforth his arguments.

6.3 Thiru B. TAMILARASAN, Assistant Engineer, Cherambadi has attended the hearing on behalf of the Respondent and put forth his arguments.

**7. Arguments put forth by the Appellant's Representative on the hearing date:**

7.1 The Appellant's representative advocate reiterated the contents of the Appeal Petition. The learned counsel referred the Judgment issued in the W.P.No. 38953 of 2016 and W.M.P.33360 of 2016 and argued that Regulation 17 (8) is not applicable in the present case as long as the impugned demand is stayed and it should be deemed that there are no arrears.

**8. Arguments furnished by the Respondent on the hearing date:**

8.1 Thiru B.TAMILARASAN, Assistant Engineer, Cherambadi, the respondent reiterated the contents of the Counter.

8.2 Respondent argued that Criminal case is pending against the petitioner and huge quantum of extra levy with BPSC is still pending to be collected. As per the Section 17(8) of the Supply code of Tamilnadu Electricity Regulatory Commission, when any consumer has more than one service connection, if he defaults in the payment of dues relating to anyone of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connection are paid, notwithstanding the fact that the service connections are covered under separate agreements. Hence application of the petitioner was not considered.

8.3 The Respondent relied only on Regulation 17(8) of the Supply Code.

## **9. Findings of the Electricity Ombudsman:**

9.1 On a careful consideration of the arguments put forth by the Appellant and the Respondent, the findings of the Electricity Ombudsman are discussed below:

9.2 The Appellant has furnished the following arguments in support of his prayer to convert the domestic tariff into Commercial tariff for their Goldsland Bungalow (consumer no.413-006-336) within its Wentworth Estate.

i) All the required documents were submitted before the Assistant Engineer, Cherambadi in connection with the above application. The said application of the Complainant was rejected by the Assistant Engineer/O&M/Cherambadi on 22.11.2016 informing that the Department is not in a position to comply with the above request since there is litigation pending between the company and TANGEDCO at Hon'ble High Court of Madras.

ii) As a matter of fact, it is submitted that writ petition pending before the Hon'ble High Court of Madras between the company and TNEB as W.P.No.623 of 2010. The writ petition was filed for quashing the final assessment order dated 6.1.2010 passed by the Executive Engineer, TNEB under section 135 of the Indian Electricity Act for alleged theft of electricity in Mayfield Tea Factory owned by the Company in the year 2009. The Hon'ble High Court of Madras admitted the writ petition and passed an interim order dated 12.1.2010 directing the TNEB to restore the electricity service to the Mayfield Factory upon payment of 50% of the amount assessed. In compliance with the above order, Mayfield estate had remitted 50% of the amount and supply was restored to the factory. The above writ petition is currently pending before the Hon'ble High Court of Madras.

iii) The Assistant Engineer, Cherambadi ought to have seen that the pendency of the above writ petition is no ground to deny the bonafide application filed by the complainant for conversion of existing domestic tariff to commercial tariff. Moreover, Mayfield Estate is having separate electricity connection bearing consumer No.HT SC No.18 and the proceeding initiated against the said estate under section 135 of the Electricity Act is pending before the Hon'ble High Court of Madras and that the same has no connection with the present application filed by the complainant herein.

iv) The Assistant Engineer, Cherambadi is duty bound to consider the application submitted by the complainant on merits as per the provisions contained in the Electricity Act, 2003 and the Tamil Nadu Electricity Supply Code, 2004. An application filed by the consumer cannot be rejected merely on the ground that there is litigation pending between the TANGEDCO and the consumer. The exercise of statutory right by a consumer cannot be a ground to reject genuine applications filed before the authorities.

9.3 The Respondent has furnished the following arguments:

i) He had given a reply to M/s Harrisons Malayalam Ltd. that due to a case pending against TANGEDCO at Hon'ble High Court Chennai, the department is not in a position to comply with the applicant's request.

ii) He further stated that Theft of energy by using bogus MRT seals was detected by the Anti Power Theft Squad on 10.09.2009 in HT service connection No.18 pertaining to M/s.Harrisons Malayalam Ltd, Mayfield estate, Nelakottai, Nilgiris District. Compounding fees was assessed for the above theft of energy as Rs.10,25,000/- and intimated, the extra levy was assessed as Rs.32,49,002/- and communicated by EE/O&M/Ooty vide his letter dated 12.09.2009. Final assessment

order was issued to M/s. Harrison's Malayalam Ltd dt.06.01.2010 for an amount of Rs.35,81,102/-. However, M/s.Harrison's Malayalam Ltd. had not paid the compounding fees, hence the HT SC No.18 was disconnected on 10.09.2009.

iii) M/s. Harrison's Malayalam Ltd. Nellakottai Gudalur filed a Writ Petition in WP No. 18914 of 2009 before the Hon'ble High Court of Judicature at Madras and an interim direction order was given by the Hon'ble High Court on 15.09.2009, directing the respondents to restore the power connection to the petitioners factory and estate at Gudalur, Nilgiris district, forthwith on payment of Rs.5,00,000/-(Five Lakhs only). M/s Harrison's Malayalam Ltd. had paid a sum of Rs.5,00,000/- on 17.09.2009 and the service was reconnected on 17.09.2009.

iv) The above Writ Petition was later dismissed by the Hon'ble High Court on 07.12.2009.

v) Again notice was issued to M/s Harrison's Malayalam Ltd. to pay the balance extra levy on 07.01.2010. The above company has not paid the balance extra levy. Hence HT service connection bearing SCNo.18 was disconnected on 07.01.2010.

vi) M/s.Harrison's Malayalam Ltd had filed a Writ Petition before appellate Jurisdiction in W.P. No.623 / 2010 before Hon'ble High Court of Judicature of Madras, in which an interim stay granted by the Hon'ble High Court in MP Nos. 1 & 2 of 2010 in WP.623 /2010. Dt.12.01.2010. As per direction of Hon'ble High court, the company has paid Rs.15,40,551/- on 13.1.2010 and as such HT service was reconnected on 13.1.2010.

vii) Both Went Worth and May field estate are owned by M/s Harrison's Malayalam Ltd. As per the regulation 17(8) of the Tamil Nadu Electricity Supply Code, when any consumer has more than one service connection, if he defaults in the payment of dues relating to anyone of the service connections, the licensee may

cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connection are paid, notwithstanding the fact that the service connections are covered under separate agreements. The balance 50% of the extra levy is still pending to be paid by the consumer i.e. M/s Harrisons Malayalam Ltd, and electricity supply has been restored based on the direction of the Hon'ble High Court, Madras. As such M/s. Harrisons Malayalam Ltd. is a litigant Consumer. Hence application of M/s. Harrisons Malayalam Ltd. was not considered.

9.4 On a careful reading of the above arguments, it is noted that the Respondent has refused to effect tariff conversion from domestic to commercial citing Regulation 17 (8) of Supply Code since balance extra levy amount along with BPSC is pending to be paid by the consumer against the final assessment order issued on 06.01.2010 by the EE/O&M/Udhagamandalam.

9.5 The petitioner filed W.P.No.623 of 2010 in the Hon'ble High Court, Madras to quash the above final assessment order issued on 06.01.2010. The Hon'ble High Court admitted the writ petition and passed an interim order dated 12.01.2010 directing the TNEB to restore the electricity service to the Mayfield factory upon payment of 50% of the amount assessed. In compliance with the above order, the petitioner paid the 50% amount and supply was restored to the factory. The above WP is currently pending before the Hon'ble High Court of Madras.

9.6 The petitioner argued that the above WP is no ground to deny the bonafide application filed by the petitioner. Mayfield Estate is a separate Service having separate electric connection bearing consumer No.HT SC No.18 and the proceeding initiated against the said estate under section 135 of the Electricity Act is pending before the Hon'ble High Court of Madras and that the same has no connection with

the present application.

9.7 As the Respondent referred regulation 17(8), the same is reproduced below:

*“ 17. AGREEMENT WITH RESPECT TO SUPPLY: ISSUES ON RECOVERY OF CHARGES*

*\*\*\*\**

*(8) Where any consumer has more than one service connection, if he defaults in the payment of dues relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid, notwithstanding the fact that the service connections are covered under separate agreements.”*

As per the above regulation, if the consumer defaults in the payment of dues relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid, notwithstanding the fact that the service connections are covered under separate agreements.

9.8 The learned counsel of the Appellant referred the Judgment of the Hon'ble High Court in W.P.38953 of 2016 and W.M.P.33360 of 2016 and argued that Regulation 17 (8) is not applicable in the present case as long as the impugned demand is stayed and it should be deemed that there are no arrears. The relevant para of the Judgment in W.P.No.38953 of 2016 and W.M.P. No.33360 of 2016 are reproduced below:

*“ \*\*\*\*\**

*10. It has been pointed out in an earlier order of this Court, in W.P.(MD) No. 11842 of 2013 dated 31.07.2013 that, once an order of interim stay is granted, the order stayed is deemed to be not in existence, temporarily, and for all practical purposes, the respondents have to treat, as if the order has not been passed, however, subject to the result of the writ petition. Paragraphs 8 to 10 of the said judgment, which was passed, following the judgment of the Division*

*Bench of this Court in W.A. Nos. 1652 & 1653 of 2013 dated 06.11.2013 (The Chairman, TANGEDCO and 2 Others V. T.T. Limited) are usefully extracted hereunder :*

*"8. It is evident from the records that the demand of Rs. 45,58,345/- was already stayed by this Court in W.P.(MD) No. 13867 of 2012 on 30.10.2012 by a speaking order. When an order has been stayed, in effect, it is not in existence temporarily, though it is not finally. For all practical purposes, the respondents have to treat, as if the order has not been passed subject to the result of the writ petition. If the respondents are able to succeed in the writ petition, definitely, the liability of the petitioner gets revived and the same has to be paid by the petitioner and in that event, for non-payment of the said amount, they can also disconnect.*

*9. As far as the judgment relied upon by the learned counsel appearing for the respondents is concerned, there is no quarrel with regard to them. Certainly, there is a distinction between quashing of the order and stay of operation of the order. Stay of the operation means, it is temporarily not given effect and quashing of the order is once for all becomes null and void and that distinction, this Court is aware. Once stay has been made, it is only subject to the result of the writ petition and therefore, it is made clear that once the respondents are able to succeed in the writ petition, the petitioner is pushed back to the same position, when the demand was made and in that event, the respondents are at liberty to collect the money and as observed earlier, they can disconnect also. Therefore, as long as the impugned demand is stayed, it should be deemed that there is no arrears. Otherwise, the process of law will be made as a mockery.*

*10. As rightly pointed out by the learned Senior Counsel appearing for the petitioner, all the authorities will try to undo the orders, by passing this kind -of order and it is not good for the Justice Delivery System."*

*11. Pursuant to the aforesaid judgments, the Chairman, Tamil Nadu Generation and Distribution Corporation Limited (Technical Branch), has issued a circular dated 23.01.2014 to all the Superintending Engineers, Electricity Distribution Circles, stating that when there is an order of stay, injunction, etc, granted by the Court restraining the TANGEDCO from collecting outstanding dues, the consumers should not be insisted to remit such outstanding dues covered by*

*stay as a condition precedent to process/allow their requests. The aforesaid circular reads as follows:*

*"In continuation to the instructions already issued vide reference (i) to (iv) cited above, the following instructions are hereby issued:*

*(i) Whenever any order of stay, injunction, etc. is granted by the Court, immediate action should be taken to vacate such order of stay, injunction, etc. so as to realise the outstanding dues, if any from the consumers.*

*(ii) When the consumers having outstanding dues approach TANGEDCO for their various requests such as new, additional demand, dedicated feeder, etc. and if there is no order of stay by Court against collection of outstanding amount from the consumers, action may be taken to realise the pending amount from the consumer before processing their request.*

*(iii) When the consumers having outstanding dues approach TANGEDCO for their various requests and if there is an order of stay, injunction etc. granted by the Court restraining the TANGEDCO from collecting such outstanding dues, the consumers should not be insisted to remit such outstanding dues covered by stay as a condition precedent -to process/allow their requests. Such request of the consumers shall be processed and thereafter, a report is to be sent duly stating the full and complete details of the case such as brief history of case, actual date of filing of a counter affidavit together with vacate stay/injunction petition, number assigned by the registry of the Court on such vacate stay/injunction petition and the action taken to list such vacate stay/injunction petition for early hearing in consultation with the Standing Counsel/Government Pleader/Advocate on' behalf of the TANGEDCO and subsequent developments that took place in such cases, etc., with connected records."*

9.9 On a careful reading of the above Judgement it is clear that as long as the demand is stayed, it should be deemed that there are no arrears. Based on the above Judgement, the Chief Engineer/Commercial, TANGEDCO has also issued memorandum vide Memo.No.CE/Comml/EET/AEE.2/F.Consumers with Arrears/D.28/13, (Tech.Br), dated 23.01.2014 restraining the TANGEDCO officials from collecting outstanding dues covered by stay as a condition precedent to

process/allow their requests.

9.10 In the light of the above, I am of the considered opinion that in as much as stay has been granted by the Hon'ble High Court of Madras in W.P.No.623 of 2010 against the final assessment order issued by TANGEDCO on 06.01.2010 there is no due at present payable by the consumer. As there is no due, the regulation 17(8) is not applicable to the present case. Hence, I hold that there is no bar in effecting tariff change from domestic to commercial for the petitioner's Goldsland Bungalow SC No.413-006-336.

**10. Conclusion :**

10.1 In view of my findings Para 9 above, the tariff change shall be effected to the Petitioner from the existing domestic tariff to commercial tariff for their Goldsland Bungalow SC No.413-006-336 within 7 days from the date of receipt of this order. However, it is open to the Respondent to opt for undertaking before effecting tariff change.

10.2 With the above findings the AP. No 36 of 2017 is finally disposed of by the Electricity Ombudsman. No Costs.

**(S. Devarajan)**  
Electricity Ombudsman

To  
1) M/s Harrison's Malayalam Limited,  
Wentworth Estate,  
Cherambadi,  
The Nilgiris – 643 205.

2) The Assistant Engineer/O&M,  
Cherambadi,  
Nilgiris Electricity Distribution Circle,  
TANGEDCO,  
No15/17/B1,Goles Land, Near manu tea stall,  
Cherambady-643205.

3) The Chairman,  
(Superintending Engineer),  
Consumer Grievance Redressal Forum,  
Nilgiris Electricity Distribution Circle,  
TANGEDCO,  
Aavin Building, Udagamandalam - 643 001.

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

5) The Secretary,  
Tamil Nadu Electricity Regulatory Commission,  
19-A, Rukmini Lakshmi pathy Salai,  
Egmore,  
Chennai – 600 008.

6) The Assistant Director (Computer) – **For Hosting in the TNEO Website please**  
Tamil Nadu Electricity Regulatory Commission,  
19-A, Rukmini Lakshmi pathy Salai,  
Egmore,  
Chennai – 600 008.