



**THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION**

**(Constituted under Section 82(1) of the Electricity Act, 2003)**  
**(Central Act 36 of 2003)**

**PRESENT :**

**Thiru S. Kabilan** - Chairman  
**Thiru B. Jeyaraman** - Member  
**Thiru R. Rajupandi** - Member  
and

**M.P. 34 of 2008**

The Secretary  
Tamil Nadu Electricity Board  
144 Anna Salai  
Chennai – 600 002.

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Petitioner

Vs

Managing Director  
New Tirupur Area Development Corporation  
Ltd. (NTADCL)  
'Anurag' No.15 Murraya Gate Road  
Alwarpet  
Chennai – 600 018

..

Respondent

The above M.P. No.34 of 2008 came up for final hearing before the Commission on 12<sup>th</sup> January 2009. The Commission upon perusing the above petitions and connected records relating to the above petitions and after hearing arguments of both sides pronounces the following order:-

**ORDER DATED 25<sup>th</sup> February 2009**

**1. Prayer M.P. No.34 of 2008**

The prayer is to levy HT Tariff III to 6 Nos. HT service connections and 23 Nos. LT service connection of New Tirupur Area Development Corporation Ltd. (NTADCL) / Tirupur.

**2. Facts of the case**

- (a) The New Tirupur Area Development Corporation Limited (NTADCL) is a public limited company incorporated as per the Companies Act 1956 which has taken up the project for provision of water and sanitation to Tirupur, through a concessional agreement entered into with the GoTn.
- (b) Originally the supply to the NTADCL services was effected under commercial tariff and the services were billed at commercial tariff rates only. Subsequently the NTADCL filed a petition with the Tamil Nadu Electricity Regulatory Commission for change of tariff to the above services stating that the HT tariff IA is applicable to their HT services and LT tariff II A is applicable to their LT water supply services.

- (c) The Tamil Nadu Electricity Regulatory Commission after obtaining the response of the TNEB, passed orders to change the tariff of the HT services into HT Tariff I A (Industries) and LT services into LT Tariff II A by its Order No. T.O. 1-66 dated 25-10-2005.
- (d) Accordingly tariff to the services of the NTADCL has been changed to HT Tariff IA and LT Tariff II A and bills are being rendered at the above tariff rates from December 2005.

### **3. Contentions of Petitioner Board**

- (a) One of the conditions under which the Tamil Nadu Electricity Regulatory Commission gave reduction was that NTADCL would pass on the benefit of electricity tariff reduction by Tamil Nadu Electricity Board to the beneficiaries by way of reduction in water supply charges.
- (b) It is observed that water charges were never brought equal to that of TWAD Board / Municipality.
- (c) From the perusal of the orders of the Commission, it may be seen that HT tariff I A is applicable for 6 nos. HT SCs of NTADCL only if water drawn and treated in that HT SCs. As per field report the NTADCL is pumping and treating water at HT SC No. 190 of Erode Electricity Distribution Circle only and utilizes the balance HT services for pumping purposes alone and not for water treatment.

### **4. Contentions of Respondent**

The Respondent namely New Thirupur Area Development Corporation (referred as NTADCL) contended as follows:

- (a) The applicant by filing this miscellaneous petition is seeking to review the order passed by this Commission. It is submitted that a review would be permissible only on the ground that a decision, direction or order was made under a mistake of fact, ignorance of a material fact or on account of an error apparent on the face of the record, provided however that an application seeking such review is made within a period of 30 days of the date of such decision, direction or order.
- (b) It is incorrect to allege that this Commission while revising the tariff, had passed a conditional order by which the Respondent is required to pass on the benefit of the reduction in the electricity tariff to the consumers. It is submitted that no such conditional order had been passed.
- (c) The water charges had been reduced from Rs.45 to Rs.23 per 1000 litres immediately on the passing of the order by this Commission and due to other facts, it had to per force be revised owing to other considerations. Hence, the rate can never be a fixed one and is wholly dependent on the cost of production. It is also relevant to state that the Respondent had all along extended and continues to extend a 15% discount to its bulk consumers. It is therefore incorrect and wholly misleading to state that the benefit of a lower tariff had not been passed on to the consumers.
- (d) As per the provisions contained in the Act, any person aggrieved by the order passed by this Commission may file an appeal to an Appellate Tribunal within a period of 45 days from the date of receipt of the order. The applicant has chosen not to file an appeal. Hence this

Commission's Order has become final. The applicant is, in fact, seeking a review of this Commission's order.

## **5. Arguments**

The Petitioner Board while referring to page 4 of the petition contended that since the Respondent has not reduced the rate of industrial consumers on par with TWAD the tariff has to be revised to commercial tariff. The respondent contended that the petition reads more in the nature of a review petition. The respondent further contended that the order of the Commission which is sought to be revised by the petitioner is not a conditional order as alleged by the petitioner.

## **6. Findings and conclusion**

6.1. The present petition is virtually a review petition seeking to review the order of the Commission T.O.1-66 dated 25-10-2005 on tariff admissible to the New Tirupur Area Development Corporation Ltd. (shortly referred to as NTACDL). The NTACDL was given the benefit of HT Tariff I A and LT Tariff II A in the order of the Commission. The present petition M.P.No.34/2008 seeks to reclassify the tariff as commercial after a gap of three and a half years. The petitioner did not choose to appeal against the order within the stipulated period of 45 days before the Appellate Tribunal for Electricity nor was a review petition filed with the Commission within the deadline of 30 days.

6.2. The present petition is, essentially, a review petition filed after three and a half years. Much water has flown under the bridge during the interregnum. The time limit for filing of review petition is 30 days. A review petition is maintainable, if an order is made under a mistake of fact, ignorance of material fact or on account of an error apparent on the face of record. Further, the present petition is hopelessly time barred. None of the grounds for review has been established.

6.3. We, therefore, conclude that the order has become final and binding on the parties. A settled issue cannot be re-opened after a gap of three and a half years in the garb of a miscellaneous petition. The petition of the TNEB is, therefore, dismissed. No costs.

**Pronounced in the Open Court on 25<sup>th</sup> February 2009**

**(R.Rajupandi)**  
**Member II**

**(B. Jeyaraman)**  
**Member I**

**(S.Kabilan)**  
**Chairman**