

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:-

Thiru S.Akshayakumar Chairman
Thiru.G.Rajagopal Member
and	
Dr.T.Prabhakara Rao Member

M.P.No.32 of 2015

M/s.Ozone Project Private Limited
H.T.SC.No.1860
No.44, Pillaiyar Kovil Street
Anna Nagar
Chennai – 600 040.

... Petitioner
(Thiru N.L.Rajah
Senior Advocate for the Petitioner)

Vs.

1. Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO)
Represented by its Chairman and Managing Director
144, Anna Salai
Chennai – 600 002.
2. The Superintending Engineer
CEDC / West
TANGEDCO
Anna Nagar, Chennai 600 040.

... Respondents
(Thiru M.Gopinathan
Standing Counsel for the Respondent)

Dates of hearing: **05-10-2015, 29-12-2015, 11-02-2016 and
25-04-2016**

Date of Order: **16-11-2016**

The M.P.No.32 of 2015 came up for final hearing on 25-04-2016. The Commission upon perusal of the Petition, Counter affidavit filed by the Respondents

and all other connected records and after hearing the arguments of both sides hereby makes the following:

ORDER

1. Prayer of the Petitioner in the above M.P.No.32 of 2015:-

The prayer of the Petitioner in the above M.P.No.32 of 2015 is to-

- (a) direct the Superintending Engineer to charge under HT Tariff II A from the present HT Tariff III in respect of HTSC 1860 for the common loads of the 13 Residential Towers (6 Operational and 7 to commence operation shortly) and to extend all benefits that are applicable under HT Tariff II A to the above HT service connection 1860.
- (b) direct the Superintending Engineer to accept the Application of the Petitioner and provide one LT Service for each tower for the Common Area Loads of the remaining 17 towers in the project "The Metrozone" being developed by the Petitioner and charge under LT Tariff 1A

2. Contentions of the Petitioner in the above M.P.No.32 of 2015:-

2.1. The Petitioner M/s.Ozone Projects Pvt. Ltd. is a well known real estate property developer and builder who are involved in the development of properties and flats in Chennai, Bangalore and Goa. One of the most prestigious projects of the Petitioner is named "The Metrozone" at Jawaharlal Nehru Road, Anna Nagar, Chennai and is being developed in a sprawling 40 and odd acres of land in phased manner. The Petitioner has Planning Permission to construct 30 residential towers in the above property and currently 6 towers have been completed and occupied and other towers are at various stage of completion. The Petitioner reiterates that all the 30 towers are to be used exclusively only for residential purpose. The Planning Permission and Building Permission granted is also only for use of these towers for

residential purposes. Ultimately, the entire complex consisting of the 30 towers would only be used as a residential colony.

2.2. The individual Apartment Owners have been provided with LT Service Connection. However, the power requirement for the common areas attached to the individual Towers such as Lift, Garden Area, Roads, Basement Parking, Fire Safety Pumps, Motors, etc, though well within 112 KV, the Petitioner was advised to apply for HT Service Connection and accordingly the Petitioner had applied for HT Service Connection and was allotted HT SC No. 1860. Presently the 6 Residential Towers Common Area Loads are being serviced through this HT Service Connection 1860 and within next two to three months, 7 more Residential Towers are proposed to be handed over to the Customers and the existing HT Service Connection 1860 will cater to the common areas of the 13 Residential Towers.

2.3. The brief facts leading to the filing of the present petition are as follows:

- a. Initially in the Tariff Order No. 1 of 2003 dated 15.03.2003, the Housing Complexes were classified under category HT Tariff II A. Further in the Tariff Order No.3 of 2010 dated 31.07.2010, the said Housing Complexes were not classified under the category HT Tariff II A.
- b. TANGEDCO filed a petition before the Commission in M.P.No.5 of 2011 on Commission's Order No.3 dated 31-07-2010 to include the Housing Complexes in HT Tariff II A.
- c. The said petition had been withdrawn by TANGEDCO, since this category of consumers has been included under HT Tariff II A in the petition filed by the TANGEDCO for Tariff revision for the year 2012-13.

d. The Commission issued the Tariff Order No.1 of 2012 on 30.03.2012. In the order, the Commission permitted to extend the HT Tariff II A, only to Housing Complexes under the control of Central/ State Governments/ Local Bodies/ TWAD Board/ CMWSSB.

2.4. The Commission has suo-motu passed Determination of Tariff for Generation and Distribution by way of its Order No. 9 of 2014 dated 11.12.2014. The consumers are provided with the different categories of supply as specified in the Tamil Nadu electricity Distribution Code and Tamil Nadu Electricity Supply Code. The order provides that the High Tension Tariff II-A is applicable to some of the services under the control of Central or State Government or Local Bodies or TWAD Board or CMWSSB which includes educational institutions, hospitals, residential colonies and housing complexes, etc. Whereas, the High Tension tariff III is applicable to all other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V. As the residential colony developed by the Petitioner is a private one, in accordance with the extant Tariff Order, the Petitioner is categorised under HT Tariff III.

2.5. Despite the fact that the entire usage from the above Connection is only towards residential use inasmuch as it is for energy consumed in common areas of the residential colony, as the connection is HT the Petitioner is burdened with the quota system, whereby there are outages in peak hours and restricted supply during normal hours. As against 1000 KVA, the connection is provided only with 610 KVA, which further drops to only 61 KVA during peak hours. The above state of affairs and condition normally exists only in respect of industrial use. However, as the Petitioner has availed of a HT Service connection, the above mentioned restrictions, quota and

high tariff is being imposed. This has put many of the residents especially those who are residing in the higher floors to enormous inconvenience as alternate arrangements at very high costs have to be incurred.

2.6. In view of the benefits of better energy and tariff that can be availed in respect of purely residential use, the Petitioner has made a representation to the Superintending Engineer on 09.01.2015 requesting for change of the present HT Tariff III to HT Tariff II-A specifying the load pattern as the usage of loads was only for residential purposes and no commercial activities are going on. The Superintending Engineer has sent a reply to the representation on 17.04.2015 stating that the request of Tariff change from HT Tariff III to HT Tariff II-A is not feasible of compliance as it is applicable only to the services which are under the control of Central or State Government or Local Bodies or TWAD Board or CMWSSB. The stand of the second respondent is clearly discriminatory and does not disclose a constructive interpretation of the tariff order. The Commission in order dated 30-01-2013 made in M.P.No.19 of 2012 has read and construed the Tariff Order in its proper perspective. Though the said order dated 30-01-2013 pertains to Tariff Order No.1 of 2012 dated 30.03.2012, the provisions which were the subject matter of consideration in the said order dated 30.01.2013 have not been modified even in Commission's Suo-Moto Tariff Order No.9 of 2014 dated 11.12.2014. In Christian Medical College Vs TANGEDCO in M.P.No.19 of 2012 the Commission has given the benefit of inclusion of residential colony run by the Christian Medical College, Vellore under HT II-A. The Petitioner is similarly placed and therefore the rationale of the order in said case must also apply to the case of petitioner. The benefit of providing single point supply to a housing complex through HT Service is recognized to be a saving of metering, billing and collection expenditure from the

individual consumers. It is relevant to state that as in the case of CMC Vellore in the Petitioner's case also, supply is from a single point in respect of HT SC No.1860 of the Petitioner.

2.7. There is no other provision for residential colonies and housing complexes of any other agency other than the Central or State Governments or Local bodies or TWAD Board or CMWSSB under any other HT category. As per the order, HT Tariff III is the Tariff which is applicable to categories of consumers not covered under HT Tariff IA, IB, IIA, IIB and IV. The residential colonies and housing complexes are figuring only under one category Viz., HT Tariff II-A and does not figure under any other category of Tariff.

2.8. In the case of CMC Vellore, the Commission after considering the various submissions held as under:

"There is no other provision for residential colonies and housing complexes of any other agency other than the Central/ State Governments/ Local Bodies/ TWAD Board/ CMWSSB under any other HT category. HT Tariff III is the Tariff which is applicable to categories of consumers not covered under HT Tariff IA, IB, IIA, IIB and IV. The Petitioner herein is pleading for categorizing them under HT Tariff II A. Since the residential colonies and housing complexes are figuring only under one category viz., HT Tariff II A and does not figure under any other category of Tariff as discussed above the Commission considers it appropriate to accede to the prayer of the Petitioner for including such bulk consumers under HT Tariff II A."

2.9. Since the Petitioner was constrained to make application for HT Service Connection, they had obtained HT Service Connection which will cater to the Common Area Loads for the 13 Towers out of 30 Residential Towers. As far as remaining 17 Towers are concerned, the Petitioner is contemplating to apply for "LT Service Connection" for each of the Tower to cater to the Common Area loads.

The Second Respondent refused to accept the Application seeking LT Service Connection.

2.10. The Petitioner is entitled to the relief prayed for, for the following amongst other reasons:

- (a) The usage of loads is only for residential purposes and not for any kind of commercial activities.
- (b) There is no other provision for residential colonies and housing complexes of any agency other than the Central or State Governments or Local bodies or TWAD Board or CMWSSB under any other HT category.
- (c) As per the order, HT Tariff III is the Tariff which is applicable to categories of consumers not covered under HT Tariff IA, IB, IIA, IIB and IV.
- (d) The residential colonies and housing complexes are figuring only under one category Viz., HT Tariff II-A and does not figure under any other category of Tariff.
- (e) Though the use of the Petitioner is purely residential, it is imposed with restrictions, quota and high tariffs which are applicable to industrial usage, putting its customers to great inconvenience and hardship.
- (f) Each Tower Common Area Load can be met with one LT Service Connection, however, since multiple LT Service Connections are not provided by TANGEDCO, the Petitioner was constrained to seek for HT Service Connection and are compelled to pay HT Tariff instead of actual applicable LT Tariff. This concept of not providing multiple LT Service Connections is without any basis and the Customers are put to huge hardships and monetary loss. This amounts to discrimination, inequality and not founded on established principles of law.

2.11. The Petitioner has made out a *prima facie* case and the balance of convenience is also in its favour in the grant of orders as prayed for. No prejudice, loss or hardship would be caused to the Respondents if the petition is allowed. On the contrary, grave prejudice, irreparable loss and hardship would be caused to the

residents of the Petitioner if the present petition is not allowed. The Petitioner reserves its right to file additional pleadings and documents.

3. Contentions in the Counter Affidavit filed on behalf of TANGEDCO:-

3.1. The Petitioner's residential complex contains nearly 30 blocks with 65 residential apartments in each block. At present 6 blocks have been completed and LT service connections have been provided to those residential apartments under LT Domestic Tariff. Apart from that one HT service connection has been provided under HT Tariff III for the common utility of the residents such as lift, lighting, basement parking, swimming pool etc. The Commission has issued the tariff orders vide SMT Tariff Order No.9 of 2014 dated 11-12-2014 and T.P.No.1 of 2013 dated 20-06-2013, wherein the applicability of HT Tariff IIA is held as under:

- i. This tariff is applicable for the following services under the control of Central / State Governments / Local Bodies / TWAD Board / CMWSSB.
 - a. xxxx
 - b. xxxx
 - c. xxxx
 - d. xxxx
 - e. Residential colonies and housing complexes, senior citizen communities, old age homes and orphanages.
 - f. xxxx
 - g. xxxx
 - h. xxxx
 - i. xxxx
- ii. This tariff is also applicable to the following
 - a. xxxx
 - b. xxxx
 - c. Single point supply to cooperative group housing society and for the residential purpose of the employees as specified in "The Electricity (Removal of difficulties) Eighth Order 2005".

As per the above HT Tariff classification, the HT Tariff IIA is applicable only for the services under the control of Central / State Governments / Local Bodies /TWAD Board / CMWSSB. Therefore, the Petitioner's prayer to change the HT tariff under II A is untenable.

- 3.2. In the said SMT order, the applicability of LT Tariff 1A is held under:-
- “(i) *This tariff is applicable to the following:*
 - (a) *Domestic/Residential purposes of lights, fans, Air conditioners, radio/ TV and all other home appliances.*
 - (b) *Supply used in the house/residence/premises for the following purpose with a total connected load not exceeding 2 k W.*
 - (1) *To provide lighting, water and other facilities to domestic animals/pets including chaff cutting, milking etc.*
 - (2) *Watering for gardening including growing of trees in and around residential houses / buildings.”*

x x x x

- (h) *In respect of multi tenements/residential complexes supply used for common lighting, water supply, lift and such other facilities provided only to the residents alone may be given a separate connection and charged under this tariff. Only one service connection shall be given for the premises for all common facilities.*
- (i) *In respect of multi tenements/ multi-story flats/residential complexes having both domestic and non-domestic utilities, common facilities such as common lighting, common water supply, lift and such other facilities will be charged under this tariff only if the non-residential built up area does not exceed 25% of the total built up area.*
- (j) *In multi tenements residential buildings/ Group Houses the additional service connections requested by the owners/tenants shall be given. If only a meter is required to effect the additional service connection, service line charges shall not be collected.”*

As per the above LT tariff I A classification, in respect of multi tenements/residential complexes supply used for common facilities such as lighting, water supply, lift and such other facilities, only one service connection shall be given for the premises. Therefore the prayer to accept the application of the Petitioner and to provide one LT service connection for each of the remaining 17 Towers in the Metrozone being developed by the Petitioner and charge under LT Tariff I A does not deserve consideration.

- 3.3. The Petitioner has not applied for any LT service connection for common facilities in the said residential complex. Further, as the load requirement of the petitioner is more than 112 KW, it has been advised to apply for HT service

connection to comply with present regulations in force. The present load of the HT service connection is 1000 KVA.

3.4. There is no provision in the Tariff orders to provide one LT service connection each for the remaining 17 towers for the common area loads and charge under LT Tariff I A.

3.5. Though the HT service connection is utilised for residential use, the request of the petitioner to change the HT tariff III to II A has not been considered as there is no provisions in the prevailing tariff order of the Commission. The case referred by the Petitioner i.e. M.P.No.19 of 2012 filed by Christian Medical Collage is entirely different from the case of the Petitioner. In the case of Christian Medical College, only one HT service connection was provided for entire quarter's consumption under HT Tariff II A (earlier under HT Tariff III) and no LT service connection has been provided under domestic tariff. Whereas in the present case, LT service connections were provided to each and every apartment. The HT service connection was provided only for the common usage of the residents in the complex. Further, the prayer of Christian Medical College has been considered by the Commission as the HT supply was extended to the staff quarters of the Christian Medical College. Whereas, in the present case, the petitioner's premises is not a quarters and the apartments are owned by different owners. As the power requirement of the petitioner is more than 112 KW, only one service connection has been effected under HT Tariff III as per the prevailing SMT order.

4. Contentions of Reply Affidavit filed on behalf of the Petitioner:-

4.1. The Respondents have not specifically dealt with the issues raised in the Petition and have merely reiterated the contents of the Tariff Order, without in any manner applying the interpretation as given by the Commission on earlier occasions in a similar case. No meaningful difference has been shown between the Petitioner's request and that status accorded to CMC, Vellore's Staff Quarters i.e., the earlier case decided by the Commission.

4.2. The Residential complex being constructed by the Petitioner comprises of 30 residential Towers, of which 6 Towers have been completed and 7 more have almost reached the stage of handing over to the respective individual purchasers of the Apartments. The Petitioner required a Service Connection in respect of the energy requirements in the Common Areas and for Common amenities such as Lift etc. and though the requirement was well within 112 KW, as it was advised and as there is no other Classification applied for HT Connection under HT Tariff III.

4.3. As the requirement is purely for use in the residential colony/complex and there is no industrial or other commercial use of the energy, the Petitioner represented that the classification be changed to Tariff II A as it would avoid burdening the residents with quotas, restrictions and higher tariffs. However, without considering the earlier interpretations given by the Commission, the request of the Petitioner has been mechanically rejected. Similarly, the Respondents also refused to accept the Petitioner's application for separate LT connections in respect of each of the remaining 17 Towers which are yet to come up.

4.4. The Respondents have extracted SMT Tariff Order No.9 of 2014 dated 11.12.2014 and T.P. No.1 of 2013 dated 20.06.2013 regarding applicability of LT Tariff. The Respondents have interpreted this to mean that only one LT connection can be given for premises and that therefore separate LT connections cannot be given to the 17 Towers and charged under LT Tariff I A. The Apartment Complex being one which is solely for residential purpose and wherein no commercial activities are to be carried out, the Respondents ought to give a more purposive interpretation which shall assist the individual consumers, who are the owners/residents of the Apartments, instead of passing on to them, the burdens associated with a HT Connection. Each Tower/Block of the proposed 17 Towers can be treated as 'premises' and thus be given one LT connection each and charged under LT Tariff I A.

4.5. The load requirement of the Petitioner in respect of the 6 completed Towers and the 7 more towers to be handed over to customers, does not exceed 112 KW in respect of the Common Areas and amenities. The interpretation given by the Commission in M.P. No.19 of 2012 (CMC Case) is applicable in all force to the case of the Petitioner, who is similarly placed.

4.6. The distinction sought to be made by the Respondents from the CMC Vellore case, by stating that in that case the entire premises had only one HT connection and a single owner, is untenable and is in fact not germane to the issue. The point for consideration is the interpretation and applicability of the Tariff Order. The Commission, in CMC Vellore's case had considered the provisions and interpreted that since residential colonies and housing complexes figure only in Tariff II A, even though the provisions lay down as being applicable only to some Government

colonies, it was appropriate to accede to the prayer of CMC for including such Bulk Customers under Tariff II A. In the light of such interpretation, the distinction sought to be made by the Respondents is improper and as such liable to be rejected.

4.7. The Petitioner is thus entitled to the benefit of being included in HT Tariff II A in respect of the 13 Towers falling under HT Service Connection SC 1860. Similarly, the Petitioner is also entitled to be given a single LT Service Connection to each of the remaining 17 towers as the Load requirements are not high and the same are only for residential purposes and no other purposes.

5. Additional Affidavit filed on behalf of the Petitioner:-

5.1. The Petitioner Company had acquired 42.53 Acres of land and obtained Planning Permission from CMDA for development of mixed use development comprising of 30 Residential Towers and Retail space. The approval granted by CMDA is one single integrated approval. After gifting lands towards OSR, Public Road, CMRL, TNEB, etc., the balance lands available for conveyance to Residential Customers and Retail was 33.18 Acres.

5.2. The Petitioner was advised to make application for HT Service Connection and they had obtained HT Service Connection which will cater to the Common Area Loads for the 13 Residential Towers out of 30 Residential Towers. As far as remaining 17 Towers are concerned, the Petitioner is seeking to apply for LT Service Connection since the usage is only residential and the Common Area Loads can be apportioned to each of the residential Towers. Each residential Tower comprises of around 65 residential units and the common area loads can be appropriated towards each Tower and this arrangement would mean that each Tower constitutes

"Premises" as required for grant of LT Service connection. The prayer seeking LT Service connection to the Common Area Loads of the remaining 17 Tower is thus justified and sustainable.

5.3. All the statutory requirements with respect to safety measures pertaining to transmission of power supply in their project have been complied with the fire safety measures for each tower is also separate and it is thus clearly established that each tower is a separate "Premise". The contentions of the Respondents to the contrary are untenable and liable to be rejected.

6. Findings of the Commission:-

6.1. The petitioner, M/s. Ozone Project Private Limited, a real estate property developer and builder involved in the development of properties and flats is developing the 'Metrozone', one of their projects, at Jawaharlal Nehru Road, Anna Nagar, in a land of 40 acres in a phased manner. The petitioner has obtained planning permission for construction of 30 residential towers of which 6 towers have been completed and 7 more towers are to be handed over. The petitioner applied for a service connection under High Tension Tariff III for the loads pertaining to common amenities for the six towers and obtained a HT service connection No.1860 under HT Tariff III. 7 more residential towers are to be handed over, the common areas of which will be catered to by the HT service connection No.1860. The individual apartment owners have been provided with Low Tension service connections. This petition has been filed seeking a direction to the Superintending Engineer to charge the HT Service No.1860 effected under Tariff III to serve the loads for common facilities under HT Tariff II A, and to direct the Superintending Engineer to accept the

application of the petitioner seeking one Low Tension service connection to each of the remaining 17 towers for common facilities and charge under LT Tariff I A.

6.2. The petitioner contends that as a service connection in respect of the energy requirements for the common areas and common amenities such as lift etc. was required, though the requirement was well within 112 kW, as advised and as there is no other classification, an application was made seeking a HT service connection under HT tariff III. Subsequently, the petitioner has made a representation to the Superintending Engineer/TANGEDCO, to change the tariff of the existing HT service from HT Tariff III to HT tariff II A as there being no industrial or commercial use of energy, and the Superintending Engineer has turned down the request on the ground that the HT tariff II A is applicable only to services under the control of the Central or State Governments/Local bodies/TWAD/CMWSSB. As per the petitioner, the respondents had refused to accept the application seeking LT service connection to each of the remaining 17 towers to cater to the common facilities of each tower.

6.3. The petitioner has referred to the Commission's order in M.P No.19 of 2012 dt.30.3.2012 wherein the prayer to include the bulk supply to the residential colony of Christian Medical College under HT Tariff II A was acceded to and has pleaded to apply the same rationale to the petitioner's case. Further, it is the petitioner's contention that the respondents have not interpreted rightly the relevant provisions of the Commission's Tariff order.

6.4. The respondents on the other hand have argued that the contention of the petitioner that the power requirement for the common areas attached to individual towers such as lift, garden area, roads, basement parking etc. are well within 112 kW

is not correct. The load requirement was more than 112 kW and therefore the petitioner was advised to obtain HT service connection as per the regulations in force. The present load in the HT service is 1000 kVA. The petitioner has not applied for any LT service connection.

6.5. As to the effecting of a single HT service under Tariff III and rejection of the request of the petitioner to charge the HT service under HT TF II A, it is the stand of the respondent that there are no provisions in the prevailing tariff order. It is also the stand of the respondent that the petitioner's request for one LT service connection to each of the remaining 17 towers cannot be considered as only one service connection for common facilities has to be provided as per the tariff order.

6.6. The relevant portions on applicability of Tariff in Commission's Tariff order issued in SMT No.9 of 2014 dt.11.12.2014 that have a bearing in this case are extracted below:

"High Tension Tariff II-A

i. This tariff is applicable for the following services under the control of Central/State Governments /Local Bodies/TWAD Board/CMWSSB:

- a) xxx
- b) xxx
- c) xxx
- d) xxx

e) Residential Colonies and Housing complexes, Senior citizen communities, Old age Homes and Orphanages,

ii. This tariff is also applicable to the following:

- a) xxx
- b) xxx
- c) *Single point supply to Cooperative group housing society and for the residential purpose of the employees as specified in "The Electricity (Removal of difficulties) (Eighth) Order, 2005*
- d) *xxx."*

“High Tension Tariff III :

- i. *This tariff is applicable to all other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V. ”*

“Low Tension Tariff 1-A :

- i. *This tariff is applicable to the following:*

- a) *Domestic/Residential purposes of lights, fans, Air conditioners, radio/TV and all other home appliances.*
- b) *Supply used in the house/residence/premises for the following purpose with a total connected load not exceeding 2 kW.*

- c) xxx
- d) xxx
- e) xxx
- f) xxx
- g) xxx

- h) *In respect of multi tenements/residential complexes supply used for common lighting, water supply, lift and such other facilities provided only to the residents alone may be given a separate connection and charged under this tariff. Only one service connection shall be given for the premises for all common facilities.*

- i) *In respect of multi tenements/multistory flats/residential complexes having both domestic and non-domestic utilities, common facilities such as common lighting, common water supply, lift and such other facilities will be charged under this tariff only if the non-residential built up area does not exceed 25% of the total built up area.*

- j) *In multi tenements residential buildings/Group Houses the additional service connections requested by the owners/tenants shall be given. If only a meter is required to effect the additional service connection, service line charges shall not be collected.*

- k) xxx
- l) xxx
- m) xxx ”

“Low Tension Tariff V:

- i. *This tariff is applicable to consumers not categorized under LT IA, IB, IC, IIA, IIB (1), II B (2), IIC, IIIA (I), III A (2), IIIB, IV and VI*

- ii. *In respect of multi tenements/multi-storeyed buildings/residential complexes where the number of flats/Tenements utilized for commercial and other purposes exceeds 25% of the total built up area, the LT services relating to common utilities such as common lighting, water supply, lift and other facilities shall be charged under this tariff. ”*

6.7. Examination of the above provisions in the tariff order leads to the following inference:

i) The applicability of tariff for common facilities in a multi tenement/multistoreyed building/residential complexes depends on the utility of area for commercial and other purposes. If the non-residential built up area does not exceed 25% of the total built up area, the tariff applicable is LT TF 1A and if the non-residential built up area exceeds 25% of the total built up area, the tariff applicable is LT TF V. There shall be one service for the premises to cater to the common facilities. Effecting of a service under LT or HT category is dependent on the quantum of load and is bound by the provisions in the relevant regulations of the Commission.

ii) The applicability of HT TF II A could be brought in when there is a case of single point of supply to a premises. The rationale applied in the case of M.P No.19 of 2012 cannot be applied to the case on hand where separate LT service connections have already been provided to individual flat owners as rightly contended by the respondent in their submissions.

iii) The only option left with the licensee to effect supply abiding by the existing regulations/orders of the Commission is to verify the per cent of non-residential built up area and effect service with reference to the quantum of load. In the case of the petitioner, the power requirement is for common facilities like lift, garden area, roads, parking etc. where there cannot essentially be a demarcation of areas for each tower. The load requirement is 1000 kVA and therefore the service is necessarily to be a HT service. With the existing categories of tariff under HT, the tariff applicable for the common facilities in a multistoried building is HT TF III. On the basis of the above analysis, the Commission is unable to grant any relief on the prayer of the petitioner to charge the existing HT service No.1860 under HT TF II A or to issue

directions to the respondent to effect LT services to each tower. The tariff applicable to the petitioner's HT service connection No.1860 catering to the loads of common amenities shall be HT tariff III as notified in the Tariff Schedule of Commission's tariff order of 2014.

6.8. The request of the petitioner for change of tariff of the existing HT service connection No.1860 from TF III to TF II A is borne out of the fact that the HT tariff III is subject to restrictions in supply and attracts higher tariff and inasmuch as the entire usage of the HT service connection is for the common facilities used by the residents, the residents should not be burdened with high costs and cuts in sanctioned demand whenever restrictions in supply are imposed.

6.9. The Commission feels that it may be necessary to create a new category for residential purpose under HT tariff to address the grievances such as that of the petitioner. The Commission therefore directs the respondent, TANGEDCO, to evolve a proposal for creation of a new category for consumers like that of the petitioner, with necessary data in accordance to the criteria provided in section 62(3) of the Electricity Act,2003 and submit the same at the time of filing of application for determination of tariff .

7. Appeal:-

An appeal against this order shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act, 2003 within a period of 45 days from the date of receipt of a copy of this order by the aggrieved person.

(Sd)
(Dr.T.Prabhakara Rao)
Member

(Sd.....)
(G.Rajagopal)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission