



**THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION**  
**(Constituted under Section 82(1) of the Electricity Act 2003)**  
**(Central Act 36 of 2003)**

PRESENT

<b>Thiru S.Kabilan</b>	-	<b>Chairman</b>
<b>Thiru B. Jeyaraman</b>	-	<b>Member</b>
<b>And</b>		
<b>Thiru R. Rajupandi</b>	-	<b>Member</b>

**M.P.No.39 of 2008**

Caltex Gas India Private Limited Regd.Office at Gold Crest 54 & 55 North Usman Road T.Nagar, Chennai 600 017	-	Petitioner
--	---	------------

Vs.

The Superintending Engineer Tamil Nadu Electricity Board Chengalpattu Electricity Distribution Circle, Chengalpattu	-	Respondent
--	---	------------

---

The above M.P.No.39 of 2008 came up for hearing  
on 12-01-2009. The Commission upon perusing the petition, the affidavit in support

thereof and the counter-affidavit and all connected records and upon hearing the arguments of both sides passes the following:

ORDER DATED THE 25<sup>TH</sup> FEBRUARY 2009

1. Prayer of the petitioner

The prayer of the petitioner is to restore the tariff rates applicable to the petitioner to HT – IA (Industrial) and to drop the demand for arrears for the period 04/05 to 9/07 and to order refund of the excess amount collected.

2. Contentions of the petitioner

TNEB had billed the petitioner company under the HT-IA industrial rate. Superintending Engineer, Chengalpattu Electricity Distribution Circle had issued a letter to the petitioner company dated 24-01-2008 stating that as a result of adopting incorrect tariff an amount of Rs.13,94,745/- was due and payable by the petitioner company. Petitioner replied in letter dated 01-02-2008 that the applicable tariff was the right tariff that was applied which is the HT-IA and hence the move to revise the tariff to commercial from industrial i.e. from HT-IA to HT-III was to be reconsidered. Subsequently the billing was done as per the earlier rate itself that is HT-IA. It is respectfully submitted that the billing was done at the HT-IA rate till the month of July and no demands for the alleged arrears were also raised from the date of the preceding correspondence. The petitioner was of the bonafide belief that TNEB had dropped the move to revise the tariff rate to HT-III from HT-IA. In the month of August the TNEB sent the current consumption bill which was as per the rates specified under

HT-III. This process to change the tariff from HT-IA to HT-III was done unilaterally by the TNEB without affording a hearing to the petitioner by violating all principles of natural justice and equity. The petitioner however paid the amount under protest and without prejudice to its rights. This Commission in Indane Bottling Plant case was pleased to hold that the bottling plant which was a registered factory was covered under the industrial tariff HT-IA and not under the commercial tariff HT-III.

3. 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 MP 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.

#### 4. Issues

The following issues arise for consideration, namely:-

i) Whether change of tariff from HT-IA industrial to HT III commercial in the current bill of July and August 2008 issued by the 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?

#### 5. 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 1A (Industrial). “Registered Factory” is a separate category of consumer mentioned in HT Tariff IA. “Industrial Establishment” is a separate category of consumer mentioned in the said HT Tariff IA. Both are different categories of consumers. The petitioner company being a registered factory has to be classified under HT Tariff IA. The change of tariff from HT IA to HT

III by the Respondent Board is contrary to the Tariff Order dated 15-3-2003 and the principles of natural justice.

6. 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 Respondent Board in its counter-affidavit stated that the petitioner had paid the HT commercial bill for the month of July and August 2008 under protest, there is no acquiescence on the part of the petitioner company.

7. Conclusion

The petitioner company being a registered factory holding a valid licence issued under the Factories Act, has to be classified under HT Tariff IA. The letter dated 24-1-2008 issued by the respondent intimating the petitioner to pay the amount of Rs.13,947.45 due to the adopting 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 paragraph 1 above 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.39 of 2008 is finally disposed off. There is no order as to costs.

Pronounced in the open court by this Commission on 25<sup>th</sup> February 2009.

(R.RAJUPANDI)  
Member

(B.JEYARAMAN)  
Member

(S.KABILAN)  
Chairman