

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



## **TAMIL NADU ELECTRICITY OMBUDSMAN**

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

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

### **A.P.No. 77 of 2022**

Thiru S. Loganathan,  
s/o. Subbaraya Goundar,  
10/174-3, Vasantha Nagar,  
Muthur Road, Nathakadaiyur,  
Tiruppur District – 638 108.

..... Appellant  
(Rep. by Thiru T. Govindarajan)

Vs.

1. The Executive Engineer/O&M/Kangayam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
4/102, PSG Lodge, Sennimalai Road,  
Kangayam, Tiruppur – 638 701.

2. The Assistant Executive Engineer/C&I/Kangayam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
Sf No:3/277, Palayakottai Road,  
Opposite to Muthupalanyappa complex,  
Kangayam -638701.

..... Respondents  
(Thiru V.Ganesh, EE/O&M/Kangayam,  
Thiru N.Sai Harihara Krishnan, AEE/C&I/Kangayam)

### **A.P.No. 78 of 2022**

Thiru P. Kulanthaisamy,  
s/o. M. Palanisami,  
10/174-11, Vasantha Nagar,  
Muthur Road, Nathakadaiyur,  
Tiruppur District – 638 108.

..... Appellant  
(Rep. by Thiru T. Govindarajan)

Vs.

1. The Executive Engineer/O&M/Kangeyam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
4/102, PSG Lodge, Sennimalai Road,  
Kangeyam, Tiruppur – 638 701.

2. The Assistant Executive Engineer/C&I/Kangeyam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
Sf No:3/277, Palayakottai Road,  
Opposite to Muthupalanyappa complex,  
Kangeyam -638701.

. . . . . Respondents  
(Thiru V.Ganesh, EE/O&M/Kangeyam,  
Thiru N.Sai Harihara Krishnan, AEE/C&I/Kangeyam)

**A.P.No. 79 of 2022**

Thiru T.Govindaraj,  
s/o. Thambanna Goundar,  
10/174, Vasantha Nagar,  
Muthur Road, Nathakadaiyur,  
Tiruppur District – 638 108.

. . . . . Appellant  
(Rep. by Thiru T. Govindarajan)

Vs.

1. The Executive Engineer/O&M/Kangeyam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
4/102, PSG Lodge, Sennimalai Road,  
Kangeyam, Tiruppur – 638 701.

2. The Assistant Executive Engineer/C&I/Kangeyam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
Sf No:3/277, Palayakottai Road,  
Opposite to Muthupalanyappa complex,  
Kangeyam -638701.

. . . . . Respondents  
(Thiru V.Ganesh, EE/O&M/Kangeyam,  
Thiru N.Sai Harihara Krishnan, AEE/C&I/Kangeyam)

**A.P.No. 83 of 2022**

Thiru T. Sivakumar,  
s/o. VN. Duraisamy,  
10/174-12, Vasantha Nagar,  
Muthur Road, Nathakadaiyur,  
Tiruppur District – 638 108.

..... Appellant  
(Rep. by Thiru T. Govindarajan)

Vs.

1. The Executive Engineer/O&M/Kangeyam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
4/102, PSG Lodge, Sennimalai Road,  
Kangeyam, Tiruppur – 638 701.

2. The Assistant Executive Engineer/C&I/Kangeyam,  
Palladam Electricity Distribution Circle,  
TANGEDCO,  
Sf No:3/277, Palayakottai Road,  
Opposite to Muthupalanyappa complex,  
Kangeyam -638701.

..... Respondents  
(Thiru V.Ganesh, EE/O&M/Kangeyam,  
Thiru N.Sai Harihara Krishnan, AEE/C&I/Kangeyam)

**Petition Received on: 17-09-2022**

**Date of Hearing: 21-12-2022**

**Date of order: 11-01-2023**

The Appeal Petitions received on 17.09.2022 filed by Thiru S. Loganathan, S/o. Subbaraya Goundar, Thiru.P.Kulanthasamy, S/o M.Palanisamy, Thiru.T.Govindaraj, S/o Thambanagounder, and Thiru.D.Sivakumar, S/o V.N.Duraisamy were registered as Appeal Petition No. 77, 78, 79 and 83 of 2022 respectively. The above appeal petitions came up for hearing before the Electricity Ombudsman on 21.12.2022. Upon perusing the Appeal Petition, Counter affidavit, written arguments and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

## COMMON ORDER FOR AP No. 77, 78, 79 & 83 of 2022

### 1. Prayer of the Appellant:

(The prayer is same in all the four petitions A.P.No.77, 78, 79 & 83 of 2022 except the period of claim)

The prayer in all the four petitions is a) to cancel / set aside the order issued by the Assistant Engineer, Palayakottai and quash the same. B) further directing the Assistant Engineer (O&M), Palayakottai to refund the charges, which were paid by the Appellant and thus render justice.

### 2.0 Brief History of the case:

The Appellant submitted that the Assistant Engineer (O&M) has provided Electricity Connection to the Appellants under Tariff IIIA2. Since, the Appellant had exceeded the sanctioned load from the very next month of fixing the demand recording facility meter, the excess demand charges and revision of bills at LT IIIB tariff rates were calculated and demand was made. The Appellant has challenged the order of the Assistant Engineer before the Hon'ble High Court in W.P.No.11793 of 2016 and the same was disposed by the Hon'ble Court on 31-01-2022 ordered as follows:

*"Under these circumstances, the Appellants are at liberty to approach the Consumer Grievances Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code for adjudication of issues. Exhausting the Statutory remedy is of paramount importance as such original issues deserve adjudication based on the documents and evidences. In the event of filing any such appeal by the Appellants, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay if any and the issues are to be adjudicated on merits and in accordance with law".*

Accordingly, the appellants have filed petition before the CGRF to cancel / set aside the order issued by the Assistant Engineer, Palayakottai and to close the Notice for levy of excess demand charges and change the Tariff. CGRF of Palladam EDC have issued orders on 26.07.2022. Aggrieved by the Orders, the appellants have filed this appeal petitions before the Ombudsman.

### **3.0 Orders of the CGRF :**

3.1 The CGRF of Palladam Electricity Distribution Circle have issued its order on 26.07.2022. The relevant portion of the order is extracted below:-

*“திரு S.லோகநாதன், த/பெ. சுப்பராய கவுண்டர் , வசந்தம் நகர் , முத்தூர் ரோடு , நத்தக்காடையூர், திருப்பூர் அவர்களுக்கு அறிவுப்பது யாதெனில் , TNERC Tariff ஆணைகளின் படி 11/8/2017 வரையிலும் வீதப்பட்டி IIIA2 ற்கு அனுமதிக்கப்பட்ட பளு 10 hp யாகும் 10 hp க்கு மேல் மோட்டார் பொறுத்தப்பட்டிருந்தால் மனுதாரர் மீதமுள்ள MD exceed ஆனதால் IIIB க்கு மாற்றம் செய்து அதற்குரிய கட்டணத்தை செலுத்த வேண்டும் என்பதை தெரிவித்துக்கொள்ளப்படுகிறது. ஆகையால் தங்களது மனு இம்மன்றத்தால் முடித்து வைக்கப்படுகிறது.”*

### **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 conducted on 21.12.2022 through Video conferencing.

4.2 On behalf of the Appellants, Thiru T.Govindarajan has attended the hearing for AP No.77, 78, 79 & 83 of 2022 and put forth his arguments.

4.3 The Respondents Thiru V.Ganesh, EE/O&M/Kangeyam & Thiru N.Sai Harihara Krishnan, AEE/C&I/Kangeyam of Palladam Electricity Distribution Circle have attended the hearing for AP No.77, 78, 79 & 83 of 2022, 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 order. Further the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder.

4.5 Since the prayer of the appellants and counter argument of the respondents are similar in all the appeal petitions, the arguments of the appellant and respondent in A.P.No.77 of 2022 are discussed hereunder.

### **5.0 Arguments of the Appellant in AP No.77 of 2022:**

5.1 The Appellant submitted that the Assistant Engineer, Palayakottai has issued notice dated 09.02.2016 and 22.03.2016 directing the Appellant to pay Rs.81,509/- for

levy of excess demand charges and change of tariff. The Appellant has paid part amount.

5.2 The Appellant have challenged the order of the Assistant Engineer before the Hon'ble High Court in W.P.No. 11793 of 2016 and the same was disposed by the Hon'ble Court on 31.01.2022 and ordered as follows:

*"Under these circumstances, the Appellants are at liberty to approach the Consumer Grievances Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code for adjudication of issues. Exhausting the Statutory remedy is of paramount importance as such original issues deserve adjudication based on the documents and evidences. In the event of filing any such appeal by the Appellants, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay if any and the issues are to be adjudicated on merits and in accordance with law".*

Therefore, the Appellant filed the appeal before the Consumer Grievance Redressal Forum constituted under the Tamil Nadu Electricity Supply Code.

5.3 The Appellant submitted that he has got a license from the Government of Tamil Nadu for starting a Micro Industry with regard to manufacturing of Cotton Fabrics and it is very small unit and the Appellant is a young developing entrepreneur. The unit was duly registered with the Government of Tamil Nadu Industries and Commerce Department as Micro Enterprise.

5.4 The Appellant submitted that the Assistant Engineer (O&M) have provided Electricity Connection to the Appellant vide Service No.078-006-988 and the Appellant is using the same. From the date of installation of the service connection to till date, the Appellant is paying the Electricity charges regularly and there is no default on the part of the Appellant till date.

5.5 The Appellant submitted that since he is running a micro enterprise he is already facing labour problem and power cut problems and the Appellant is in a struggling stage of running the industry.

5.6 The Appellant submitted that while so Assistant Engineer(O&M) have issued notice dated 09.02.2016 to the Appellant directing to pay Rs.81,509/- as additional charges towards exceeding the sanctioned load. The Appellant herein had filed a writ petition in W.P.No.11793 of 2016 before this Hon'ble High Court challenging the

additional charges levied. The Appellant paid the amount as directed by the Hon'ble Court as interim payment.

5.7 The Appellant submits that he has never exceeded the sanctioned load and Assistant Engineer (O&M) notice dated 09.02.2016 and 22.03.2016, it was not supported with corroborative documents. The notice does not disclose the periods which has exceeded the sanctioned loads. He uses only ISI standard motors and the TANGEDCO does not supply the required input to the Appellant. In other words the TANGEDCO supply of voltage is too low and due to the low supply only the said fault would have occurred.

5.8 The Appellant requested the Assistant Engineer to personally visit his service connection with prior intimation and verify the voltage fluctuations and causes for the excess kilo watt usage and verify the Electronic Meter which runs even all the switches are off. The Electronic Meter continuously running when there is no consumption at all. The Appellant can prove the same with the General Witnesses and any other person who is technically knowledgeable. The Appellant requested the Assistant Engineer to check the electronic meter by replacing with some other meter.

5.9 The Appellant submitted that he has never exceeded the kilo watt and his usage is within the prescribed standards mentioned by the Indian Standard Institution guidelines. In the Assistant Engineer (O&M) notice it was stated that the Appellant has used 11.23 Kilo Watt, but under what calculation method the same has been arrived is not disclosed in the notice. Inspection date and witnesses accompanied while inspection has not been disclosed in the notice.

5.10 The Appellant submitted that the certified copy of Tariff order has not been furnished to the Appellant hence the same may be furnished to the Appellant. The Appellant made representation dated 16.03.2016 to Assistant Engineer (O&M) and the same was received by Assistant Engineer (O&M). In the said representation the Appellant has requested to supply the audit slip, Accounts Officer's inspection report, and also sought clarification under what rules and regulations, the penalty was levied and the calculation sheet for arriving the amount. But, there is no reply from Assistant Engineer (O&M).

5.11 The Appellant submitted that he is a member of association called Tiruppur District Power Loom Owner's Association and the association has made a representation dated 07.08.2013 to the TANGEDCO, requesting them to specify the exact kilo watt to be used by the Power Loom owners and the type of motors to be used for avoiding the penalty charges for the usage of excess sanctioned load. But, the respondents without giving suitable reply choose to levy penalty on the micro industry units. Reply in this regard is required by the Appellant.

5.12 The Appellant submitted that his legitimate expectation is that he is paying the electricity consumption charges promptly for the consumption made by him without any default. The kilo watt excessively used is based on the production on that month. Whenever, the Appellant is getting some extra job orders, the Appellant cannot refuse to do. Hence, the Appellant cannot be penalized for doing job work.

5.13 The Appellant submitted that the Appellant being a micro entrepreneur cannot be penalized for excess use of Electricity on the ground of sanctioned load exceeded. The Revenue Supervisor during inspection, denied the permission to accompany the Appellant for inspection, he himself made inspection without any access to others and not disclosed the details of the inspection report.

5.14 The Appellant submitted that from the commencement of the business unit to till date there is no penalty charges levied on the Appellant for the same usage. There is no rule authorizing Assistant Engineer (O&M) to levy on the Appellant for the excess usage of sanctioned load.

5.15 The Appellant submitted that the change of tariff from one type to other type is not caused by the Appellant he is using the same motor for the past six years. But the penalty has been levied on the Appellant only in the month of July and August 2015. The usage is also the same. But how, the penalty is levied only in the months of July and August 2015 is mysterious.

5.16 The Appellant submitted that Assistant Engineer (O&M) has not framed any specific guidelines with regard to charging of penalty to the Appellant for exceeding the sanctioned load. In the official website there is no communication in this regard. Hence, the notice dated 09.02.2016 and 22.03.2016 has to be withdrawn and cancelled. The



Appellant submitted that, after the intervention of Tamil Nadu Electricity Regulatory Commission, the penalty levying was stopped for excess demand charges.

5.17 The Appellant humbly prayed that the Grievance Redressal Forum to treat the points raised before the Hon'ble High Court in W.P.No.11793 of 2016 as part and parcel of this present appeal. The copy of affidavit is attached for your kind reference.

5.18 The Appellant humbly prayed the following;

- (a) to cancel / set aside the order issued by the Assistant Engineer, Palayakottai and Revenue Supervisor, Kangeyam and to close the Notice in letter No.AE/O&M/PKT/F.DOC/Doc.No.124/15-16 dated 9-2-2016 and quash the same.
- (b) Further directing the Assistant Engineer (O&M), Palayakottai to refund the charges, which was paid by the Appellant and thus render justice.

## **6.0 Aruguments of the Respondent:**

6.1 The Respondent has submitted that the service connection no. 078-006-988 was effected on 12.02.2008 under Tariff IIIA 2 category. The consumer had objected to fix the demand recording facility meter for the service no. 078-006-988 on 14.8.2014. By issuing notice to the consumer the demand recording facility meter was fixed on 17.5.2015. The Appellant had exceeded the sanctioned load of 8.96 KW from the very next month of fixing the demand record facility meter and exceeded the sanctioned demand of 8.96 KW except 05/2016 to 09/2017 upto Tariff revision order dated 11.08.2017 (Tariff Order 1 of 2017 dated 11.8.2017). As per the Tariff Order 1 of 2017 dated 11.8.2017 the contracted load shall not exceed 12 KW under Tariff III A2 category.

6.2 The Respondent has stated that there was no low voltage complaint so far received in the feeder feeding the Appellant service connection area. Besides, there was an LTCT service connection fed by the same Distribution transformer feeding the Appellant service and no low voltage complaint was received.

6.3 The Respondent has stated that the service connection was inspected based on consumer's request by AE/O&M/Palayakottai on 29.12.2016 in the presence of the consumer and confirmed that there was no voltage fluctuations. The same meter is still in use and the consumer is paying the Current consumption charges. The load revised to 11KW on 16.05.2020 and the consumer has paid the necessary connection charges.

6.4 The Respondent has stated that the Appellant had exceeded the sanctioned load of 8.96 KW and still using more than 8.96 KW. Also the load revised to 11 KW on 16.5.2020 and consumer has paid the necessary connected charges. The demand utilized has been recorded in the meter itself. Hence, it is false to state that the demand has never been exceeded.

6.5 The Respondent has stated that there is no calculation for arriving the demand reached. The demand utilized has been recorded in the meter itself. The demand shown in the meter is entered by the assessor and the same was explained to the consumer in person and through the letter No.AE/O&M/PKT/F.DOC/Doc.No.124/15-16 dated 22.3.2016. The Hon'ble Commission's tariff orders are published in TNERC website and are in public domain. There is no bar/ban to ascertain the same from Hon'ble Commission's website.

6.6 The Respondent has stated that the Appellant's representation on grievance day was considered and the fact was intimated to the Appellant on 01.03.2016. The audit slip, assessment officer's report, calculation sheet which is self explanatory were already given to the consumer with the letter No.AE/O&M/PKT/F.DOC/Doc.No.124/15-16 dated 22.3.2016. The excess demand charges has been imposed in accordance with TNERC Supply code 5(2)(i)(b) and also as per provisions in clause 10.0.1 of tariff orders.

6.7 The Respondent has stated that as for type of motors to be used, the consumers are at liberty to purchase to their choice and Licensee is not bound to prescribe type / model or motors to be used in their industries. It is stated that the Appellant has agreed that the Kilo watt was excessively used based on the production of that month, whenever the Appellant gets extra job. Thus the fact of excess usage has been agreed.

Hence, the excess demand charge has been levied as per TNERC Supply Code in accordance with the actually recorded demand.

6.8 The Respondent has stated that considering the micro nature of the power loom industries, Government of Tamil Nadu extended free supply of electricity upto 500 units (then) and 750 units (now) to the power loom services. In order to ensure that the concessional tariff is being availed by actually deserved micro industrialists, the Government also stipulated conditions that such industries should not exceed the contracted load of 8.96KW (then) and 12Kw(now). The benefit of concessional tariff is extended, the consumers like the Appellants are legally bound to abide by the stipulation prescribed by the tariff orders.

6.9 The Respondent has stated that the inspection by the Revenue Supervisor is on the accounts of the service connection and not by the field inspection of meters. It is also stated that the electronic static meter with demand recording facility was fixed on 17.05.2015 and only after the fixation of the meter, the demand was recorded in the meter. Hence, the excess demand recorded from 07/2015 to 01/2016 was calculated and the demand was made.

6.10 The Respondent has stated that the charges demanded are not penalty for exceeding the sanctioned demand but revision of bills at LT IIIB tariff rates. The excess demand charges was imposed in accordance with TNERC Supply code 5(2)(ii)(b) and also as provisions in Tariff order No.1 of 2013 dt 20.06.2013 6.19(i) and the same are reproduced hereunder

*“Regulations 5(2) (ii) (b) of Supply code: Excess demand charges shall be applicable to the categories other than domestic and agriculture if the contracted demand and connected load is equal to or less than 18.6KW. If the connected/ contracted demand exceeds even if the connected/contracted demand is equal to or than 18.6KW, the Licensee shall install meter with demand recording facility and bring the consumer under scope of excess demand chargeable category. Besides installing demand recording meter, the consumer should be brought under scope of excess demand chargeable category.*

*Clause 6.19(i) of Tariff order No.1 of 2013 dt 20.06 2013: This tariff (i.e.LT Tariff IIIB industries) is applicable to industries not covered under LT Tariff IIIA(1) IIIA2(Power looms) shall also fall under this tariff category(LT III B) if the connected load of such industries exceeds 10 HP or 7.46KW.”*

6.11 The Respondent has stated that it is clear by the above provisions that whenever there was excess demand over and above the contracted demand, the consumer should be brought under the scope of excess demand chargeable category. Also as per tariff orders, consumers under LT IIIA (2) shall fall under LT IIIB category. The charges levied are the difference between the tariff rates applicable to LT III A(2) to LT IIIB. The details were already furnished through the calculation sheet enclosed with the letter dated 22.03.2016.

6.12 The Respondent has stated that the Appellant was informed of fixing demand recording meter by letter dated 29.04.2014 and again by letter dated 14.08.2014. Therefore, the consumer was aware of the demand to be used. Also the consumer was informed of the excess demand recorded and requested to avail additional demand by the letter date 9.2.2016. Hence, the consumer is liable to pay the remaining amount of Rs.61,132/- for the excess demand for 07/2015 to 01/2016. Also, as per the regulations of supply code and Tariff orders till Tariff order No.1 of 2017, dt.11.08.2017, the consumer has exceeded the sanctioned demand under Tariff IIIA2 is brought under Tariff IIIB and he is liable to pay Rs.1,81,884/-. The total amounts to Rs.2,43,016/-. As per the terms of agreement, the consumer has to abide by the provisions of supply code and Acts and regulations issued from time to time. The tariff orders issued from time to time by the commission clearly specified the maximum load that is eligible for each category. While the benefit of concessional tariff is extended, the Appellant is legally bound to abide by the stipulation prescribed by the Tariff orders then in force i.e. not to exceed the prescribed limit of 7.46KW of demand.

6.13 The Respondent has requested for orders for paying the balance excess demand charges of Rs.61,132/- for the period 07/2015 to 01/2016 and Rs.1,81,884/- for the period 03/2016 to 11.08.2017 and totally a sum of Rs 2.43,016/- (Rupees Two Lakhs Forty Three Thousand and sixteen only) by the Appellant.

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

7.1 I have heard the arguments of both the Appellants and the Respondents. Based on the arguments and the documents submitted by them the following conclusion is arrived.

7.2 The Appellant stated that the Assistant Engineer (O&M) have provided them with Service No.078-006-988 and the Appellant is using the same from the date of installation of the service connection to till date and paying the Electricity charges regularly and there is no default on the part of the Appellant till date. The Appellant is running a micro enterprise, he is already facing labour problem and power cut problems and the Appellant is in a struggling stage of running the industry.

7.3 The Appellant stated that the Assistant Engineer, Palayakottai has issued the Notice in letter No.AE/O&M/PKT/F.DOC/Doc.No.052/ 15-16 dated 09.02.2016 and 22.03.2016 directing the Appellant to pay Rs.81,509/- as levy of excess demand charges and change of tariff. The Appellant have challenged the order of the Assistant Engineer before the Hon'ble High Court in W.P.No.11793 of 2016 and the same was disposed by the Hon'ble Court on 31.01.2022. The Appellant paid the amount as directed by the Hon'ble Court as interim payment.

7.4 The Appellant has stated that he has never exceeded the sanctioned load and Assistant Engineer (O&M) notice dated 09.02.2016 and 22.03.2016 was not supported with corroborative documents. The notice does not disclose the periods which has exceeded the sanctioned loads. He uses only ISI standard motors and the TANGEDCO does not supply the required input to the Appellant. In other words the TANGEDCO supply of voltage is too low and due to the low supply only the said fault would have occurred.

7.5 The Appellant further agreed that the excess kilo watt usage was based on the production on that month and at the time of getting some extra job orders, which cannot be prevented and penalized by the respondent. The Appellant argued that as he was using the same motor for the past six years and for no reasons to change the tariff and argued that it was mysterious for him how he has been levied for the month of July 2015 & Aug 2015 when the pattern of usage was the same. Hence the Appellant prayed to cancel / set aside the order issued by the Assistant Engineer, Palayakottai.

7.6 The respondent argued that the service connection no. 078-006-988 was effected on 12.02.2008 under Tariff IIIA 2 and the service connection has been fed from 11 KV Mill Feeder which is Urban status nature of 110/33-11 KV Palayakottai SS and no

power cut problem, no load staggering and further confirmed that there was no low voltage complaint so far received in the feeder feeding the Appellant's service connection area. Besides, there was an LTCT service connection fed by the same Distribution transformer feeding to the appellant's another service where the appellant never made any low voltage complaint. The respondent expressed that much resistance had been given by the Appellant to fix the Demand recording facility on 14-08-2014 and after issuing notice only he was able to fix the meter on 17-05-2015. From the very next month the Appellant had exceeded the sanctioned load. Also the consumer was informed of the excess demand recorded and requested to avail additional demand by the letter date 9.2.2016. The demand utilized has been recorded in the meter itself which is entered by the assessor and the same was explained to the consumer in person and through the letter dated 22.3.2016. The said service connection was inspected by the Assistant Engineer in the presence of the consumer on 29.02.2016.

7.7 The respondent further claimed that the Hon'ble Commission's tariff orders are published in TNERC website and are in public domain. There is no bar to ascertain the same from Hon'ble Commission's website and further asserted that the Appellant's representation on grievance day was considered and the fact was intimated to the Appellant on 01.03.2016. The audit slip, assessment officer's report, calculation sheet which is self explanatory were already given to the consumer with the letter No.AE/O&M/PKT/F.DOC/Doc.No.124/15-16 dated 22.3.2016. The respondent further claimed that the same meter is still in use and the consumer is paying the current consumption charges. The respondent further informed that considering the micro nature of the power loom industries, Government of Tamil Nadu extended free supply of electricity upto 500 units (then) and 750 units (now) to the power loom services. In order to ensure that the concessional tariff is being availed by actually deserved micro industrialists, the Government also stipulated conditions that such industries should not exceed the contracted load of 7.46 KW (then) and 12 KW (now) and consumers like the Appellants are legally bound to abide by the stipulation prescribed by the tariff orders. It is stated that the Appellant has agreed that the Kilo watt was excessively used based on the production of that month, whenever the Appellant gets extra job. Thus the fact of

excess usage has been agreed. Hence, the excess demand charge has been levied as per TNERC Supply Code in accordance with the actually recorded demand.

7.8 The respondent repeatedly claimed that the electronic static meter with demand recording facility was fixed on 17.05.2015 and only after the fixation of the meter, the demand was recorded in the meter. Hence, the excess demand recorded from 07/2015 to 01/2016 was calculated and the demand was made.

7.9 The Respondent further stated that the charges demanded are not penalty for exceeding the sanctioned demand but revision of bills at LT IIIB tariff rates and the excess demand charges was imposed in accordance with TNERC Supply code 5(2)(ii)(b) and also as per provisions in Tariff order No.1 of 2013, dt 20.06.2013.

7.10 From the above arguments, it is noted that the Static meter was fixed in the appellant's service connection on 17.05.2015 and only thereafter the excess demand recorded in the service connection was brought to the knowledge of the respondents during assessment. The respondent claimed difference in tariff rates from IIIA2 to IIIB since the appellant exceeded the sanctioned demand of 10 HP for the period from 07/2015 to 01/2016 when the Tariff Order SMT Order No.9 of 2014, dt 11-12-2014 was in force. The appellant filed W.P.No.11793 of 2016 before the Hon'ble High Court. As per the Court direction, the appellant paid 1/4<sup>th</sup> of demand and thereafter, the Hon'ble High Court issued order on 31.01.2022 directing the appellant to approach the CGRF.

7.11 In the order dated 31.01.2022, the Hon'ble High Court have observed that "Exhausting the Statutory remedy is of paramount importance as such original issues deserve adjudication based on documents and evidences. In the event of filing any such appeal by the Appellants, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay if any and the issues are to be adjudicated on merits and in accordance with law."

7.12 Accordingly, the appellant had filed a petition before CGRF and the CGRF of Palladam EDC have issued orders on 26.07.2022 duly observing that the appellant service connection should be billed under Tariff IIIB since the appellant exceeded the

sanctioned load of 10 HP as per the Tariff order in force upto 10.08.2017. Aggrieved by the CGRF order, the appellant filed this present appeal.

7.13 The Hon'ble High Court ordered that the issues are to be adjudicated on merits and in accordance with law and adjudication based on documents and evidences. CGRF have observed that the appellant service connection should have been billed under Tariff IIIB for the period upto 10.08.2017. At the time of first demand notice, SMT Order No.9 of 2014, dt 11-12-2014 w.e.f. 12.12.2014 was in force. As per SMT Order No.9 of 2014, LT Tariff III-A (2) is applicable to Power looms, Braided Cords Manufacturing and related ancillary tiny industries engaged in warping, twisting, and winding and connected load shall not exceed 10 HP under this category. At the time of Hon'ble High Court Order dated 31.01.2022, TNERC's Tariff Order No.1 of 2017 dated 11.8.2017 was in force and as per the tariff order, the contracted load shall not exceed 12 KW under Tariff III A2 category.

7.14 From the above findings, the following are the issues to be decided;

i) what is the applicability of tariff for appellant's service connection when the SMT Order No.9 of 2014 was in force and applicability of tariff after coming into effect T.O.No.1 of 2017, dated 11.08.2017 ?

ii) whether the claim made by the respondent was in line with the tariff orders?

## **8.0 Findings on the first issue:**

8.1 The CGRF has observed that the appellant's service connection should have been billed under Tariff IIIB upto 10.08.2017. Respondent initially issued demand notice for an amount of Rs.81,509/- for the period from 07/2015 to 01/2016 towards arrears on account of difference in tariff from LT Tariff IIIA2 to IIIB. Thereafter further claim was not made since the appellant filed a writ petition before the Hon'ble High Court. Only during the CGRF hearing, further period arrears upto 10.08.2017 were discussed and the CGRF ordered that the appellant is liable to pay the difference in tariff arrears for the period upto 10.08.2017. At the time of first demand notice, SMT Order No.9 of 2014, dt 11-12-2014 w.e.f. 12.12.2014 was in force. As per SMT Order No.9 of 2014, LT Tariff III-A (2) is applicable to Power looms, Braided Cords Manufacturing and related ancillary tiny industries engaged in warping, twisting &



winding and connected load shall not exceed 10 HP under this category. The same tariff order was in force upto 10.08.2017. Thereafter Tariff order No.1 of 2017 dt. 11.08.2017 came into effect. As per 11.08.2017 tariff order, LT Tariff III-A (2) is applicable to Power looms, Braided Cords Manufacturing and related ancillary tiny industries engaged in warping, twisting & winding and contracted load shall not exceed 12 KW under this category.

8.2 From the above, it is noted that the sanctioned load under LT Tariff IIIA2 shall not exceed 10 HP i.e. 7.46 KW upto 10.08.2017 when SMT Order No.9 of 2014 was in force. It is noticed from the consumer ledger of the Appellant that the excess M.D was noticed continuously for period from 07/2015 to 10.08.2017 over and above 7.46 KW. As per SMT Order No.9 of 2014, LT Tariff III-A (2) is applicable to Power looms and connected load shall not exceed 10 HP under this category. Since, the recorded demand was more than 10 HP in the appellant's service connection for the period upto 10.08.2017, the applicability of tariff for period from 07/2015 to 10.08.2017 should have been under LT Tariff IIIB.

8.3 As per Tariff order No.1 of 2017, dated 11.08.2017, LT Tariff III-A (2) is applicable to Power looms, Braided Cords Manufacturing and related ancillary tiny industries engaged in warping, twisting, and winding and contracted load shall not exceed 12 KW under this category. From the consumer ledger it is noted that the recorded demand for the period from 09/2017 to 03/2020 were within the prescribed limit of 12 KW. The sanctioned load has been revised to 11 KW during 05/2020 and thereafter, the appellant has never exceeded the sanctioned load. Therefore, the applicability of tariff for period from 09/2017 to 11/2022 should be under LT Tariff III A (2)

## **9.0 Findings on the second issue:**

9.1 The Respondent has stated that the charges demanded are not penalty for exceeding the sanctioned demand but revision of bills at LT IIIB tariff rates. The excess demand charges was imposed in accordance with TNERC Supply code 5(2)(ii)(b) and also as per provisions in Tariff order. Further, the Respondent has stated that whenever there was excess demand over and above the contracted demand, the

consumer should be brought under the scope of excess demand chargeable category. Also as per tariff orders, consumers under LT IIIA (2) shall fall under LT IIIB category if the sanctioned load exceeded the prescribed limit for that category. The charges levied are the difference between the tariff rates applicable to LT III A(2) to LT IIIB.

9.2 The applicability of tariff when the sanctioned demand exceeds are discussed in detail in para 8 above. Therefore, I am of the view that the claim of the respondents is in line with Hon'ble Commission's Tariff order and as per the regulations of Tamilnadu Electricity Supply Code.

### **10.0 Conclusion:**

10.1 As per my findings in para 8 & 9 above, the orders issued by CGRF of Palladam Electricity Distribution Circle is upheld and hence the prayer of the appellants in all the four appeal petitions in A.P.No.77, 78, 79 & 83 of 2022 to cancel / set aside the order issued by the Assistant Engineer, Palayakottai and to refund the charges, which were paid by the Appellants is rejected.

10.2 With the above findings the appeal petitions filed vide A.P.No.77 of 2022, A.P.No.78 of 2022, A.P.No.79 of 2022 and A.P.No.83 of 2022 are finally disposed of by the Electricity Ombudsman. No costs.

**(N.Kannan)**  
Electricity Ombudsman

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

To

1. Thiru S. Loganathan,  
s/o. Subbaraya Goundar,  
10/174-3, Vasantha Nagar,  
Muthur Road, Nathakadaiyur,  
Tiruppur District – 638 108.

- BY RPAD

2. Thiru P. Kulanthaisamy,  
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- BY RPAD

3. Thiru T.Govindaraj, - BY RPAD  
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4. Thiru T. Sivakumar, - BY RPAD  
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5. The Executive Engineer/O&M/Kangeyam,  
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TANGEDCO,  
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TANGEDCO,  
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7. The Superintending Engineer, – By Email  
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8. The Chairman & Managing Director, – By Email  
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10. The Assistant Director (Computer) –**For Hosting in the TNERC Website**  
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