

# **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. 26 of 2008**

Indian Oil Corporation Ltd.,  
LPG Bottling Plant  
Sethirabalapuram, Malliyam – (P.O)  
Mayiladuthurai, Taluk – 609 806. .... Petitioner

**Vs**

1. The Chairman,  
Tamil Nadu Electricity Board,  
No.144, Anna Salai, Chennai-600002.
2. The Superintendent Engineer  
Nagapattinam Electricity Distribution Circle,  
TNEB, Nagapattinam. .... Respondents

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The above petition viz., M.P.No. 26 of 2008 came up for final hearing before the Commission on 15.07.2008. The Commission upon perusing the above petition and the counter affidavit filed by Respondent Board and the connected records relating to the case and upon hearing the arguments of both sides passes the following

## **ORDER DATED 13<sup>th</sup> August 2008**

### **1. Prayer of the Petitioner**

The prayer of the petitioner in M.P.No. 26 of 2008 is to change of tariff from HT III – Commercial to HT 1A – Industrial and to refund the excess amounts

paid with due interest in line with section 62 (6) of the Electricity Act, 2003 (Central Act 36 of 2003).

## **2. Summary of the case**

The petitioner's Indane Bottling Plant (IBP) at Sethirabalapuram owned by IOCL is a registered factory, having a valid license upto 31.12.2009. The petitioner IBP was commissioned in the year 1998 and the tariff was HT III (Commercial). On requisition in letter dated 27.07.1999 from the petitioner, for the change of tariff to Industrial, the tariff was changed to HT 1A from 01.01.2000 to September 2007. The Respondent Board in letter dated 24.10.2007 changed the tariff from HT1A to HT III w.e.f. 04/2004 to 09/2007 and the petitioner was required to pay Rs. 8,89,739/- as short levy. The CC bill falling due on 7<sup>th</sup> of every month and in order to avoid disconnection of power supply, the CC charges and arrear amount totaling to Rs.9,86,609/- has been paid under protest and TNEB has received the payment and issued the receipt mentioning under protest. The petitioner in their letter dated 23.11.2007 has enclosed documentary evidences for proving the IBP as a registered industry and they have in the said letter categorically mentioned that till the tariff is changed to HT 1A (Industrial) the CC charges will be paid under protest only. There was no response from the Respondent Board. The excess recovery prayed for refundable to the petitioner comes to Rs.10,29,284/-. The Plant Manager has represented to Consumer Redressal Forum pertaining to NEDC and further to the Ombudsman and the petitioner came to know that the above entities have no authority to order change of tariff.

## **3. Contentions of the Respondent Board**

The Learned Counsel for the Respondent Board while referring to paragraph 8 of the counter affidavit stated that based on the Board Audit Branch

objection, the tariff has been changed from HT Tariff 1A to HT Tariff III from 04/2004 to 09/2007.

#### **4. Issues**

The following issues arise for consideration namely:-

- (i) Whether the change of tariff of the petitioner company from HT1A (Industrial) to HT III (Commercial) in October 2007 is correct?.
- (ii) Whether there is any acquiescence on the part of the petitioner company in regard to the excess amount paid by them?.
- (iii) Whether the pendency of the petition before the Chairperson of Consumer Grievance Redressal Forum NEDC is a bar to file petition before Commission?

#### **5. Findings of the Commission with reference to the first point in issue**

There are several categories of consumers which are mentioned in the tariff schedule relating to HT Tariff 1A (Industrial). "Registered Factories" is a separate category of consumers mentioned in HT Tariff 1A. "Industrial Establishment" is another separate category of consumers mentioned in the said HT Tariff 1A. Both are different categories of consumers. The petitioner company being a registered factory has to be classified under HT Tariff 1A. The change of tariff from HT 1A to HT III by the Respondent Board is contrary to the tariff order dated 15.03.2003 as well as the principles of natural justice.

#### **6. Findings of the Commission with reference to the second point in issue**

Since the petitioner has been paying the CC bills under protest and since the Respondent Board did not reject the request of the petitioner for billing under HT1A, there is no acquiescence on the part of the petitioner company.

#### **7. Findings of the Commission with reference to the third point in issue**

With reference to the third point in issue, it is to be noted that it is the Commission which has got sole authority to change the tariff from one category

to another category. Neither the Consumer Grievance Redressal Forum nor the Electricity Ombudsman has got jurisdiction to change the tariff. Hence, the pendency of any petition before the CGRF or the Electricity Ombudsman is no bar to the Commission considering the above M.P.No.26 of 2008.

### **8. Conclusion**

The petitioner company being a registered factory holding a valid license issued under the Factories Act, has to be classified under HT Tariff 1A. The relief prayed for by the petitioner company at paragraph 5.2 of M.P.No.26 of 2008 is allowed subject to verification by the Respondent Board in regard to the correctness of the amount claimed therein by the petitioner. 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.26 of 2008 is finally disposed off. There is no order as to costs.

**Pronounced in the open court by this Commission on 13<sup>th</sup> August 2008.**

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

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

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

/ True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission