

TAMIL NADU ELECTRICITY CONSUMERS' ASSOCIATION, COIMBATORE  
PRESENT STATUS OF LEGAL CASE

S.No	Court	Appeal No	Prayer	Status
		Appeal No. 170 of 2023	Challenge TNERC Tariff Order dated 09.09.2022	<p>Our Appeal has admitted on 13.02.2023.</p> <p>Last Hearing was held on 28.03.2023. Hon'ble Tribunal directed to issue Notice to TNERC and TANGEDCO to file their submission within 6 weeks and thereafter rejoinder, if any, may be filed by the Appellant within four weeks with advance copy to the other side.</p> <p>Registry to verify whether pleadings are complete, and thereafter let this Appeal be included in the 'List of Finals' to be taken up from there, in its turn.</p> <p>Accordingly TNERC and TANGEDCO have filed their submission. We have to file the rejoinder</p>

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2	<b>High Court of Madras</b>	W.P.No. 7679 of 2020	<p><b>Directing TANGEDCO to withdraw MD Charges during Lock Down Period</b> Directing TANGEDCO to withdraw the maximum Demand charges of 90% for the months of March and April 2020 for the members of the Petitioner Association and assess the same at 20% or to the extent of Recorded Demand and also to raise the monthly Bill calculating the Maximum Demand Charges at the rate of 20% or to the extent of Recorded Demand for the month of May 2020 charges and to refund the amount collected or to adjust the same in future bill, or till the extended period of Lock Down, if any, by the Government of Tamil Nadu and not to levy Power Factor penalty during the Lock Down period.</p>	This Writ Petition was allowed with directions to TANGEDCO to rework the CC bills allowing 20% Demand Charges or to the extent of recorded demand as well as to prevent Levy of Power Factor Penalty
3	<b>Division Bench of High Court of Madras</b>	<p>WA No.55652 of 2020 WA No. 836 of 2020 W.A.No. 1113, 1114, 1115 and 1116 of 2020</p>	<p><b>TANGEDCO Appeal filed before Division Bench against the Judgement dated 14.08.2020</b> in the matter of Writ Petitions allowed with directions to TANGEDCO to rework the CC bills allowing 20% Demand Charges or to the extent of recorded demand as well as to prevent Levy of Power Factor Penalty for the lockdown period.</p> <p>First Hearing: 22.09.2020 Appeal filed before Division Bench admitted Second Hearing was held on 07.01.2021</p>	Last hearing held on 18.08.2021. Pending till date
4	<b>High Court of Madras</b>	<p>WP No. 9953/2022 Petitioner: TECA Respondent 1: CEA Respondent 2: TNERC Respondent 3: TANGEDCO Respondent 4: Ministry of Power</p>	<p><b>Harmonics Mitigation</b> TANGEDCO has filed M.P. No.22 of 2021 before TNERC seeking to Approve the new methodology for measurement of Harmonics with the HT/EHT consumers and fix the compensation at 15% of the respective tariff in respect of 11 KV and 22 KV consumers. Last Hearing was held on 10.08.2021. TECA filed strong objection. Finally, TNERC has dismissed the petition filed by the CE-Commercial. However, TNERC has failed to appreciate the following facts of the matter.</p> <p>1. The CEA has not yet passed any final order, in pursuance to the order of the Hon'ble High Court dated 08.09.2021 in WP No. 18139 and 18128 of 2021 of</p>	<p>This Petition filed on 18<sup>th</sup> April 2022. The first hearing was held on 20.04.2022. Court directs to serve notice served to 2<sup>nd</sup> Respondents. Further direction to the 4<sup>th</sup> Respondent considering the objection of the petitioner dated 13.11.2021 after</p>

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			<p>TECA and TASMA till now. Hence, the statement recorded in the manner as found passed in the order of TNERC is wrong.</p> <p>2. The TNERC's statement that the Commission having invited comments pursuant to the passing of orders by CEA to amend the TN Electricity Supply Code 2004, is also not correct. It is to be noted that the comments have been called for by the TNERC, by way of its Draft Amendment notified for TN Electricity Supply Code 2004, only on 29.07.2021, which is much prior to the order of the Hon'ble High Court dated 08.09.2021 and also much prior to the subsequent reply of the CEA dated 05.11.2021. Therefore, the statement of TNERC to the extent it goes as, "<i>pursuant thereto, the Commission having invited comments from the stakeholders for amending the TNERC Supply Code and finalized the same to provide adequate safeguards on harmonic dumping in line with the guidelines of CEA</i>" is a factual error.</p> <p>Accordingly, the intention of the TNERC, to make the consumers receiving supply below 33 kV lines for the obligation and control of harmonics, is very much expressed in the above order. Therefore, TECA has filed a Writ.</p>	<p>hearing the all the parties before the next hearing date.</p> <p>Posted for next hearing on 07.06.2022.</p> <p>No hearing was held on till this date</p>
5	Supreme Court	SLP No.35425-35426 of 2012 before	<p><b>E-tax on maximum demand &amp; Self Generation Tax</b></p> <p>Relief Prayed for: To quash the levy of E-tax on Maximum Demand and self-generation</p> <p>The appeals against the order of Bench of Madras High Court in Writ Petition No. 11016 &amp; 11017 of 2008.</p> <p>The SLP of TECA was dismissed on the ground that an Association could not to be party. However, appeal of SIMA and TECA members have been admitted and granted interim stay for the collection of E-Tax on Maximum Demand Charges. In respect of Generation Tax, the Court served notice to the Government for its reply. However the Petition file by members are continuously listed for final hearing during September 2018 and was last heard on 27.09.2018 During the hearing held, one of the Counsels appearing for one Company, has argued that keeping the permanent exemption for CGPs at one hand and demanding to pay</p>	<p>However, instead of the Hon'ble Supreme Court deciding the matter on merits and law, has passed an order as follows when the matter was heard on 25.09.2018.</p> <p><i>"In the meanwhile, learned counsel appearing for both the parties should try and work out some kind of a settlement so that the litigation comes to an end "</i></p>

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			<p>the Self-Generation Tax on the other hand, is not correct. On that score, he further argued that if the exemptions are withdrawn and if the Government comes forward to collect the levy by withdrawing the exemption, prospectively, their Company will be ready to pay the SG Tax on CGPs. On this plea, the Energy Secretary, on behalf of the State of Tamil Nadu, was directed to appear before the Hon'ble Supreme Court and however, even on the appearance of the Energy Secretary, there was no conclusion arrived, as the Government was not in favour of the approach put forth by the respective Counsel.</p>	<p>Last hearing was held on 27.11.2018. Hon'ble Supreme Court has granted leave on the matter. Hereafter, SLP will be converted into a Civil Appeal and will be listed for hearing in due course</p>
6	<b>Supreme Court</b>	Civil Appeal No.7945-7946 of 2014	<p><b>Solar Purchase Obligation</b></p> <p>Civil Appeal filed against the Order dated 21.01.2014 passed by the Hon'ble APTEL.</p> <p>This appeal came before Supreme Court on 16.11.2016.</p> <p>The Appeals were dismissed by the Hon'ble Supreme Court as the advocates for both the TANGECO and respondent were not present in the court on that day.</p> <p>However, TANGEDCO has filed an application for restoration of the Appeal as the dismissal was not on merits. This appeal was admitted by Honb'le court and last hearing was held on 17.10.2019.</p>	<p>Last hearing was held on 17.10.2019.</p>
7	<b>Competition Commission of India</b>	Information Filed	<p><b>Equitable Distribution of Power – filed before CCI</b></p> <p>Seeking Equitable Distribution of Electricity to all consumers in Tamil Nadu.</p> <p>The Commission, passed an order dated 08.10.2013 directing The Director General to investigate the matter for violation of any/all provisions of the Competition Act, in case the DG finds any company in violation of the provision of the Act, it shall also investigate the role of the persons who at the time of such contravention were in charge of and responsible for the conduct of the business of the company involved so as to fix responsibility of such persons under section 48 of the Act. DG shall give opportunity of hearing to such persons in terms of</p>	<p><b>Pending for final disposal</b></p>

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section 48 of the Act. The report of DG be submitted within 60 days from receipt of the order.

Based on this order, the Office of the Director General (Investigation) has sent a notice to The Chairman cum Managing Director, TANGEDCO to provide the certain information along with supporting documents.

However, TANGEDCO has filed a writ petition No. 35047 of 2013 and M.P. No. 1 of 2013 in Madras High Court seeking to quash the order of the Competition Commission of India and the Notice of its Director General (Investigation). Informant SIEMA has appointed a Counsel to argue this petition at High Court. After several hearing now the Hon'ble court has passed final order on 22.12.2021 the gist of the order is as follows

*57. In the present case, the notice issued to the writ petitioners, calling upon to furnish the informations and documents to conduct investigation is under challenge. Undoubtedly, it is in premature stage, wherein, the authority competent yet to form final opinion with reference to the allegations of abuse of dominant position as contemplated under Section 4 of the Competition Act. When the Competition Act provides jurisdiction to the authorities to entertain complaint, more specifically, when there is no such investigating power contemplated under the Special Act, then there is no impediment for the Competition Commission of India for entertaining a complaint in the present case submitted by the 3<sup>rd</sup> respondent and thus, there is no infirmity or perversity. Thus, the case on hand is not a fit case for the purpose of quashing the notice. Contrarily, the writ petitioner is at liberty to avail the opportunities provided under the provisions of the Act by the respondents 1 and 2 and defend their case.*

*58. This being the factum established, the writ petition is not only premature, but not entertainable as the challenge made is a notice issued, providing an opportunity to the writ petitioner to defend their case under the provisions of the Competition Act, 2002. The writ petitioner is at liberty*

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			<p><i>to submit their explanations or objections along with the informations and documents to the respondents 1 and 2 within a period of four weeks from the date of receipt of a copy of this order. On receipt of such materials, informations, explanations from the writ petitioner, the respondents 1 and 2 are directed to proceed with the investigations, by affording opportunity to the writ petitioner / TANGEDCO and conclude the investigation and all further proceedings within a period of four months from the date of receipt of a copy of this order. The writ petitioner is directed to co-operate for the investigation for early disposal of the case. In the event of any non-cooperation on the part of the writ petitioner, the said non-cooperation is directed to be recorded in the proceedings itself and in such an event, the outer time limit fixed by this Court cannot be taken as an advantage by the writ petitioner for seeking any relief on the said ground</i></p> <p><i>59. With the above directions, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.</i></p> <p>Accordingly, TANGEDCO's Petition was dismissed and TANGEDCO has to provide the relevant details to The Director General of CCI.</p> <p>At the same time the Director General of CCI has sent a Notice to All Important Association like, TECA, ICCI, TASMA etc., investigating alleged abuse of dominance by TANGEDCO during the period 2008-2013. TECA must send the reply by 10<sup>th</sup> February 2022. Accordingly, TECA has sent reply on 4<sup>th</sup> February 2022.</p>	
8(a)	Supreme Court	Civil Appeal Nos.1090-1099 of 2011	<b>Levy of Excess demand and energy charges for violation of peak Hour restriction</b>	The last hearing was held on 17.10.2022. Further hearing was not heard till date.
8(b)		Civil Appeal No.2859 of 2011	TNEB have levied charges for the excess demand and energy consumed by the Consumers during Peak Hour from 1.11.2008 based on the TNERC order on MP	

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			<p>No. 42 of 2008 dated 28.11.2008, after a period of 10 months. This was challenged by TECA at TNERC vide M.P. No.4 of 2010. TNERC.</p> <p>TNERC passed an order dated 04.05.2010 dismissing TECA's petition holding that Tamil Nadu Electricity Board is entitled to impose the Excess Demand Charges and Excess Energy Charges during evening peak hours as it was in consonance with its order dated 28.11.2008</p> <p>Against this Order TECA and other Association filed Appeals before APTEL. APTEL passed an order dated 11.01.2011 stating there is no clarity in TNERC order dated 28.11.2008 about excess demand charges and excess energy charges for evening peak hour violation. Only in the order dated 4.05.2010 the commission made it clear that excess demand and energy charges were applicable from 28.11.2008. Hence TNERC has got powers to grant permission to the Electricity Board to collect excess demand charges and excess energy charges only prospectively, i.e., from the order dated 04.05.2010. This order was challenged by TNEB in Supreme Court. This Appeal was Admitted on 04.02.2011</p>	
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