



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

## **TAMIL NADU ELECTRICITY OMBUDSMAN**

4<sup>th</sup> Floor, SIDCO Corporate Office Building, Thiru-vi-ka Industrial Estate,  
Guindy, Chennai – 600 032.

Phone : ++91-044-2953 5806, 044-2953 5816 Fax : ++91-044-2953 5893

Email : [tneochennai@gmail.com](mailto:tneochennai@gmail.com) Web site : [www.tnerc.gov.in](http://www.tnerc.gov.in)

**Before The Tamil Nadu Electricity Ombudsman, Chennai**

**Present : Thiru. N. Kannan, Electricity Ombudsman**

**A.P.No. 62 of 2023**

M/s. Sri Lakshmi Ammal Education Trust,  
(Sree Balaji Medical College & Hospital)  
No.29, Thiluk Street, T.Nagar, Chennai.

. . . . Appellant  
(Rep. by Thiru S. Vairamuthu)

Vs.

1. The Superintending Engineer,  
Chennai Electricity Distribution Circle/South-II,  
TANGEDCO,  
110KV SS Complex,  
K.K.Nagar, Chennai-600 078.

2. The Executive Engineer/O&M/Tambaram,  
Chennai Electricity Distribution Circle/South-II,  
TANGEDCO,  
110/11 KV Tambaram SS Complex,  
Puthuthangal, Mullai Nagar,  
Tambaram West, Chennai – 600 045.

3. The Deputy Financial Controller,  
Chennai Electricity Distribution Circle/South-II,  
TANGEDCO,  
110KV SS Complex,  
K.K.Nagar, Chennai-600 078.

. . . . Respondents  
(Thiru N. Asokan, EE/O&M/Tambaram  
Thiru J. Ramesh Babu, DFC/South-II)

**Petition Received on: 17-08-2023**

**Date of hearing: 12-10-2023**

**Date of order: 30-10-2023**

The Appeal Petition received on 17.08.2023 filed by M/s. Sri Lakshmi Ammal Education Trust, (Sree Balaji Medical College & Hospital) No.29, Thiluk Street, T.Nagar, Chennai was registered as Appeal Petition No. 62 of 2023. The above appeal petition came up for hearing before the Electricity on 12.10.2023. 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 cancel the amount of Rs.8,70,36,352/- towards difference in tariff charges between Tariff IIB and III for the period from 11/2013 to 12/2021.

2.0 **Brief History of the case:**

2.1 The Appellant has prayed to waive the amount issued by the BOAB Audit towards difference in tariff charges between Tariff IIB and III for the period from 11/2013 to 12/2021.

2.2 The Respondent has stated that as there is no physical segregation between Medical College and the Hospital in the HT SC.No.519, it could not be classified under HT Tariff IIB and the Appellant has to pay short fall amount for the period of 11/2013 to 12/2021 for an amount of Rs. 8,70,36,352/-.

2.3 Since the issue was not settled by the Section Office the Appellant has filed a petition with the CGRF of Chennai EDC/South-II on 13.02.2023. The CGRF of Chennai EDC/South-II have issued an order dated 11.04.2023. Aggrieved by the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 **Orders of the CGRF :**

3.1 The CGRF of Chennai Electricity Distribution Circle/ South-II issued its order on 11.04.2023. The relevant portion of the order is extracted below :-

**“Order: (Operative portion)”**

5.1 In the present case, there is no physical segregation between Medical college and hospital in the petitioner's HT service connection. Therefore, in the absence of physical segregation, the mixed load will have to be charged under higher of the two loads only. In this case, higher of two loads i.e. HT Tariff II-A and HT Tariff III, which is HT Tariff III is claimed by the Respondent. The demand claimed by the Respondent is in line with the TNERC's Tariff order No.3 of 2010, dated 31.07.2010. Therefore, the prayer of the petitioner to cancel the said Tariff Change arrears amount of Rs.8,70,36,352/- for the period from 11/2013 to 12/2021 is not acceptable to the Forum and hence dismissed.”

**4.0 Hearing held by the Electricity Ombudsman:**

4.1 To enable the Appellant and the Respondents to put forth their arguments, a hearing was scheduled on 18.10.2023 in person. Based on the request of the Appellant to change the hearing date, the hearing was rescheduled and conducted on 12.10.2023 in person.

4.2 On behalf of the Appellant Thiru S. Vairamuthu attended the hearing and put forth his arguments.

4.3 The Respondents Thiru N. Asokan, EE/O&M/Tambaram & Thiru J. Ramesh Babu, DFC of Chennai EDC/South-II EDC have attended the hearing and put forth their arguments.

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

**5.0 Arguments of the Appellant:**

5.1 The Appellant has stated that their HT.SC.No 519 was effected on 06-11-2003 in the name Sri Lakshmi Ammal Educational Trust, located at Sree Balaji Medical College and Hospital under HT Tariff III upto 31-07-2010 as per instruction of SE/Commercial letter dated 04-07-2002. Subsequently their Service was billed

under Tariff IIB from 08/2010 and extended to 10/2011 at SE/South office itself as per TNERC Tariff Order No.3 of 2010 dated 31-07-2010 (with effective from 01-08-2010).

5.2 The Appellant has further stated that the Tariff has been revised from IIB to III from 11/2011 against the TNERC Tariff Order No.3 of 2010 dated 31-07-2010 by wrong interpretation and received the demand notice to pay Rs.33,63,390/- for difference of the charge between Tariff rate IIB and III from SE/ South office vide Letter dated 30-12-2011 reason noticed that based on the guidelines in the SE/Comm's letter dated 04-07- 2002. He also stated that in the meantime for HT SC Nos. 265 & 479 pertaining to Sri Ramachandra Educational and Health Trust based on the special order given by the CFC/Revenue in the memo dated. 21-06-2012 to bill the above HT Services under Tariff IIB from 01-08-2010 onwards as per revised TNERC Tariff Order No.3 of 2010 dated 31-07-2010 even though their HT.SC.NO.519 and above said HT Services comes under same categories.

5.3 The Appellant has further stated that even though so many applications were submitted to SE/South by them on requesting to change of Tariff to their HT SC No.519 as Tariff IIB as per TNERC Tariff Order No.3 of 2010 dated 31-07-2010. But SE /South not at all considered their request. Therefore the application has been filed before CGRF on 07-05-2012 by requesting to consider their HT.SC.NO.519 under Tariff IIB and also to waive the amount of Rs.33,63,390/- by wrongly Interpretation as provided in TNERC Tariff Order No.3 of 2010 dated 31-07-2010. Based on their above application CGRF has taken decision that HT Tariff to their HT.SC.No. 519 has been again revised from Tariff III to IIB for the period from 01-08-2010 based on the above said TNERC Tariff Order No.3 and thus SE/South has been informed the above fact to them vide letter dated 30-07-2013 and also informed by the SE that the sum of Rs.28,37,239/- the difference amount due to wrong change of Tariff has been refunded for the period from 11/2011 to 8/2012 and adjusted in the 7/2013 CC bill thereby the demand notice issued by SE/South vide letter dated 30-12-2011 for an amount of Rs.33,63,390/- has also

been withdrawn by the SE/South, which was clearly noticed in the para 2.5 of the clarification statement of CFC /REV/TANGEDCO vide Memo did 21-5-2016.

5.4 The Appellant has stated that based on TNERC Tariff No.3 of 2010 dated 31-07-2010 Tariff schedule, the SE / South has classified their HT.SC.NO.519 under Tariff IIB based on decision was taken in CGRF regarding their application filed before CGRF on 07-05-2012 and also accepted by CFC/REV/TANGEDCO vide Memo dated 21-05-2016.

5.5 The Appellant has stated that in spite of the above, the BOAB Audit party has issued Audit Slip vide No.69 dated 25-11-2013 and levied Rs.77,21,659/- for difference in tariff charges between Tariff IIB and III and has stated that their HT.SC.NO.519 were wrongly billed under IIB based on the SE/Comml's Letter dated 04-07-2002 even though HT Tariff of their HT SC No. 519 has properly changed from III to II B by taken on decision by CGRF based on their application filed before CGRF on 07-05-2012 and informed by SE/South vide letter dated 30-07-2013. It is very much surprising that how the then SE/South has accepted the above said BOAB Audit report instead of cancelling the above said report at SE Office itself by reporting the real facts to the BOAB Audit party, since CGRF has more power than BOAB Audit party. Further it is informed that the BOAB Audit party has been partially accepted for effecting the HT Service Nos 265 & 479 pertaining to Sri Ramachandra Educational and Health Trust under Tariff IIB from 01-08-2010 onwards as per TNERC Tariff Order No.3 of 2010 dated 31-07-2010 stated that based on by the CFC /Revenue in the memo dated 21-06-2012 noticed in the same BOAB Audit Slip No.69 dated 25-11-2013 even though their HT SC.No.519 and above said HT Services comes under same categories.

5.6 The Appellant has stated that the Redressal Forum has surpassed the facts notified in his Appeal petition that it is relevant to mention that the TNERC had issued Tariff Order from 2003 onwards. It is also mentioned that before 2003 Govt of Tamil Nadu had issued Tariff by way of GO. Therefore the clarification which was issued vide letter dated 04-07-2002 by the SE /Comml. in connection with Govt Order, prior to Commission's Tariff Order dated 15-03-2003 may not be

applicable to the present case and hence the clarification dated 04-07-2002 is not sustainable one to the present which is clearly noticed in the para 2.6 of the clarification statement of CFC/ REV/ TANGEDCO Memo dated 21-5-2016.

5.7 The Appellant has further stated that it is clearly noticed in the Show cause Notice issued by the SE/South.2 vide letter dated 20.12.2022 that as per Audit Slip, a demand notice to pay short fall amount of Rs.77,21,659/- for the period from 08/2010 to 10/2013 has been issued by their office letter dated 21.01.2022. Further in the said letter it has already been intimated that shortfall for the remaining period will be intimated in due course, as such also in SE/South 2 vide letter Dated 21.01.2022.

5.8 But in SE/South 2 letter dated 06-02-2023 it is noticed contrariwise against the above Show cause Notice that accordingly, a demand for an amount of Rs.77,21,659/- vide this letter dated 21-01-2022 towards difference in tariff for the period from 08/2010 to 10/2013 has been claimed since there is no physical segregation between Medical College and Hospitals which is false information against the BOAB Audit party Slip No 69 dated 25-11-2013. The said demand was paid by you in instalments and the last instalment was received during 04/2022. In the same letter, it has been stated that claim for the remaining period under Tariff III will be intimated at later date. Therefore the difference in tariff for the period from 11/2013 to 12/2021 has been claimed vide this letter 20-12-2023. It is very much Indecorous on received two kind of remarks noticed from the same office because SE/South 2 has been too much confusions in this issue, the Appellant stated.

5.9 The Appellant has expressed that finally he brought to the kind notice of the Respective Chairman, CGRF that it is proved on the said facts, the BOAB Audit party has wrongly calculated based on SE/Comm1's Letter dated 04-07-2002 which was prior to TNERC Tariff Order dated 15-03-2003 may not be applicable to the present case and also the clarification dated 04-07-2002 is not sustainable one to the present as well as null and avoid, as per para 2.6 of CFC/REV/TANGEDCO memo dated 21.05.2016.

5.10 The Appellant has stated that once proved that the BOAB Audit party has made wrongly calculated based on SE/Comml's letter dated 04-07-2002, it is clearly understand that no short fall amounts in the CC bills for the remaining period from 11/2013 to 12/2021 and hence Tariff revision from II B to III is not necessary as noted for an amount of Rs.8,70,36,352/- for the above said period which is also wrong calculation made at HT Section of SE /South.2 office by a wrong interpretation as provided in TNERC Tariff Order No. 3 of 2010 dated 31-07-2010 (with effective from 01-08-2010).

5.11 The Appellant has stated that he had requested the Chairman/CGRF to go through the entire points and facts noted in the their final reports as well as CFC/REV/TANGEDCO Memo dated 21-05-2016 and render justice to them by cancelling the said tariff change arrears amount of Rs.8,70,36,352/- for the period from 11/2013 to 12/2021.

5.12 The Appellant has reproduced that contention of the Licensee submitted by the Respondent before the CGRF as follows:

*"In para 2.2 it is stated that As per TNERC Order No.3 of 2010 dated 31-07-2010 clause 9.11.5.1 Tariff IIB is applicable only for the Private Educational Institution and Hostel. Further As per Tariff Order Private Hospital is to be categorized under Tariff III. As per TNERC's Instruction, the HT Services which is having a combined unit of Hospital and Medical College with Hostel has to be charged under Tariff III in the absence of Physical Segregation."*

For which it is informed that such kind of the above contents are not seen in the above said TNERC Tariff Order No.3 of 2010 dated 31-07-2010. It is only stated that "the tariff is applicable to Private Educational Institutions and Hostels run by them" for which they have already been explained clearly in their Appeal petition.

5.13 The Appellant has further informed that the Respondent is trying to reopen the SE/Comml's letter dated 04-07-2002 in which clarification issued in the Notification of GO prior to TNERC Tariff Order dated 15-03-2003 which is not applicable for the present case and also not sustainable which is also clearly

explained in his Appeal petition. The physical segregation Order is issued by TNERC by later regarding to HT SC.No.513.

5.14 The Appellant has reproduced that contention of the Licensee submitted by the Respondent before the CGRF, it is stated that Audit objection for the period from 08/2010 to 10/2013 for an amount of Rs.77,21,659/- may be kept in abeyance until further orders issued from this office and also undertaking may be obtained from the consumer thereby addl demand application (700 KVA) may be processed as per CFC/REV/TANGEDCO memo dated 21-05-2016 and further stated that due to this the above said demand was kept in abeyance temporarily till 01-12-2021. After the outcome of TNERC's order issued in MP No.25 of 2021, dated 16.11.2021, the CFC/Regulatory Cell vide letter dated 02.12.2021 has directed to take action as per TNERC's order.

5.15 The Appellant has further expressed that the Respondent cleverly acted by attaching such that after the outcome of TNERC Order issued in M.P.No.25 of 2021 dated 16-11-2021, the CFC/Regulatory cell vide letter dated 02-12-2021 has directed to act as per TNERC's Order which is separate issue regarding HT Sc No 513 for the matter of Physical Segregation between the Medical College and Hospital.

5.16 The Appellant has further informed by the SE South 2 vide letter dated 05-07-2021 and 21-01-2022 by attaching the CFC/ Reg Cell letter dated 02-12-2021 regarding the HT Services who is running a combined unit of Hospital and Medical College with Hostel has to be segregated as two Services with different Tariff as ordered in M.P.No.25 of 2021 dated 16-11-2020.

5.17 The Appellant has declared that as such it is not possible at their HTSC No:519 for physical segregation between the Medical College and Hospital, they have accepted the combined load under HT Tariff III from 01/2022 as per TNERC Order in M.P.No. 25 of 2021 dated 16-11-2021.



5.18 The Appellant has stated that the contention of the licensee submitted before the CGRF that demand for an amount of Rs 77.21,659/- vide letter dated 21-01-2022 towards difference in tariff for the period from 08/2010 to 10/2013 has been claimed since there is no Segregation between Medical College and Hospital. The reason stated as above is highly objected because it was wrongly stated against the reason stated in the BOAB Audit Slip is actually calculated vide Letter No. SE/Comm1/ EE/T/AEE1 /F.SFMC/CR.No.3766/02. dated 04-07-2002 which is already proved that prior to introducing of TNERC from 15-03-2003, the above said Order is not applicable, not sustainable as well as null void and the same amount was paid in 4 instalments by getting proper approval by SE /South 2 letter Dated 04-02-22 and the last instalment was during 04/2022 due to undertaking given for getting Addl.Demand of 700 KVA as per CFC /REV/TANGEDCO Memo dated 21-05-2016.

5.19 The Appellant has expressed that the Respondent has stated that there is no Physical Segregation between Medical College Hospital in the HT SC.No.519 of M/s Sri Lakshmi Ammal Educational Trust, Chennai and hence, it could not be classified under HT Tariff IIB and the Consumer has to pay short fall amount for the period of 11/2013 to 12/2021 for an amount of Rs. 8,70,36,352/-. Regarding the above, the Appellant has informed that he had not at all received any notices regarding non segregation between the Medical College and Hospital of their HT.SC.NO.519 during the above said period of 11/2013 to 12/2021. It is already proved that BOAB Audit party has wrongly calculated the difference of Tariff based on SE/Comm1's letter dated 04-07-2002 vide clarification statement of CFC/REV Memo Dated 21-05-2016 in para 2.6 and thus above said amount of Rs.8,70,36,352/- for the noticed period from 11/2013 to 12/2021 is also wrongly calculated at HT Section of SE/South-2 and also they have not accepted for the above said period of calculation retrospective which is not correct.

5.20 The Appellant has stated that in Para 4.1 to 4.4 in the CGRF findings, the statements noticed are the same as he had already explained in the Appeal petition. In Para 4.5 the Respondent has stated that as per TNERC Order No.3 of

2010 dated 31-07-2010 clause 9.11.5.1 Tariff IIB is applicable only for the Private Educational Institution and Hostel. Further, as per Tariff Order Private Hospital is to be categorized under Tariff III. For which he has been clearly explained and also the same has been noted in the CGRF's final reports, by which the Respondent is like to reintroduce the SE/CommI's Letter dated 04-07-2002 which was already not applicable to the present case prior to TNERC Tariff Order dated 15-03-2003.

5.21 Further the Appellant has stated that the Tariff of their HT SC No 519 was changed again from Tariff III to IIB by then SE/South as per TNERC tariff Order 3 of 2010 dated 31.07.2010 based on the decision taken by the CGRF as per application filed on 07.05.2012 by them and also SE/South has cancelled the amount of Rs.28,37,239/- and adjusted in the CC Bill and also withdrawn the amount of Rs.33,63,390/-, because CGRF has more power than BOAB audit party. In Para 4.6 to 4.8 contents noted, for which they have been given explanation for para 2.5 as above. In Para 4.9 contents, he has already been explained clearly for the contents of the para 2.2 and the same is applicable one for para 4.9. In Para 4.10 contents, they have clearly explained for the contents in para 2.2. In Para 4.11 contents, he had clearly explained for the contents regarding the physical segregation between the Medical College and Hospital partially beyond the last in para 2.5 contents.

5.22 The Appellant has also informed that whenever TNERC has issued the Tariff Change Order with No and date, the same has been effected from the date of Order communicated from the SE/south 2, as such they have accepted the combined load under HT Tariff III to their HT.SC.NO.519 from 01/2022 onwards due to not possible to Physical Segregation between their Medical College and Hospital based on TNERC order issued in M.P No.25 of 2021 dated 16.11.2021 vide CFC/ Regulatory cell vide Letter dated 02.12.2021 which is also been accepted by the SE/South 2 in the Show Cause Notice dated 20.12.2022.

5.23 The Appellant has stated that he had objected the final Order of the Forum, since latest TNERC Orders issued in M.P.No.25 of 2021 dated 16-11-2021 only. It

has been ordered that the mixed load will have to be charged under higher of the two loads only as HT Tariff III, in the absence of Physical and Electrical Segregation which has been communicated to them by SE/ CEDC/South.2 Letter Dated 21-01-2022, CFC/Reg. Cell Letter dated 02-12-2021. Thus their HT.SC.NO.519 has been under HT Tariff III from 01/2022 onwards due to non-segregation between the Medical College and Hospital, by obeying the above said order.

5.24 The Appellant has stated that demand claimed by the Respondent is in line with the TNERC's Tariff Order No.3 of 2010 dated 31-07-2010 in which not at all mentioned regarding any Physical Segregation. Therefore the prayer of the petitioner of HT SC.NO 519 to cancel the said Tariff Change arrears amount of Rs.8,70,36,352/- for the period from 11/2013 to 12/2021 is not acceptable to the Forum and hence dismissed which is fully contrariwise and also by contrast to reality of the reason noted in the Show cause Notice issued by the SE /South.2 vide letter dated 21.01.2022 in which there is not at all mentioned regarding the physical segregation between the Medical College and Hospital. Only stated that as per BOAB audit slip based on SE/Comml. letter dated 04.07.02, a demand notice to pay short fall amount of Rs.77,21.659/- for the period from 08/2010 to 10/2013 has been issued by this office vide letter dated 21.01.2022. Further in the said letter it has already been intimated that shortfall for the remaining period will be intimated in due course in para 2 of the Show cause Notice issued by SE/South-2 vide letter dated 20-12-2022 and letter dated 21.01.2022 for ready reference.

5.25 The Appellant has finally informed that CGRF has not at all considered the prayers explained in the petition and also in the presence of CGRF Hearing was held on 15-03-2023 at SE/South.2 Chamber as a Representative of major HT.SC.NO.519 and CGRF fully supported in the Final Order to the Respondent of the Board based on the false and contrariwise statements given against the truthful information in force of Board and TNERC Orders issued then and there without

standing Neutrality (or) Credibility manner because the role of CGRF activates are always to take final decision as like judiciary without any partiality.

5.26 The Appellant has prayed to render justice to them by cancelling the said Tariff Change arrears amounts of Rs.8,70,36,352/-for the period from 11/2013 to 12/2021 instead of final order wrongly already given by CGRF of CEDC/South 2.

#### **6.0 Counter submitted by the Respondent:**

6.1 The Respondent has submitted that the HT Supply Service Connection No.519 of Sri Lakshmi Ammal Educational Trust, No.7 Works Road, New Colony, Chrompet, Chennai was effected on 03.10.2003 and billed under Tariff III (Commercial) for the establishment of Private Medical College with Hospital.

6.2 The Respondent has submitted that as per TNERC Order No.3 of 2010 dated 31.07.2010, Clause 9.11.5.1, Tariff II B is applicable only for the Private Educational institution and Hostel. Further, as per Tariff order Private Hospital is to be categorized under Tariff III. As per TNERC's instruction, the HT services which is having a combined unit of Hospital and Medical college with Hostel has to be charged under Tariff III in the absence of physical segregation. As of now, there is no physical segregation between College and Hospital in respect of HT SC No.519 and hence the said service connection is being billed under Tariff III with effect from 01/01/2022.

6.3 The Respondent has further submitted that, a show cause notice dated 20.12.2022 has been issued to pay an amount of Rs.8,70.36,352/- towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021. As per show cause notice, a personal hearing was conducted on 03.01.2023. Thereafter, a final notice was issued to the consumer to pay the said demand. However, the consumer filed a petition before the CGRF of CEDC/South-2 on 13 02 2023 vide CGRF Petition No 32/2023.

6.4 The Respondent has submitted that the CGRF of Chennai South II in its order dated 11.04.2023 have ordered that *"there is no physical segregation between Medical college and Hospitals in the Petitioner's HT service connection. Therefore, in the absence of physical segregation, the mixed load will have to be charged under higher of the two loads only in this case, higher of two loads ie HT Tariff II-A and HT Tariff III, which is HT Tariff II is claimed by the Respondent. The demand claimed by the Respondent is in line with the TNERC's Tariff Order No.3 of 2010, dated 31 07 2010 Therefore, the prayer of the petitioner to cancel the said Tariff change arrears amount of Rs 8,70,36.252/- for the period from 11/2013 to 12/2021 is not acceptable to the Forum and hence dismissed"*.

6.5 The Respondent has stated that in the appeal petition, the Appellant has stated that the clarification issued by SE/Commercial letter dated 04.07.2002 in connection with the GO, prior to Commission's Tariff order dated 15.03.2003 may not be applicable to the present case and hence clarification dated 04.07.2002 (issued by SE/Comml) is not sustainable one to the present case which is clearly noticed in the para 2.6 of the clarification statement of CFC/Rev/Tangedco memo dated 21.05.2016 Further, the Appellant has stated that the demand amount of Rs 8,70,36,352/- for the period from 11/2013 to 12/2021 is wrongly calculated at HT Section of CEDC/South-2 and they have not accepted calculation for the retrospective period.

6.6 The Respondent has submitted in their office letter dated 30.12.2011, a demand notice issued to the consumer to pay a sum of Rs.33,63,390/- towards short billing for the period from August 2010 to October 2011. The said demand has been issued based on TNERC's tariff order No.3 of 2010, dated 31.07.2010. In the said letter it has been clearly mentioned that *"Recognized Private Educational Institutions alone are to be billed under Tariff IIB and Hospital attached Medical Institutions are to be billed under Tariff III and their HT supply comes under Tariff III only."*

6.7 The Respondent has stated that in response to their demand, the consumer vide their letter dated 19.01.2012 had requested to change the tariff from Tariff III to Tariff II and it has been informed vide letter dated 07.02.2012 that the request of the consumer is not feasible of compliance since the demand was raised as per

TNERC tariff order dated 31.07.2010. In the same letter it has been informed that the earlier instructions of TNEB will not be operative on and from the date of issue of the said tariff order and hence requested to pay the said shortfall amount of Rs.33,63,390/-. Thereafter, the consumer filed a petition before the CGRF on 07.05.2012. In response to the CGRF petition, it has been informed that, based on the clarification order issued by the Tariff Cell (CFC/Rev letter dated 21.06.2012), the Tariff hitherto billed under HT Tariff III has been changed to Tariff II(B) with effect from 09/2012 CC Bill. The retrospective effect will be informed separately with working details vide letter dated 16.10.2012. Thereafter, the said demand amount of Rs.33,63,390/- was withdrawn vide their office letter dated 30.07.2013.

6.8 However, the BOAB audit vide their AS No.69, dated 25.11.2013 had commented that CFC/Rev instruction dated 21.06.2012 was applicable only in the case of HT SC No.265 & 479 of Sri Ramachandra Educational and Health Trust and pointed out that tariff change effected to HT SC No.519 of M/s.Sri Lakshmi Ammal Educational Trust under Tariff II B is not correct. Accordingly, the BOAB had raised shortfall for an amount of Rs.77,21,659/- towards incorrect adoption of tariff from 01.08.2010. Therefore, a letter dated 20.03.2014 had been addressed to CFC/Regulatory Cell with a request to clarify the appropriate tariff to be adopted for HT SC No.519 of M/s.Sri Lakshmi Ammal Educational Trust.

6.9 The Respondent has submitted that in reply to the letter, the CFC/Revenue had clarified that clarification dated 04.07.2002 issued by the SE/Commercial in connection with the Government Order which was prior to Commission's Tariff order dated 15.03.2003 may not be applicable to the present case since the Hon'ble Commission has determined the tariff in exercise of power conferred by Clauses (b) of sub section (1) of Section 62 and Clause (a) of sub-section (1) Section (1) of Section 86 of the Electricity Act, 2003 in Tariff Order dated 15.03.2003.

However in the concluding para of the said clarification letter, the CFC/Revenue had further stated that the audit objection for the period from 08/2010 to 10/2013 for an amount of Rs.77,21,659/- may be kept in abeyance until

further orders from CFC/Rev office since WP No 38076 of 2002 filed by M/s CMC Vellore and other private medical colleges on the same subject matter was pending before the Hon'ble High Court of Madras.

6.10 The Respondent has therefore submitted that CFC/Revenue has not all withdrawn the said arrears pertaining to HT SC No 519 and it had been clarified that the said arrears may be kept in abeyance till further orders. Further, in the letter dated 02.12.2021, the CFC/Regulatory Cell had issued instructions to bill the private medical colleges under Tariff III based on Hon'ble Commission's order issued in MP No 25 of 2021, dated 16.11. 2021.

6.11 The Respondent has submitted that accordingly, a demand notice was issued vide this office letter dated 21.01.2022 to pay short fall amount of Rs.77,21,659/- for the period from 08/2010 to 10/2013. The said demand was paid by the Appellant in instalments and the last instalment was received during 04/2022. In the same letter, it has been stated that claim for the remaining period under Tariff III will be intimated at a later date. Subsequently, a demand notice to pay an amount of Rs 8,70,36,352/- towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021 has been claimed vide their office letter dated 20.12.2022.

6.12 The Respondent further submitted that Private Medical colleges along with attached Hospitals, which has not segregated the class rooms, hostels and Hospital where the hospital is used for treatment of patients on chargeable basis and could not be treated with Government Educational institutions which are totally free service. The mixed load of two tariff, the Medical College and hospitals could not be classified under the category of private educational Institution and hostels run by them. Similar private medical college Dr Rajah Muthiah Charitable and Educational Trust, with HT SC no 513 Padur Village, Kelambakkam, Chengalpattu Taluk, Chengalpattu EDC has filed a case before the Hon'ble High Court of Madras and the same was remanded to Hon'ble TNERC and admitted as MP No 9 of 2020 and the Commission has issued order on 22.12.2020. In the order, the Hon'ble Commission categorized the College and the hostels run by them under High

Tension Tariff II-B Category and for the Hospital under High Tension Tariff III Category, but subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation.

6.13 Further the petitioner Dr. Rajah Muthiah Chettiar Charitable and Educational Trust has filed the case vide M.P.No 25 of 2021, before the Hon'ble TNERC to clarify the applicability of tariff for the retrospective period from 2003 to the date of order issued in MP.No.9 of 2020. The commission in its order on 16.11.2021 had upheld the Respondents demand for an amount of Rs.8,48,47,888/-.

6.14 The Respondent has submitted that the HT Supply Service Connection No.519 of Sri Lakshmi Ammal Educational Trust was effected on 03.10.2003 and right from the inception, the said service is billed under Tariff III (Commercial) for the establishment of Private Medical College with Hospital. As per CFC/Revenue clarification letter, the audit objection for the period from 08/2010 to 10/2013 for an amount of Rs.77,21,658/ was kept in abeyance since W.P.No.38076 of 2002 filed by M/s CMC, Vellore and other private medical colleges on the same subject matter was pending before the Hon'ble High Court of Madras. After, the outcome of Hon'ble Commission's order issued in MP No 25 of 2021, dated 16.11.2021, a demand notice was issued vide this office letter dated 21.01 2022 to pay short fall amount of Rs.77,21,659/- for the period from 08/2010 to 10/2013. The said demand was paid by the Appellant in instalments and the last instalment was received during 04/2022 In the same letter, it has been stated that claim for the remaining period under Tariff III will be intimated at a later date. Accordingly, a demand notice for an amount of Rs 8,70,36,352/- towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021 has been claimed vide this office letter dated 20.12.2022.

6.15 The Respondent has submitted that in view of the above submissions and cases of similar identity, that the claim made towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021 vide their office letter dated 20.12.2022 for an amount of Rs.8.70,36,352/- is valid and as such it is prayed that the appeal petition may be dismissed.



## **7.0 Findings of the Electricity Ombudsman:**

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on their arguments and documents submitted, the following are the issues to be decided on the claim of the Appellant to cancel the arrear amount of Rs.8,70,36,352/- towards difference in charges between Tariff IIB and III for the period from 11/2013 to 12/2021.

1) What has been the type of connected load for the Appellant HT service No. 519 provided to Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital) since the inception of service connection?

2) When a consumer has mixed type of loads what is the tariff to be adopted?

3) To examine into the matter brought up by the Appellant, which pertains to their request to withdraw the sum of Rs.8,70,36,352, as claimed by the Respondent based on the variance in charges between Tariff IIB and III during the period spanning from November 2013 to December 2021. Is this request valid and justifiable?

## **8.0 Findings on the 1<sup>st</sup> issue:**

8.1 The Appellant has stated that their HT SC No 519, registered on 06-11-2003 under the name of Sri Lakshmi Ammal Educational Trust at Sree Balaji Medical College and Hospital, cannot be physically separated. They acknowledge that their service represents a combined load for both the Medical College and Hospital.

8.2 The Respondent has argued that the CGRF of Chennai South II, in its order dated 11.04.2023, directed that due to the absence of physical segregation between the Medical College and Hospital in the Petitioner's HT service connection, the mixed load should be billed based on the higher of the two

applicable tariffs. In this case, the Respondent asserts that among the two tariff HT Tariff II-B and HT Tariff III are relevant, wherein HT Tariff III being the higher tariff.

8.3 Therefore, based on the Appellant's own acknowledgment and the decision of the CGRF, it is evident that HT service No. 519, since its inception on 6-11-2003, has consistently been associated with a mixed load comprising both the Medical College and Hospital.

#### **9.0 Findings on the 2<sup>nd</sup> issue:**

9.1 From the findings on the first issue, it is evident that HT service No. 519, since its inception on 6-11-2003, has consistently been associated with a mixed load comprising both the Medical College and Hospital. Therefore in order to find the appropriate tariff for the Appellant service connection, I would like to refer the orders issued by the Hon'ble TNERC in M.P.No.9 of 2020 dated 22-12-2020 which is discussed below.

*“7.11 In the case of similarly placed other self-financing medical colleges as per the tariff orders of TNERC which were in force, TANGEDCO is applying only HT Tariff - III in respect of the medical college of Annamalai University which was being taken over by the Government of Tamil Nadu from September 2013 and as being a Government Educational Institution it was charged under HT Tariff IIA as per the tariff orders.*

*7.12 The Respondent further stated that in respect of Sri Ramachandra Medical College and Research Institute, as per the GO MS No 108 of Energy Department dated 31-03-1995 of Tamil Nadu Government, it was charged under Tariff IIA. By Order of TNERC dated 04-04-2006 in MP No 27/2005 the Commission has also substantiated that by virtue of the said GO Sri Ramachandra Medical College and Research Institute was eligible for application of the educational institution tariff of HT Tariff II A (presently charged under HT Tariff IIB)*

*7.13. The Respondent has further stated that even though the attached hospital is a part of the Medical Educational Institution, the public activity in the hospital predominates the original main purpose of an educational institution. As such the medical educational institution actually loses its identity and stands just as a private hospital. The treatment of out patients (Public) in the attached hospital is purely a commercial activity and hence the appropriate tariff may only be the commercial tariff of HT Tariff III as per the tariff orders.*

*7.16. On the above grounds the application of the tariff of HT Tariff III is proper for medical educational institution as being attached with a hospital with predominated load and public utility. The tariff of HT Tariff IIB is applicable only if the educational institution functions as a separate entity under an individual service connection assigned exclusively*

for that respective medical college. And only the tariff of HT Tariff III may be assigned for the separate connection for that respective hospital attached with that medical institution.

7.18 The applicability of other tariff categories of High Tension Tariff are as follows:  
High Tension Tariff I A : Applicable mainly for industries  
High Tension Tariff I B: Applicable mainly for Railway Tractions  
High Tension Tariff II B. Applicable mainly for Private educational institutions and hostels run by them  
High Tension Tariff IV: Applicable mainly for Agriculture  
High Tension Tariff V Applicable mainly for Temporary supply

From the above it is clear that the tariff category applicable to the Petitioner's Hospital which doesn't fall under any of the Categories mentioned above, the only alternative available to the Petitioner is High Tension Tariff III, which is applicable to all other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V.

7.19 Further, the Petitioner himself has admitted in their Affidavit at Page No 9 that the College consumes 72.7% of total consumption and the Hospital attached therein consumes 27.3% of total consumption. But no evidence has been produced by the Petitioner to confirm their contention Per contra, the Respondent has stated that eventhough the attached hospital is a part of the Medical Educational Institution, the public activity in the hospital predominates the original main purpose of an educational institution Even otherwise, mixed load will be billed under the higher tariff only.

7.20 Regarding Sri Ramachandra Medical College and Research Institute, which has obtained High Tension Service Connection under Tariff II A as per the GO MS No. 108 of Energy Department dated 31.03.1995 of Tamil Nadu Government, which was prior to the Commission came into existence. After the formation of the Commission, the Commission vide its Order dated 04-04-2006 in MP No 27/2005, substantiated that by virtue of the said GO Sri Ramachandra Medical College and Research Institute was eligible for application of the educational institution tariff of HT Tariff IIA (presently charged under HT Tariff IIB).

**ORDER:**

In view of the foregoing the Commission Orders that two separate service connections may be given to the Petitioner as proposed by the Respondent and accepted by the Petitioner for the following purposes as per Tariff Order in TP No 1 of 2017 dated 11- 08- 2017.

1. For the College and the hostels run by them - High Tension Tariff II-B Category and
2. For the Hospital - High Tension Tariff III Category

Subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation.”

9.2 From the above orders, it is clear that if the consumer has mixed load of both College and Hospital, then two separate service connections may be given to

the consumer i.e. HT Tariff IIB for the College and the hostels run by them and another HT Tariff III separately for the Hospital, subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation.

9.3 In order to have more clarity on the subject matter, I would also like to refer the relevant orders of TNERC issued in M.P. No.25 of 2021 dated 16-11-2021 which is given below :

In this order, the Commission framed two issues as below:-

**“ISSUES:**

- 1. Whether Physical and Electrical segregation has been done for hospital and Educational institution for availing separate service connection?**

*The Commission in its Order in M.P. No.9 of 2020 dated 22-12-2020 has, interalia, ordered as under:*

*“Two separate service connections may be given to the Petitioner as proposed by the Respondent and accepted by the Petitioner for the following purposes as per Tariff Order in T.P. No.1 of 2017 dated 11-08-2017:*

- 1. For the College and the hostels run by them : High Tension Tariff II-B Category and*
- 2. For the Hospital : High Tension Tariff III Category*

*Subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation”.*

*Thus, the crux of the issue is physical segregation and the impugned demand notice can be quashed only if the petitioner has established the factum of physical segregation. It is seen from the material records, no evidence has been let into prove the factum of physical segregation which is the basic requirement.*

*In this connection, the Commission would also like to refer sub- clause 14 in main clause 27 of Tamil Nadu Electricity Distribution Code, 2004, which states as under:*

**“27. Requisitions for Supply of Energy:**

.....

(14) *Where more than one person or more than one establishment is or intended to be in occupation of a door number or sub-door number, more than one service connection will be given only if there is a permanent physical / electrical segregation of areas for which different service connections are applied for”.*

*Also, the Commission would like to refer sub-clause 3 in main clause 29 of Tamil Nadu Electricity Distribution Code, 2004, which states as under:*

**“29. Service Lines:**

.....

*(3) The existing High Tension Consumers who want to avail a separate service for their expanded industrial activities within a door No. or sub-door No.(in the same premises) a new service connection shall be given provided the extension is physically and electrically segregated.”*

*But, there is no averment to the effect that physical segregation has been done.*

**2. Whether the prayer of the Petitioner to set aside the demand of Rs.8,48,47,888/- is tenable?**

*The Petitioner has contended that it has received a show cause notice dated 03-05-2021 from TANGEDCO in respect of the Petitioner’s electricity service connection in HT SC 513 issued under HT Tariff-III wherein the Petitioner was charged for the electricity under the Category of “HT Tariff-III” instead of “HT Tariff-IIA”, which is the tariff applicable to the Petitioner.*

*In order to set right the same, as stated supra, the physical segregation and obtaining of two separate connections are necessary. The section 62 of the Electricity Act, 2003, also provides for differential tariff on the basis of purpose for which the supply is requested.*

*Further, the demand notice of the year 2006, which has been stayed pending proceeding (before the High Court and the Commission) has not been quashed.*

*In the absence of physical segregation, the mixed load will have to be charged under higher of the two loads only. In this case, higher of two loads i.e. HT Tariff II-A and HT Tariff III, which is HT Tariff III is claimed by the Respondent. Hence, the Respondent’s claim is tenable. With the above order, the petition is dismissed.”*

9.4 Based on the preceding determination by the TNERC, it is firmly established that when there is a combination of loads that cannot be separated for distinct purposes, the billing should be based on the highest tariff among the categories of mixed loads.

9.5 The current case bears similar to the request made by the Rajah Muthiah Chettiar Charitable and Educational Trust, represented by its authorized Trustee, Mr. V. Palaniappan, located at Chettinad Towers, 5th Floor, No. 603, Anna Salai, Chennai – 600 006, in their case against: Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), represented by its Chairman and Managing Director, 10th Floor, NPKRR Maaligai, No. 144, Anna Salai, Chennai – 600 002, and others.

9.6 The Honorable TNERC unequivocally declared that if the petitioner cannot segregate their mixed load between the college and hospital, they are obligated to pay the current consumption bill at the higher Tariff III rate, starting from the inception of service.

9.7 Nonetheless, it is concluded that since the Appellant of HT service No. 519, Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital) has acknowledged that their HT services cannot be physically and electrically segregated, they naturally fall under the higher Tariff for mixed loads. In the present case, the higher Tariff is HT Tariff III.

#### **10.0 Findings on the 3<sup>rd</sup> issue:**

10.1 Next, let's examine into the matter brought up by the Appellant, which pertains to their request to withdraw the sum of Rs.8,70,36,352/-, as claimed by the Respondent, based on the variance in charges between Tariff IIB and III during the period spanning from November 2013 to December 2021. In order to find whether this request is valid and justifiable, it is appropriate to overview the factual happened and hence the history of the event is discussed for better understanding.

10.2 The Appellant has conveyed that their HT.SC.No 519 was initiated on 06-11-2003, registered under the name of Sri Lakshmi Ammal Educational Trust, situated at Sree Balaji Medical College and Hospital, under HT Tariff III until 31-07-2010. Subsequently, their service was billed under Tariff IIB from August 2010 to

October 2011, citing TNERC Tariff Order No.3 of 2010, dated 31-07-2010 (effective from 01-08-2010).

10.3 Furthermore, the Appellant has explained that the tariff changed from HT Tariff IIB to III starting from November 2011 due to a misinterpretation of the TNERC Tariff Order No.3 of 2010, dated 31-07-2010. They received a demand notice for Rs.33,63,390/- reflecting the difference in charges between Tariff rates HT Tariff IIB and III, issued by SE/South in a letter dated 30-12-2011.

10.4 The Appellant was perplexed by this discrepancy and filed an application with the CGRF on 07-05-2012, requesting that their HT.SC.No.519 be classified under Tariff IIB and that Rs.33,63,390/- be waived due to the misinterpretation of the TNERC Tariff Order No.3 of 2010, dated 31-07-2010.

10.5 Based on Appellant's application, the SE/South office vide their letter dated 30-07-2013 communicated that HT SC No 519 had reverted to HT Tariff IIB effective from 01-08-2010. Additionally, the SE/South office informed them that Rs.28,37,239/- representing the difference due to the incorrect Tariff change from November 2011 to August 2012, had been adjusted in the July 2013 CC bill, and the demand notice dated 30-12-2011 for Rs.33,63,390/- was also withdrawn.

10.6 However, despite the above developments, the BOAB Audit party issued an Audit Slip dated 25-11-2013, charging Rs.77,21,659/- for the difference in tariff between HT Tariff IIB and HT Tariff III. They claimed that HT.SC.No 519 had been incorrectly billed under Tariff IIB, based on the SE/CommI's letter dated 04-07-2002, despite the fact that the CGRF had already determined the Tariff to be IIB, as per the application submitted by the Appellant on 07-05-2012 and as communicated by SE/South in a letter dated 30-07-2013. The Appellant finds it perplexing that the then SE/South accepted the BOAB Audit report instead of rectifying the situation at the SE office itself by conveying the actual facts to the BOAB Audit party. It is also noted that the BOAB Audit party partially accepted the change in Tariff for HT Services 265 and 479, related to Sri Ramachandra Educational and Health Trust, as HT Tariff IIB from 01-08-2010, based on a

TNERC Tariff Order from 31-07-2010, although both HT.SC.No 519 and the above mentioned HT Services fall under the same category.

10.7 The Appellant believes that the Redressal Forum overlooked the information provided in their appeal petition on the second page, last paragraph, which states that the TNERC had issued Tariff Orders from 2003 onwards. They contended that the SE/Comml's clarification, dated 04-07-2002, which was issued in connection with the Government Order prior to the Commission's Tariff Order, dated 15-03-2003, may not be applicable to their case which was further supported by the clarification statement of CFC/REV/TANGEDCO Memo dated 21-05-2016.

10.8 The Appellant claims that the Respondent acted cleverly by attaching the CFC/Regulatory cell's letter dated 02-12-2021, which came after the TNERC's Order issued in M.P.No.25 of 2021, dated 16-11-2021. This letter directed actions to be taken as per the TNERC's Order, specifically addressing the matter of physical segregation between the Medical College and Hospital, which is different from their case.

10.9 Furthermore, the Appellant received communication from SE/South-2, dated 05-07-2021 to segregate the load between college and hospital and another letter dated 21-01-2022 along with the CFC/Reg Cell's letter dated 02-12-2021. This letter clarified that HT Services running a combined unit of a Hospital and Medical College with Hostel should be segregated into two services with different Tariffs: Tariff IIB for the College and Hostels and Tariff III for the Hospital, as per the TNERC Order in M.P.No.25 of 2021, dated 16-11-2021.

10.10 The Appellant has conceded that it is not possible to physically segregate HT.SC.No 519 between the Medical College and Hospital, and as a result, they have accepted the combined load under HT Tariff III from January 2022 based on Respondent letter dated 21-01-2022. They have done so in accordance with the revised TNERC Order in M.P.No.25 of 2021, dated 16-11-2021, as they consistently adhere to the orders received.



10.11 The Appellant also addresses the contention of the licensee regarding the demand for Rs.77,21,659/- which was claimed on 21-01-2022, stating that there was no segregation between the Medical College and Hospital. The Appellant objects to this reasoning, as it contradicts the reason cited in the BOAB Audit Slip, which was based on SE/Comml's letter dated 04-07-2002. They have already demonstrated that the order issued in this letter is not applicable after the introduction of TNERC from 15-03-2003, and thus, it is not sustainable or valid.

10.12 Furthermore, the Appellant mentions that the same amount of Rs.77,21,659/- was paid in installments with proper approval from SE/South 2, as per their letter dated 04-02-2022. The last installment was paid in April 2022 due to an undertaking that they would receive an additional demand of 700 KVA, in accordance with CFC/REV/TANGEDCO Memo dated 21-05-2016.

10.13 The Appellant has expressed that the Respondent has stated that there is no Physical Segregation between Medical College Hospital in the HT SC.No.519 of M/s Sri Lakshmi Ammal Educational Trust, Chennai and hence, it could not be classified under HT Tariff IIB and the Consumer has to pay short fall amount for the period of 11/2013 to 12/2021 for an amount of Rs.8,70,36,352/-. Regarding the above, the Appellant has informed that he had not at all received any notices regarding non segregation between the Medical College and Hospital of their HT.SC.NO.519 during the above said period of 11/2013 to 12/2021. It is already proved that BOAB Audit party has wrongly calculated the difference in Tariff based on SE/Comml's letter dated 04-07-2002 vide clarification statement of CFC/REV Memo Dated 21-05-2016 in para 2.6 and thus above said amount of Rs.8,70,36,352/- for the noticed period from 11/2013 to 12/2021 is also wrongly calculated at HT Section of SE/South-2 and also they have not accepted for the above said period of calculation retrospective which is not correct.

10.14 The Appellant has prayed to render justice to them by cancelling the said Tariff change arrears amounts of Rs.8,70,36,352/- for the period from 11/2013 to 12/2021 instead of final order already given wrongly by CGRF of CEDC/South 2.

10.15 The Respondent has submitted that the HT Supply Service Connection No.519 of Sri Lakshmi Ammal Educational Trust, No.7 Works Road, New Colony, Chrompet, Chennai was effected on 03.10.2003 and billed under Tariff III (Commercial) for the establishment of Private Medical College with Hospital.

10.16 The Respondent has submitted that as per TNERC Order No.3 of 2010 dated 31.07.2010, Clause 9.11.5.1, Tariff II B is applicable only for the Private Educational institution and Hostel. Further, as per Tariff order, Private Hospital is to be categorized under Tariff III. As per TNERC's instruction, the HT services which is having a combined unit of Hospital and Medical college with Hostel has to be charged under Tariff III in the absence of physical segregation. As of now, there is no physical segregation between College and Hospital in respect of HT SC No.519 and hence the said service connection is being billed under Tariff III with effect from 01/01/2022.

10.17 The Respondent has further submitted that as per their office letter dated 20.12.2022, a show cause notice has been issued to pay an amount of Rs.8,70,36,352/- towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021. As per show cause notice, a personal hearing was conducted on 03.01.2023. Thereafter, a final notice was issued to the consumer to pay the said demand. However, the consumer filed a petition before the CGRF of CEDC/South-2 on 13.02.2023 vide CGRF Petition No.32/2023.

10.18 The Respondent has submitted that the CGRF of Chennai South II in its order dated 11.04.2023 have ordered that *“there is no physical segregation between Medical college and Hospitals in the Petitioner's HT service connection. Therefore, in the absence of physical segregation, the mixed load will have to be charged under higher of the two loads only. In this case, higher of two loads ie HT Tariff II-A and HT Tariff III, which is HT Tariff III is claimed by the Respondent. The demand claimed by the Respondent is in line with the TNERC's Tariff Order No.3 of 2010, dated 31 07 2010. Therefore, the prayer of the petitioner to cancel the said Tariff change arrears amount of Rs 8,70,36.252/-*

*for the period from 11/2013 to 12/2021 is not acceptable to the Forum and hence dismissed".*

10.19 The Respondent has submitted the chronological events that led to this claim. In the letter dated 30.12.2011, a demand notice issued to the consumer to pay a sum of Rs.33,63,390/- towards short billing for the period from August 2010 to October 2011. The said demand has been issued based on TNERC's tariff order No.3 of 2010, dated 31.07.2010. In the said letter it has been clearly mentioned that *"Recognized Private Educational Institutions alone are to be billed under Tariff IIB and Hospital attached Medical Institutions are to be billed under Tariff III and their HT supply comes under Tariff III only."*

10.20 The Respondent has stated that in response to the demand, the consumer vide their letter dated 19.01.2012 had requested to change the tariff from Tariff III to Tariff IIB. It has been informed by their office letter dated 07.02.2012 that the request of the consumer is not feasible of compliance since the demand was raised as per TNERC tariff order dated 31.07.2010. In the same letter it has been informed that the earlier instructions of TNEB will not be operative on and from the date of issue of the said tariff order and hence requested to pay the said shortfall amount of Rs.33,63,390/-. Thereafter, the consumer filed a petition before the CGRF on 07.05.2012. In response to the CGRF petition, it had been informed that, based on the clarification order issued by the Tariff Cell (CFC/Rev letter dated 21.06.2012), the Tariff hitherto billed under HT Tariff III has been changed to Tariff II(B) with effect from 09/2012 CC bill. The retrospective effect will be informed separately with working details vide their office letter dated 16.10.2012. Thereafter, the said demand amount of Rs.33,63,390/- was withdrawn vide their office letter dated 30.07.2013.

10.21 However, the BOAB audit vide their AS No.69, dated 25.11.2013 had commented that CFC/Rev instruction dated 21.06.2012 was applicable only in the case of HT SC No.265 & 479 of Sri Ramachandra Educational and Health Trust and pointed out that tariff change effected to HT SC No.519 of M/s.Sri Lakshmi Ammal Educational Trust under Tariff II B is not correct. Accordingly, the BOAB

had raised shortfall for an amount of Rs.77,21,659/- towards incorrect adoption of tariff from 01.08.2010. Therefore, a letter dated 20.03.2014 had been addressed to CFC/Regulatory Cell with a request to clarify the appropriate tariff to be adopted for HT SC No.519 of M/s.Sri Lakshmi Ammal Educational Trust. A reminder was also sent vide their office letter dated 29.11.2014. In continuation, it had once again been requested to issue clarification vide their office letter dated 10.03.2016. The CFC/Revenue had clarified that clarification dated 04.07.2002 issued by the SE/Commercial in connection with the Government Order which was prior to Commission's Tariff order dated 15.03.2003 may not be applicable to the present case since the Hon'ble Commission has determined the tariff in exercise of power conferred by Clauses (b) of sub section (1) of Section 62 and Clause (a) of sub-section (1) Section (1) of Section 86 of the Electricity Act, 2003 in Tariff Order dated 15.03.2003.

10.22 However in the concluding para of the said clarification letter, the CFC/Revenue had further stated that the audit objection for the period from 08/2010 to 10/2013 for an amount of Rs.77,21,659/- may be kept in abeyance until further orders from their office since WP No 38076 of 2002 filed by M/s CMC Vellore and other private medical colleges on the same subject matter was pending before the Hon'ble High Court of Madras.

10.23 The Respondent has therefore submitted that CFC/Revenue has not at all withdrawn the said arrears pertaining to HT SC No.519 and it had been clarified that the said arrears may be kept in abeyance till further orders. Further, in the letter dated 02.12.2021, the CFC/Regulatory Cell had issued instructions to bill the private medical colleges under Tariff III, based on Hon'ble Commission's order issued in MP No 25 of 2021, dated 16.11. 2021.

10.24 The Respondent has submitted that accordingly, a demand notice was issued vide their office letter dated 21.01.2022 to pay short fall amount of Rs.77,21,659/- for the period from 08/2010 to 10/2013. The said demand was paid by the Appellant in instalments and the last instalment was received during 04/2022. In the same letter, it has been stated that claim for the remaining period

under Tariff III will be intimated at a later date. Subsequently, a demand notice to pay an amount of Rs.8,70,36,352/- towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021 has been claimed vide their office letter dated 20.12.2022.

10.25 The Respondent has further submitted that the claim made towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021 vide their office letter dated 20.12.2022 for an amount of Rs.8.70,36,352/- is valid and as such it is prayed that the appeal petition may be dismissed.

10.26 Considering the assertions of both parties, I intend to identify the central issue, which revolves around the determination of the tariff for the Appellant's HT Services No. 519 following the TNERC Tariff Order No. 3, dated 31-07-2010, effective from 01-08-2010. Upon examining the findings from the first and second issues, it has become apparent that HT Service No. 519, since its establishment on 06-11-2003, has consistently involved a mixed load, encompassing both the Medical College and Hospital. The Appellant has acknowledged that this service cannot be segregated either physically or electrically, leading to its classification under the higher tariff category for mixed loads. Typically, private hospitals are charged under Tariff III. However, the Appellant, in light of the Tariff Order No. 3 by the TNERC, dated 31-07-2010, effective from 01-08-2010, disputes this and asserts they are entitled to be billed under Tariff IIB instead of Tariff III.

10.27 In this context, I would like to refer the above Tariff order.

**“Order No. 3 of 2010 dated 31-07-2010:**

**9.11.4 HIGH TENSION TARIFF II-A**

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/ month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIA</b>	200	400

9.11.4.1 The tariff is applicable to Government and aided educational institutions, Hostels run by such educational institutions, Government Hospitals, Hospitals under the control of Panchayat Unions, Municipalities or Corporations, Veterinary Hospitals, Leprosy Sub-Centres, Primary Health Centres. Health Sub-Centres, Orphanages, Public Libraries, Water works, Public Lighting, Public Sewerage Works by Government/local Bodies, Public Water Supply by New Tirupur Area Development Corporation, Electric crematorium by local bodies, Laboratories, Research institutions, , Ministry of defence and Avadi CRPF establishment, Desalination plant at Kudankulam Nuclear power plant.

9.11.4.2 If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they shall inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.

#### 9.11.5 HIGH TENSION TARIFF II – B

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/month	Energy charge in Paise per kWh(unit)
<b>HT Tariff IIB</b>	200	450

9.11.5.1 The tariff is applicable to Private educational institutions and hostels run by them, Studios, Cinema Theatres.

9.11.5.2 If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they shall inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.

#### 9.11.7 High Tension Tariff III

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/month	Energy charge in Paise per kWh(unit)
<b>HT Tariff III</b>	300	580

*9.11.7.1 This tariff is applicable to all commercial Establishments and other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IIC and IV*

*9.11.7.2 IT Enabled Services / private communication providers will be charged under this tariff.*

*9.11.7.3 Industries requiring HT supply shall be charged under this tariff during construction period.”*

10.28 The aforementioned tariff order clearly indicated that Private educational institutions and hostels alone were eligible for Tariff IIB. However, it must be emphasized that the Appellant's HT Service represented a mixed load comprising private educational institutions and hostel along with hospital, which could not be categorized under Tariff IIB. This raises the question of why the responsible officials from the licensee, specifically CEDC/South, changed the tariff for the Appellant's HT Service No. 519 from Tariff III to IIB, when the service had been under Tariff III from 06-11-2003 to 31-07-2010. This decision appears to be in conflict with the clear and comprehensive Tariff Order No. 3 of 2010, dated 31-07-2010, which stipulated that only private educational institutions and hostels were eligible for Tariff IIB.

10.29 To rectify this erroneous action, the subsequent licensee official issued a demand notice to the Appellant on 30-12-2011, requiring them to pay a sum of Rs.33,63,390/- for the period from August 2010 to October 2011. This demand was based on TNERC's Tariff Order No. 3 of 2010, dated 31.07.2010. Despite the Appellant's dissatisfaction with this corrective action, their request to revert the tariff from HT Tariff III to IIB was turned down by the Respondent on 07-02-2012, with the explanation that the demand had been raised in accordance with TNERC's Tariff Order No. 3 of 2010, dated 31.07.2010.

10.30 Even after this clarification of the tariff for the Appellant's HT Service No. 519, which indicated that private medical colleges and hospitals should be classified under Tariff III, the Appellant, without any alteration in the nature of their service, which encompassed both a medical college and a hospital, once again

requested a change to Tariff IIB. They filed a petition before CGRF of CEDC/South on 07-05-2012. However, it's worth noting that, within 50 days of receiving the complaint from the Appellant, the order was not issued in a timely manner.

10.31 In this context, it's important to mention that TNERC had previously confirmed that regarding Sri Ramachandra Medical College and Research Institute, which had obtained a High Tension Service Connection under Tariff IIA as per the Government Order MS No. 108 of the Energy Department, dated 31.03.1995 of the Tamil Nadu Government, prior to the Commission's establishment, they were eligible for the educational institution tariff of HT Tariff IIA (currently charged under HT Tariff IIB), as per the Commission's Order dated 04-04-2006 in MP No 27/2005.

10.32 Furthermore, this clarification was conveyed to the Respondent unit, i.e., SE/CEDC/South, by CFC/Revenue/TANGEDCO through memo No. CFC/R/TANGEDCO/ EE/TF.Cell/Tariff clarification/D.No.259/12, dated 21-06-2012, based on the representation of Sri Ramachandra Educational and Health Trust, Porur, in a letter dated 21-05-2012, stating that HT IIB should be charged only in that specific case, as per the above mentioned paragraph.

10.33 However, this memo was not applicable to the circumstances of the Appellant's HT Service No.519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital). By letter dated 16-10-2012, the SE/South revised the tariff to HT Tariff IIB and vide letter dated 30-07-2013 it had been informed that Rs. 28,37,239/- the difference in amount due to the erroneous tariff change from HT Tariff III to IIB, had been refunded for the period from 11/2011 to 8/2012 and adjusted in the 7/2013 CC bill. Consequently, the demand notice issued by SE/South on 30-12-2011 for an amount of Rs. 33,63,390/- for the period from August 2010 to October 2011 was also withdrawn.

10.34 The BOAB audit, during its scrutiny, noted that the action of SE/South did not align with the tariff classification. It raised a short levy of Rs.77,21,659/- for HT Service No.519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical



College and Hospital), recommending it to be charged under Tariff III for the period from 8/2010 to 10/2013, as stated in Audit Slip No. 69 dated 25-11-2013.

10.35 The Respondent, in response to these developments, sought clarifications from the licensee on several occasions, starting on 20-03-2014 and later on 29-11-2014. On 7-05-2016, the Respondent reached out to the Licensee's concerned wing to discuss the adoption of the appropriate tariff for HT Service 519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital). They mentioned that the Appellant had requested an additional demand of 700 KVA, which couldn't be processed due to the pending Audit amount of Rs. 77,21,659/-.

10.36 It's noteworthy that the Respondent did not seek any clarifications from the licensee concerning the adoption of the tariff before the BOAB short levy demand was raised and before making changes to the tariff after the issuance of TNERC's Tariff Order No. 3 of 2010, dated 31.07.2010.

10.37 In summary, the series of events related to the tariff change for HT Service 519 can be outlined as follows:

The service was under Tariff III since its inception, between the period 6-11-2003 to 31-07-2010. It changed to Tariff IIB from Tariff III in August 2010 to October 2011, without seeking clarification from the licensee concerned.

The tariff reverted to Tariff III from Tariff IIB due to the subsequent licensee official's actions on 30-12-2011. A demand notice of Rs. 33,63,390/- was issued to the Appellant for short billing during the period from August 2010 to October 2011.

It was revised again to Tariff IIB from Tariff III, and the SE informed on 30-07-2013 that Rs.28,37,239/-, the difference in the amount due to the incorrect tariff change, had been refunded for the period from 11/2011 to 8/2012 and adjusted in the 7/2013 CC bill, leading to the withdrawal of the demand notice from SE/South on 30-12-2011.

The BOAB audit raised a short levy demand for the incorrect adoption of Tariff IIB instead of Tariff III for Rs. 77,21,659/- for the period from 8/2010 to 10/2013, as indicated in Audit Slip No. 69 dated 25-11-2013.

10.38 It's important to note that CFC/Revenue/TANGEDCO, in memo No. CFC/REV/FC/REV/AS3/D.No 275/16, dated 21-05-2016, directed the Respondent to keep the audit objection for the period from 8/2010 to 10/2013, amounting to Rs.77,21,659/- in abeyance until further orders were issued. However, the amount was not withdrawn, but put on hold, with the condition that the Appellant provides an undertaking on the additional demand issue of 700 KVA which was reproduced below

*“2.7 At this juncture, in this connection it is most relevant to mention that M/s Christian medical college (CMC,Vellore) and other private medical colleges file a writ petition vide W.P. No.38076 of 2002 and etc for the similar issues which is pending before the Hon’ble High Court of Madras.*

*Hence the audit objection for the period from 8/2010 to 10/2013 for an amount of Rs 77,21,659/- may be kept in abeyance until further orders issued in this subject from this office and also in this regard necessary undertaking may be obtained from the consumer thereby additional demand application may be processed.”*

10.39 Subsequently, the licensee's regulatory cell directed all concerned parties, including the Respondent, in a letter, No. CFC/Reg Cell/FC/DFC/RC/F.Counter/D.No 470/21, dated 02-12-2021, to confirm the adoption of the appropriate tariff, specifically from Tariff IIB to Tariff III for private medical colleges attached with a hospital, which is consistent with TNERC's order in M.P.No.9 of 2020, dated 22-12-2020. This case resembled the Appellant's HT service 519 involving a private medical college with hospital.

10.40 It is relevant to mention that Dr. Rajah Muthiah Charitable and Educational Trust, with HT SC no 513 Padur Village, Kelambakkam, Chengalpattu Taluk, Chengalpattu EDC has filed a case before the Hon'ble High Court of Madras and the same was remanded to Hon'ble TNERC and admitted as MP No 9 of 2020.

10.41 Following the TNERC order issued in MP No 9 of 2020 dated 22-12-2020 and also in M.P. No.25 of 2021 dated 16-11-2021, the licensee's CFC/Regulatory cell requested a confirmation report on the adopted tariff, which is Tariff III, specifically for private medical colleges associated with hospitals. This request was made in letter No. CFC/Reg Cell/FC/DFC/RC/F.Counter/D.No 470/21, dated 02-

12-2021. In response to this, the Respondent, SE/CEDC/South II, issued a demand notice to the Appellant through letter No. SE/CEDC/S-II/DFC/AAO/HT/AS1/F.HTS/c No.519/D15/22, dated 21-01-2022. The notice directed the Appellant to pay the short levy amount for the tariff difference from HT Tariff IIB to III for the period of 8/2010 to 10/2013, as per the undertaking given for Rs.77,21,659/-. It was further mentioned that the shortfall amount for the subsequent period would be communicated shortly.

10.42 Based on the letter dated 02-02-2022, the Appellant paid the short levy amount in installments for the tariff difference from HT Tariff IIB to Tariff III for the period of 8/2010 to 10/2013, as permitted. This payment pertains to the period after the issuance of Tariff order No 3, dated 31-07-2010, for HT service 519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital), which includes the time when it was a medical college attached to a hospital.

10.43 This action also confirms that the HT service was rightfully categorized under Tariff III since its inception in 2003, and this continued in line with the Tariff order No 3, dated 31-07-2010, effective from 01-08-2010.

10.44 It's also evident from the Respondent's documents that the Appellant were previously informed to pay, as indicated in letter No. SE/CEDC/S-II/DFC/AAO/HT/AS1/F.HTS/c No 519/D15/22, dated 21-01-2022, for the period after 10/2013. Also were reminded by the Respondent in a subsequent letter, No. SE/CEDC/S-II/DFC/AAO/HT/ASGI/F. BR.HT519/ D.401A/22, dated 20-12-2022, to pay for the further period from 11/2013 to 12/2021, for an amount of Rs 8,70,36,352/-.

10.45 In response to the Respondent's notice dated 20-12-2022, the Appellant made a representation on 23-01-2023, contending that the short levy demand raised was a miscalculation, citing the Tariff order No 3, dated 31-07-2010, and referring to letter No. SE/CommI/EE/T/AEE.1/F. SFMC/CR.NO 3766/2022, dated 04-07-2002, in support of their position. Further claimed that CFC/Revenue, in

memo No. CFC/REV/FC/REV/AS3/D.No 275/16, dated 21-05-2016, had also accepted the viewpoint that the CE/Comml letter dated 04-07-2002 was not relevant.

10.46 However, it's worth noting that the content of the BOAB short levy, dated 25-11-2013, indicates that the reference point for the short levy was derived from the content of the letter dated 04-07-2002, which stated that ***"the Hospital attached to the recognized Self-financing medical colleges are to be charged under Tariff III only."***

10.47 However, the Appellant indicated that it was not relevant to their situation. Therefore, I'd like to direct their attention to the relevant sections of M.P. No. 9 of 2020, dated 22-12-2020, pertaining to the DR. Rajah Muthiah Charitable and Educational Trust. This trust also has a situation with interconnected loads of a medical college and a hospital that cannot be physically or electrically separated, much like their HT service. The relevant paras are given below:

*"In view of the above, the Commission would like to refer to the Tariff Categorisation made in the Tariff Schedule in respect of recognised educational institutions and hospitals under various Tariff Orders, which provides as follows:*

***"a) Order in T.P. No.1 of 2002 dated 15-03-2003:***

***High Tension Tariff II-A***

<b><i>Tariff Category</i></b>	<b><i>Rate in paise per kWhr (unit) – Energy Charges</i></b>	<b><i>Rate in rupees per KVA of Maximum Demand</i></b>
<b><i>HT Tariff II-A</i></b>	<b><i>35 0</i></b>	<b><i>200</i></b>

- i.) *This tariff is applicable to recognized educational institutions, hostels run by the recognized educational institutions, Government Hospitals and the hospitals under the control of Panchayats, Municipalities and Corporations, Veterinary hospitals, Leprosy Centre, Primary Health Centre, Orphanages, Public Libraries, Water Works, Public Lighting, Public Sewerage Works by Government / Local Bodies, Laboratories, Research Institutions, Studios, Cinema Theaters,*

*Ministry of Defense Establishments, Housing complexes and such other institutions declared by the Commission from time to time.*

- ii.) *If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they have to inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.*

**b) Order No. 3 of 2010 dated 31-07-2010:**

**9.11.4 HIGH TENSION TARIFF II-A**

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/ month	Energy charge in Paise per kWh(unit)
HT Tariff IIA	200	400

9.11.4.1 *The tariff is applicable to Government and aided educational institutions, Hostels run by such educational institutions, Government Hospitals, Hospitals under the control of Panchayat Unions, Municipalities or Corporations, Veterinary Hospitals, Leprosy Sub-Centres, Primary Health Centres. Health Sub-Centres, Orphanages, Public Libraries, Water works, Public Lighting, Public Sewerage Works by Government/local Bodies, Public Water Supply by New Tirupur Area Development Corporation, Electric crematorium by local bodies, Laboratories, Research institutions, , Ministry of defence and Avadi CRPF establishment, Desalination plant at Kudankulam Nuclear power plant.*

9.11.4.2 *If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they shall inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.*

**9.11.5 HIGH TENSION TARIFF II – B**

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/month	Energy charge in Paise per kWh(unit)
HT Tariff IIB	200	450

9.11.5.1 *The tariff is applicable to Private educational institutions and hostels run by them, Studios, Cinema Theatres.*

9.11.5.2 If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they shall inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.

c) Order No. 1 of 2012 dated 30-03-2012

**10.4 HIGH TENSION TARIFF II-A**

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/ month	Energy charge in Paise per kWh(unit)
HT Tariff IIA	300	450

10.4.1 This tariff is applicable for the following services under the control of Central/State Governments /local bodies/TWAD Board/CMWSSB:

1. Educational institutions including government aided educational institutions and Hostels run by such educational institutions, Hospitals, Veterinary Hospitals, Leprosy Sub-Centres, Primary Health Centres and Health Sub-Centres, Orphanages, Public Libraries, Public Water works and sewerage works, Public Lighting, Residential colonies and Housing complexes, Senior citizens communities, Electric crematorium, Research Laboratories and institutions, Ministry of Defence and Avadi CRPF establishment, Dairy units , Hospitals and Rehabilitation centres run by Charitable trusts which offers totally free treatment for all categories of patients on par with government hospitals, Desalination plants and Art Galleries.
2. Desalination plant at Kudankulam nuclear power plant and Minjur Desalination plant of Chennai water Desalination Ltd.
3. Single point supply to Co-operative group housing society as specified in "The Electricity (Removal of Difficulties) Eighth Order 2005.
4. Actual places of public worship. "

**10.5 HIGH TENSION TARIFF II – B**

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/month	Energy charge in Paise per kWh(unit)
HT Tariff IIB	300	550

10.5.1 The tariff is applicable to Private educational institutions and hostels run by them.

d) T.P. No. 1 of 2013, Order dated: 20-06-2013

**6.4 HIGH TENSION TARIFF II-A**

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/month	Energy charge in Paise per kWh(unit)
HT Tariff IIA	300	450

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

- a) Educational institutions including government aided educational institutions and Hostels.
- b) Teaching and Training institutions of Ministry of Defence and CRPF establishments,
- c) Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.

\*\*\*\* ”

**6.5 HIGH TENSION TARIFF II – B**

Tariff Category	Tariff	
	Demand Charge in Rs/KVA/ month	Energy charge in Paise per kWh(unit)
HT Tariff IIB	300	550

i) The tariff is applicable to Private educational institutions and hostels run by them.

a) SMT - Order No.9 of 2014 dated 11-12-2014:

**High Tension Tariff II-A :**

Tariff category	Commission Determined Tariff	
	Demand Charge in Rs/kVA/ month	Energy charge in Paise per kWh (Unit)

High Tension Tariff II A	350	635
--------------------------	-----	-----

- i. This tariff is applicable for the following services under the control of Central/State Governments/Local Bodies/TWAD Board/CMWSSB:
- Educational institutions including government aided educational institutions and Hostels.
  - Teaching and Training institutions of Ministry of Defence and CRPF establishments,
  - Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.

\*\*\*\*

**High Tension Tariff II – B :**

Tariff category	Commission Determined Tariff	
	Demand Charge in Rs/kVA/ month	Energy charge in Paise per kWh (Unit)
High Tension Tariff II B	350	635

- i. The tariff is applicable to all Private educational institutions and hostels run by them.

**b) Tariff Order in T.P. No.1 of 2017 dated 11-08-2017:**

**High Tension Tariff II-A**

Tariff category	Commission Determined Tariff	
	Demand Charge in Rs/kVA/ month	Energy charge in Paise per kWh (Unit)
High Tension Tariff IIA	350	635

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

- Educational institutions including government aided educational institutions and Hostels.
- Teaching and Training institutions of Ministry of Defence and CRPF establishments,
- Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.



\*\*\*\* “

From the above, it is clear that High Tension Tariff II-A is applicable, interalia, only for the Hospitals under the control of Central/State Governments. Since the Petitioner does not fall under the aforesaid category, then High Tension Tariff II-A is not applicable.

**High Tension Tariff II – B :**

<b>Tariff category</b>	<b>Commission Determined Tariff</b>	
	<b>Demand Charge in Rs/kVA/ month</b>	<b>Energy charge in Paise per kWh (Unit)</b>
High Tension Tariff II A	350	635

*The tariff is applicable to all Private educational institutions and hostels run by them.*

From the above it is clear that the Educational Institutions run by the Petitioner comes under the tariff category of High Tension Tariff II B, which is applicable mainly for Private educational institutions and hostels run by them.

6.5.1 The applicability of other tariff categories of High Tension Tariff are as follows:

*High Tension Tariff I A: Applicable mainly for Industries*

*High Tension Tariff I B: Applicable mainly for Railway Tractions*

*High Tension Tariff II B: Applicable mainly for Private educational institutions and hostels run by them*

*High Tension Tariff IV: Applicable mainly for Agriculture*

*High Tension Tariff V: Applicable mainly for Temporary supply*

From the above it is clear that the tariff category applicable to the Petitioner's Hospital, which doesn't fall under any of the Categories mentioned above, the only alternative available to the Petitioner is High Tension Tariff III, which is applicable to all other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V.”

10.48 The CFC unit of the licensee brought to the Respondent's attention, the need to adhere to the TNERC tariff order, as communicated in their memorandum numbered CFC/REV/FC/REV/AS3/D.No.275/16 dated 21-05-2016. It's worth

noting that even before the TNERC order of 2003, it was established that hospitals associated with self-financing medical colleges should be billed under Tariff III. This was conveyed through a letter from SE/Commercial dated 04-07-2002.

10.49 In light of the findings from TNERC in its order issued in M.P No 9 of 2020 dated 22-12-2020, which discussed the period covered by Tariff Order No. 3 of 2010, dated 31-07-2010, it was clarified that private medical colleges and hospitals should be charged under Tariff III and not under Tariff IIB. This conclusion was consistent with the situation of HT service 519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital). Given that this service involved a mixed load of both medical college (Tariff IIB) and a hospital (Tariff III), it rightfully fell under higher of two loads i.e. HT Tariff III.

10.50 Therefore, the Appellant's argument that they were entitled to be categorized under Tariff IIB for HT service 519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital) as well as claimed that it has been settled in CFC/REV/FC/REV/AS3/D.No 275/16 dated 21-05-2016, is unfounded. It's important to note that the matter was only temporarily put on hold, pending other associated issues in the Madras High Court, and it was eventually concluded based on M.P. No. 25 of 2021 dated 16-11-2021 to determine the appropriate tariff for private medical colleges attached to hospitals.

10.51 Furthermore, the Appellant has contested the Respondent's claim to pay an amount of Rs.8,70,36,352/- for the period from 11/2013 to 12/2021. In this context, again I would like to refer TNERC M.P.No.25 of 2021 dated 16-11-2021 filed by the petitioner DR Rajah Muthiah Chettiar Charitable and Educational Trust whose operative conditions of Medical college and Hospital was as similar to this case which is reproduced below. The commission had issued order in MP.No.25 of 2021, dated 16.11.2021. The relevant paras are reproduced below:

*"2. Whether the prayer of the Petitioner to set aside the demand of Rs.8,48,47,888/-is tenable?"*

*The Petitioner has contended that it has received a show cause notice date 03.05 2021 from Tangedco in respect of the Petitioner's electricity service connection in HT SC 313 issued under HT Tariff-II wherein the Petitioner was charged for the electricity under the category of HT Tariff-III" instead of "HT Tariff-IIA which is the tariff applicable to the Petitioner.*

*In order to set right the same as stated supra, the physical segregation and obtaining of two separate connections are necessary. The Section 62 of the Electricity Act, 2003 also provides for differential tariff on the basis of purpose for which the supply is requested.*

*Further, the demand notice of the year 2006, which has been stayed pending proceeding (before the High Court and the Commission) has not been quashed.*

*In the absence of physical segregation, the mixed load will have to be charged under higher of the two loads only. In this case, higher of two loads i.e HT Tariff II-A and HT Tariff III, which is HT Tariff III is claimed by the Respondent. Hence, the Respondent's claim is tenable. With the above order, the petition is dismissed."*

10.52 From the above findings of the Hon'ble Commission, it was ordered to pay the short levy amount under Tariff III to medical college attached with Hospital as claimed by the Respondent. Hence it is very well established that the HT consumer of Private Medical college attached with Hospital are to be charged under Tariff III. As the Appellant operating HT service 519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital) prayer is similar to the prayer of the petitioner DR. Rajah Muthiah Chettiar Chartiable and Educational Trust in M.P.No.25 of 2021 dated 16-11-2021. Therefore, the prayer of the Appellant to withdraw a sum of Rs. 8,70,36,352/-, based on the variance in charges between HT Tariff IIB and Tariff III during the period spanning from November 2013 to December 2021 is rejected with the fact that the mixed load will have to be charged under higher of the two loads only, in the absence of physical segregation. In this case, higher of two loads i.e HT Tariff II-B and HT Tariff III, which is HT Tariff III is claimed by the Respondent.

## **11.0 Conclusion:**

11.1 From the above findings, the Appellant HT service No. 519 of M/s. Sri Lakshmi Ammal Educational Trust (Sree Balaji Medical College and Hospital) is to be charged under Tariff III its inception from 06-11-2003.

11.2 Further the claim of the Appellant that they are entitled to be charged under Tariff IIB based on Tariff Order No.3 of 2010, dated 31-07-2010 has no merit and hence rejected. Also the short levy raised by the Respondent to pay towards arrears on account of tariff revision from HT Tariff IIB to Tariff III for the period from 11/2013 to 12/2021 vide this office letter dated 20.12.2022 for an amount of Rs.8,70,36,352/- is valid. Hence the Appellant's prayer to cancel Tariff Change arrears amounts of Rs.8,70,36,352/- for the period from 11/2013 to 12/2021 is rejected.

11.3 The Respondent is directed to collect the pending dues from the Appellant by deducting the already paid 25% amount in view of hearing by the Ombudsman along with any other dues as per statutory rules in exists.

11.4 With the above findings A.P.No.62 of 2023 is finally disposed of by the Electricity Ombudsman. No Costs.

**(N.Kannan)**  
Electricity Ombudsman

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

To

1. M/s. Sri Lakshmi Ammal Education Trust,  
(Sree Balaji Medical College & Hospital)  
No.29, Thiluk Street, T.Nagar, Chennai.

- By RPAD

2. The Superintending Engineer,  
Chennai Electricity Distribution Circle/South-II,  
TANGEDCO,  
110KV SS Complex,  
K.K.Nagar, Chennai-600 078.

3. The Executive Engineer/O&M/Tambaram,  
Chennai Electricity Distribution Circle/South-II,  
TANGEDCO,  
110/11 KV Tambaram SS Complex,  
Puthuthangal, Mullai Nagar,  
Tambaram West, Chennai – 600 045.

4. The Deputy Financial Controller,  
Chennai Electricity Distribution Circle/South-II,  
TANGEDCO,  
110KV SS Complex,  
K.K.Nagar, Chennai-600 078.

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

– By Email

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

– **For Hosting in the TNERC Website**