



**THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION
CHENNAI**

**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

**In the matter of the review of Order T.O.1-88, dated 04.07.2006 issued by
the Commission.**

Tamil Nadu Electricity Board
800, Anna Salai
Chennai
Rep. by its Chairman.

Petitioner

Vs

Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road
Coimbatore – 641 043.
Rep. by its Managing Director.

Respondent

ORDER

1. In the above matter the petitioner namely, the Chairman TNEB in their letter dated 04.01.2007 has stated as follows.

“In the Order No.T.O.1-88, dated 04.07.2006, Hon’ble Tamil Nadu Electricity Regulatory Commission has ordered that the tariff to HT SC No. 79, Tamil Nadu State Transport Corporation, Coimbatore be changed from HT TF.III to 1A from 05.06.2002.

In this connection, the revenue loss to Tamil Nadu Electricity Board due to change of Tariff from HT TF.III to 1A with retrospective effect from 05.06.2002 to 06.05.2004 (date of inspection) amount to Rs.1,86,506/-.

Further, Tamil Nadu Electricity Ombudsman in OP No.14 of 2006 has ordered that the consumer has no right to claim for differential tariff for back periods if he had kept prolonged silence, based on one Supreme Court Judgment for similar case in Coimbatore Electricity Distribution Circle.

In the instant case, the consumer has represented for change of tariff on 03.04.2004 and produced the factory license for the period from 06.03.2000 to 31.12.2004. Hence, the tariff was changed from 06.05.2004 (i.e) from the date of inspection.

As the consumer has produced the factory license only on 03.04.2004 belatedly, it is requested that the Hon’ble Commission may kindly reconsider the order No.T.O.1-88, dt.04.07.2006.”

2. The petitioner has stated that if the request of tariff revision to HTSC No.79, TNSTC, Coimbatore is considered, similar request from other TNSTCs across the State will have to be considered by the Board which will put the Board under heavy financial strain.

The petitioner has requested this Commission in their letter dated 13.08.2007 to reconsider the Order No.T.O.1-88 dated 04.07.2006 regarding the change of tariff to HTSC No.79, TNSTC, Coimbatore for the back period from 05.06.2002 to 06.05.2004.

3. In letter dated 01.03.2007 addressed to the respondent, the views of the respondent was asked for, on the contention of the petitioner board that the respondent was aware of the issue of petitioner board memo dated 05.06.2002 and that the respondent has got the tariff of HTSC 50 (TNSTC) at Coimbatore changed to Industrial tariff on 05.06.2002 by producing factory license before 05.06.2002.

4. The above matter was posted for hearing before the Commission. The learned counsel for the petitioner board reiterated the above stand that the respondent was aware of the issue of the memo dated 05.06.2002. The respondent contended that the Order of the Commission is very specific and there is no ambiguity in the order.

5. The point in issue is whether Order No.T.O.1-88 dated 04.07.2006 requires any review.

6. As per regulation 43(1) of the TNERC's Conduct of Business Regulations 2004 this Commission can review the order on grounds of mistake of fact or ignorance of material fact or error apparent on the face of the records. It is to be noted that none of the above grounds of the review are present in the instant case. It is to be noted further that as per Explanation I to High Tension Tariff 1A in the schedule to the Tamil Nadu Revision of Tariff Rate on Supply of Electrical Energy Act, 1978 (TN Act 1 of 1979) (Published in part II Section 2 of the TN Government Gazette extraordinary dated 28th November 2001) for the purpose of HT Tariff 1A, an industry may be considered to be set up on the date of obtaining HT Service connection. In view of the above statutory provision of law which is applicable to the instant case, it is to be noted that the industry of the respondent shall be deemed to have been set up on the date of obtaining the HT Service connection and as such Tariff 1A namely industrial is automatically applicable to the respondent. The memo dated 05.06.2002 cannot prevail over the above statutory provisions of law. The petitioner board is bound to take into account the

said Explanation I to High Tension Tariff 1A which is applicable to the levy of tariff.

7. Conclusion

In the above circumstances, the request of the petitioner for the review of the Order T.O.1-88 dated 04.07.2006 which is devoid of merits is rejected. The Petitioner Board is directed to comply with the above order. With the above directions, the matter is finally disposed of. There would be no costs.

Pronounced in the open court by this Commission on 5th February 2008.

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

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

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission