



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**

and

Thiru. R. Rajupandi - **Member**

M.P. No.32 of 2008

Sri. L. Gopinathan,
Senior Plant Manager,
LPG Bottling Plant,
Kolambakkam Village,
Padalam Post,
Madurantakkam Taluk 603 303 .. **Petitioner**

Vs

The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai 600 002.

Superintending Engineer (O&M),
Chegalpet Electricity Distribution Circle,
Chegalpet. .. **Respondents**

In the matter of change of tariff for the
Indane Bottling Plant at Kolambakkam Village, Padalam Post, Madurantakkam
Taluk Kanchipuram District for HT I-A (Industrial) for HTSC No.401 of
Chengalpet Electricity Distribution Circle and consequential monetary

compensation under the Electricity Act 2003, and other regulations issued by the Tamil Nadu Electricity Regulatory Commission.

The above MP No.32 of 2008 came up for final hearing before the Commission on the 10th day of November 2008 and the Commission upon perusing the petition and the connected records and upon hearing the arguments of both sides hereby pronounces the following order namely:-

ORDER DATED 27th NOVEMBER 2008

1. Prayer of the Petitioner

The prayer of the petitioner in M.P. No.32 of 2008 is for acceptance of the above petition for change of tariff to HT IA Industrial and to refund excess payment made by the petitioner in July 2008 and subsequent months.

2. Facts of the case

The Indane Bottling Plant (IBP) at Kolambakkam Village owned by IOCL is a registered factory, having a valid Factory License valid up to 31.12.2009. The power supply to the plant had been sanctioned on 4.6.2003 and the plant commenced its operations by November 2003. The electricity bills for consumption of charges were raised only on the basis of HT Tariff IA – Industrial till June 2008. In letter dated 24.1.2008 issued by the SE / TNEB / Chenglepet the petitioner was informed that as per Board Office Audit Slip No.53 dated 22.10.2007 a sum of Rs.18,20,486/- had been found to be short levy due to adoption of incorrect tariff. On receipt of the said letter dated 24.1.2008, the petitioner requested TNEB for continuance of tariff under HT I-A (Industrial) and not to include the arrear amount in the current consumption bill for 01/2008. Based on the above request the subsequent bills were raised by TNEB only under HT Tariff I-A (Industrial) and the short levy

amount also was not collected till June 2008. But the bill for July 2008 was charged under HT Tariff III.

3. Contention of the Petitioner

The Commission has reiterated more than once after its statutory tariff order dated 15.3.2003, that tariff HT IA – Industrial is applicable to all registered factories and industrial establishments.

4. Contentions of the Respondent Board

The contentions of the respondent board in their counter affidavit are as follows:-

- a) In its order dated 23.8.2005 passed in M.P. No.24 of 2005 filed by M/s. IOCL Chennai, this Commission has ordered to adopt HT Industrial Tariff IA prospectively;
- b) Based on the above order, the change of tariff has been extended to some other bottling plants of HPCL, IOCL and BPCL.
- c) In its order dated 13.6.2007 passed in M.P. No.3 of 2007, this Commission has informed as below:-
 - i) In the order dated 23.8.2005, the Tamil Nadu Electricity Regulatory Commission has not passed any general order applicable to all consumers.
 - ii) The order dated 23.8.2005 is applicable only to the petitioner of M.P. No.24 of 2005.
 - iii) The order passed in M.P. No.24 of 2005 would apply to Indane Bottling Plant, Chennai and it will not have general application to all classes of consumers.
- d) Based on the BOAB Audit for 2007-08, the tariff of the above petitioner HT SC was changed from HT industrial to commercial in the bill for the month of 7/2008. The petitioner has paid the bill under HT commercial tariff for the month of 7/2008 and 8/2008 under protest. The petitioner

has not paid the arrears amount for the above change of tariff for the previous period.

5. Issues

The following issues arise for consideration, namely:-

- i) Whether change of tariff from HT I-A industrial to HT III commercial in Letter dated 24.1.2008 issued by the second respondent is legal?
- ii) Whether there is any acquiescence on the part of the petitioner in regard to excess payment made by the petitioner company?

6. Findings of the Commission with reference to the first point of issue

There are several categories of consumers which are mentioned in the tariff schedule relating to HT Tariff I-A (Industrial). "Registered Factory" is a separate category of consumer mentioned in HT Tariff I-A. "Industrial Establishment" is a separate category of consumer mentioned in the said HT Tariff I-A. Both are different categories of consumers. The petitioner company being a registered factory has to be classified under HT Tariff I-A. The change of tariff from HT I-A to HT III by the Respondent Board is contrary to the Tariff Order dated 15.3.2003 and the principles of natural justice.

7. Findings of the Commission with reference to the second point of issue

Since the petitioner has been paying the CC bills under protest and since the letter of the petitioner dated 5th August 2008 protesting the recovery of arrears with effect from back period has not been rejected by the Respondent Board, there is no acquiescence on the part of the petitioner company.

8. Conclusion:-

The petitioner company being a registered factory holding a valid licence issued under the Factories Act, has to be classified under HT Tariff I-A. The letter dated 24.1.2008 issued by the 2nd respondent intimating the petitioner about the short levy of Rs.18,20,486/- due to the adoption of incorrect tariff for the period from 2006 to 2007 is quashed as it is in violation of the Tariff Order dated 15.3.2003 and also the principles of natural justice. The relief prayed for in paragraphs 3.2 and 3.3 of M.P. No.32 of 2008 is allowed subject to verification by the Respondent Board in regard to the correctness of the amount claimed therein by the petitioner company. The Respondent Board is directed to refund the excess payment made by the petitioner company after verification with interest at the rate prescribed by the Commission.

With the above observations M.P. No.32 of 2008 is finally disposed off. There is no order as to costs.

Pronounced in the open court by this Commission on the twenty seventh day of November 2008.

(Sd.....)
(R. RAJUPANDI)
Member

(Sd.....)
(B. JEYARAMAN)
Member

(Sd.....)
(S. KABILAN)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission