

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION**

**Order of the Commission dated this the 19<sup>th</sup> Day of March 2024**

**PRESENT:**

Thiru M.Chandrasekar .... Chairman  
Thiru K.Venkatesan .... Member  
and  
Thiru B.Mohan .... Member (Legal)

**M.P. No. 12 of 2023**

M/s. Tagros Chemicals India P. Ltd.  
HTSC No. 83  
A-4/1&2, Sipcot Industrial Complex  
Pachayankuppam  
Cuddalore – 607 005  
Repd. by its Vice President (Operations)  
Mr. R. Aravazhi.

.... Petitioner  
Thiru R.S.Pandiyaraj  
Advocate for the Petitioner

**Vs.**

1. The Chairman and Managing Director,  
Tamil Nadu Transmission Corporation Ltd,  
(TANTRANSCO),  
144, Anna Salai,  
Chennai – 600 002.
2. The Chief Engineer / Commercial,  
Tamil Nadu Transmission Corporation Ltd.,  
(TANTRANSCO),  
144, Anna Salai,  
Chennai – 600 002.
3. The Superintending Engineer,  
Cuddalore Electricity Distribution Circle,  
TANGEDCO,  
Cuddalore – 607 001.

4. The Superintending Engineer,  
General Construction Circle,  
110KV Grid SS Campus,  
Periyamilaguparai,  
Trichy - 620 001.
  
5. The Superintending Engineer,  
Operation/Villupuram,  
Tamil Nadu Transmission Corporation Ltd.,  
(TANTRANSCO),  
Villupuram.

.... Respondents  
Thiru.N.Kumanan and  
Thiru.A.P.Venkatachalapathy,  
Standing Counsel for Respondents

This Miscellaneous Petition stands preferred by the Petitioner M/s. Tagros Chemicals India P. Ltd., Cuddalore with a prayer to order and direct the Respondents, to punish the Respondents 2 to 5 for demanding a sum of Rs.1,78,66,700/- vide their impugned proceedings dated 18.02.2023 for effecting additional demand of 275KVA in the Petitioner's HT service connection No.83, in contravention of the Electricity Act, 2003 and the Regulations made by the Commission and set aside the same and to direct the Respondents to effect additional demand of 275 KVA to petitioner in accordance with the Act and Regulations; and to direct the Respondents to refund the amounts collected from the petitioner which are against the Electricity Act, 2003 and the Regulations made by the Commission and various Orders passed by the Commission; and pass such further or other Orders as the Commission may deem fit and proper in the facts and circumstances of the case and thus render justice.

This petition having come up for final hearing on 12-12-2023 in the presence of Thiru R.S.Pandiyaraj, Advocate for the Petitioner and Tvl. N.Kumanan and A.P.Venkatachalapathy, Standing Counsel for the Respondents and on consideration of the submission made by the Counsel for the Petitioner and the Respondents, this Commission passes the following:

## **ORDER**

### **1. Contentions of the Petitioner :-**

1.1. The Petitioner is a chemical manufacturing of agro based insecticides, fungicides, and herbicides in Cuddalore. The Petitioner has a High-Tension service connection bearing HTSC No.83 coming under the 3<sup>rd</sup> Respondent with a sanctioned demand of 4975 KVA which is connected to a 22 KV supply line. Since the Petitioner wanted to expand the manufacturing activity and also to avoid frequent power failure in the 22 KV supply line, the petitioner made application dated 14.07.2020 and 22.10.2020 for additional power supply of 275 KVA which make the sanctioned demand as 5250 KVA (i.e., 4975 KVA + additional demand of 275 KVA).

1.2. As per Regulation 3(e) of the Tamil Nadu Electricity Supply Code a consumer who avails demand over and above 5000 KVA must be connected to 33 KV or above. Since 33 KV is not available in SIPCOT Cuddalore coming under the jurisdiction of the 3<sup>rd</sup> Respondent, the officials of TANGEDCO suggested the Petitioner to go for 110 KV line. The officials of TANGEDCO suggested that an 110 KV JK Pharma Supply line which was erected in 1994 from 230 / 110KV Cuddalore Auto Sub-Station for a distance

of 4.8 Kms with total number of 28 towers. However, the 110 KV JK Pharma Supply line is kept idle till date from 2004 since JK Pharma has closed its operations and EHT Service connection was disconnected from 28.08.2004 itself. The Respondent TANGEDCO suggested tapping this existing 110 KV supply line running from 230 / 110 KV Cuddalore Auto Sub-Station to 110 KV JK Pharma Feeder at location Tower No.26. Since the exiting 110 KV JK Pharma OH feeder is idle for more than 18 years the Petitioner had proposed to tap in the existing Cuddalore Auto 230/110KV SS - JK Pharma 110 KV Feeder at location Tower No.26 and thereafter establish new 110 KV line with 7 Towers from the point of tapping to the point of Petitioner's connection for a total length of 0.6KM. The Petitioner vide letter dated 22.10.2020 undertook that the entire work for establish new 110 KV line with 7 Towers, from the point of tapping to the point of Petitioner's connection, like provision of GIS with metering at consumer end, power transformer, extension of 110 KV feeder etc. along with establishment and supervisions charges will be borne by the Petitioner under self-execution Scheme. Based on the Petitioner's application the 3<sup>rd</sup> Respondent vide letter dated 03.02.2021 registered the Petitioner's application and sought for clarification as to whether the new 110 KV supply line proposed to be executed by the Petitioner would be UG cable or Overhead line since for 110 KV OH line necessary approval has to obtained from the head office.

1.3 The Petitioner vide letter dated 08.02.2021 has stated that the new 110 KV line proposed to be executed by the Petitioner would be an Overhead line and accepted to pay the entire cost for establishing the new 110 kv supply line with payment of

establishment and supervision charges. Based on the above the Petitioner was directed to pay the Registration charges and EMD for Rs.800/- per KVA totaling a sum of Rs.2,21,180/- vide 3<sup>rd</sup> Respondent notice dated 10.02.2021 and the Petitioner has paid the same on 12.02.2021. The Petitioner had also given an undertaking dated 09.02.2021 to that effect.

1.4. The 3<sup>rd</sup> Respondent vide letter dated 15.05.2021 stated that the necessary 110 KV feeder complete supply materials and erection work would be carried out by the officials of TANGEDCO and the Petitioner will have to pay the entire estimate cost to TANGEDCO for such material supply and erection works. Based on petitioner letter dated 30.05.2021 seeking for self-execution approval, the 3<sup>rd</sup> Respondent vide letter dated 16.07.2021 approved the Petitioner's proposal for carrying out 110 KV extension works under self-execution with supply of new materials plus erection and on payment of establishment and supervisions charges and further directed the Petitioner to give undertaking on the same which was compiled by the Petitioner vide letter dated 02.08.2021. The 3<sup>rd</sup> Respondent vide letter dated 05.08.2021 directed the Petitioner to pay the following charges:

|  |   |                |
|--|---|----------------|
| a) Development charges at Rs.1500/- per KVA  | - | Rs.4,12,500/-  |
| b) Meter Caution Deposit   | - | Rs.40,000/-    |
| c) Estimate cost   | - | Rs.38,800/-    |
| d) 22% Establishment and Supervision Charges<br>(Work to be done under self-execution) | - | Rs.37,59,900/- |
| Total  | - | Rs.42,51,200/- |

The above charges of Rs.42,51,200/- are apart from the new materials/equipment's plus erection of entire new installation works that are supplied and erected by the Petitioner of the proposed 110 KV supply line. The Petitioner paid the same on 09.08.2021.

1.5. The drawings for extension of new 110 KV Supply from point of tapping to the point of Petitioner's connection was examined by the 3<sup>rd</sup> Respondent vide letter dated 31.08.2021 wherein certain remarks and alterations were suggested. The Petitioner executed the alterations and rectifications given by the 3<sup>rd</sup> Respondent and communicated the same on 01.09.2021. Based on the above, the 4<sup>th</sup> Respondent designated officers of TANGEDCO to inspect the materials such as 110 KV isolators, 110 KV AB Switch, 110 LAS etc. which are to be supplied by the Petitioner for erection of the new 110 KV supply line. The officers of TANGEDCO duly inspected the materials and issued inspection report with test results by stating that the materials are in order. While so, the Petitioner made application dated 05.04.2022 & 21.12.2021 to the SIPCOT Cuddalore for approving the new 110 KV supply line route drawings and granting permission to start the erection works. The officials of SIPCOT suggested alternate route by making T-off arrangement which would result in laying 5 towers only instead of 7 towers as approved earlier and further the revised route will reduce the distance from 0.6Km to 0.52KM. Based on the above, SIPCOT Cuddalore granted approval dated 19.05.2022 for erection of 5 towers with HT Overhead Power Supply line in SIPCOT land/road on payment of one time non- refundable track rent/usage charges for a sum of

Rs.24,55,069/- (Inclusive of 18% GST) plus processing fee of Rs.11,800/-. The Petitioner also paid the same on 26.05.2022.

1.6. Based on the above the Petitioner vide letter dated 13.06.2022, requested the 3<sup>rd</sup> Respondent to approve the revised route as per the advice of the SIPCOT Cuddalore. Consequently, the 4<sup>th</sup> Respondent vide letter dated 15.06.2022 approved the revised route for erection of 110 KV SC line on DC Tower with Panther conductor by making T- off arrangement at Location No.26 in the existing 110 kV JK Pharma SC Line fed off from Cuddalore Auto 230/110 KV SS - JK Pharma 110 KV SC line up to the Petitioner's metering point under self-execution basis. The SE/General Construction Circle/Trichy vide letter dated 22.06.2022 gave the final inspection report for all the new materials to be supplied by the Petitioner and found that the materials are in order and found satisfactory. The SE/General Construction Circle/Trichy vide letter dated 22.06.2022 gave clearance for dispatch of all the material to the work site for installation of the new 110 KV Supply line.

1.7. The Petitioner started the erection work of the 110 KV Overhead supply line and found that a 22 KV Overhead line and 415 V line were passing through the route which needs to be shifted to the opposite side of the road. The Petitioner vide letter dated 05.04.2022 undertook to pay the necessary charges for shifting of the 22 KV Overhead line and 415 V line along with the establishment and supervisions charges of the same. Based on the above the Assistant Engineer, O&M TANGEDCO coming under the 3<sup>rd</sup> Respondent vide his letter dated 12.04.2022 directed the Petitioner to pay Registration fees for shifting the 22 KV Overhead line and 415 V line and same was paid by the

Petitioner. Consequently, the Assistant Engineer, O&M TANGEDCO coming under the 3<sup>rd</sup> Respondent vide his letter dated 08.06.2022 directed the Petitioner to pay the estimate charges under DCW basis for shifting of the 22KV Overhead line and 415V line along with the establishment and Supervisions charges for a sum of Rs.14,27,290/- and the Petitioner has also paid the same on 15.07.2022.

1.8. On 12.09.2022 the Petitioner completed that the entire erection work of the new 110 KV line with 5 Towers from the point of tapping i.e., Location No.26 in the existing 110 KV JK Pharma Supply line to the point of Petitioner's connection for a total length of 0.52 KM. As per Regulation 31 of the TN Distribution Code, 2005 the Petitioner vide letter dated 29.09.2022 expressed its readiness for availing the additional load along with the Safety Certificate dated 28.09.2022 issued by the Chief Electrical Inspector to the Government.

1.9. While the Petitioner was eagerly awaiting for energizing the additional load, to the sudden shock and surprise of the Petitioner the 3<sup>rd</sup> Respondent has issued a demand notice dated 16.09.2022 towards alleged short collection of 22% establishment charges and supervision charges to an amount of Rs.75,06,650/- for availing the 110 KV Supply Line. In pursuance of the demand notice dated 16.09.2022, it could be seen that the 3<sup>rd</sup> Respondent has relied on certain Audit Slip No.48 dated 09.12.2021 on the allegation that there is a short levy of estimate cost @ 22% establishment & supervisions charges and irretrievable materials cost for an amount of Rs.75,06,650/-. In pursuance of the audit slip it could be seen that the audit party has sought to levy 22% establishment & supervisions charges on the existing 110 KV Bay at Cuddalore 230 KV /110 KV Auto SS



for a sum of Rs.12,58,400/- i.e., 22% of 69.79 lac. In addition to that the audit party has sought to levy 22% establishment & supervisions charges in the existing 110 KV Slide DC Tower with Panther Conductor from 230 KV/ 110 KV Auto SS Cuddalore to Location No.26 of capper Query - JK Pharma 110 KV line for a sum of Rs.60,59,000/- i.e., 22% of 275.412 Lacs totalling a sum of Rs.75,06,650/-. Such an action of the 3<sup>rd</sup> Respondent and audit party is illegal, arbitrary and contrary to the provisions of the Electricity Act, 2003 and the Regulations and orders issued the Commission.

1.10. The 110 KV JK Pharma Supply line was erected in 1994 from 230/110 KV Cuddalore Auto Sub-Station for a distance of 4.8 Kms with total number of 28 towers. The 110 KV JK Pharma Supply line is kept idle till date from 2004 since JK Pharma has closed its operations and EHT Service connection was disconnected from 28.08.2004 itself. The Respondent TANGEDCO suggested tapping this existing 110 KV supply line running from 230/110 KV Cuddalore Auto Sub-Station to 110 KV JK Pharma Feeder at location No.26. Since the exiting 110 kV JK Pharma OH feeder is idle for more than 18 years the Petitioner had proposed to tap in the at location No.26 and thereafter establish new 110 KV line with 5 Towers from the point of tapping to the point of Petitioner's connection for a total length of 0.6 KM. While so, the act of the 3<sup>rd</sup> Respondent in levying 22% establishment & supervisions charges on the existing 110 KV Bay at Cuddalore 230 KV SS and existing 110KV line from 230KV SS Cuddalore to Location No.26 of Capper Query - JK Pharma 110 KV line for a sum of Rs.75,06,650/- is arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

1.11. Being aggrieved by the demand notice dated 16.09.2022, the Petitioner raised objections vide their letter dated 10.10.2022. The Petitioner approached the 3<sup>rd</sup> Respondent in person to explain to the Respondent the amount demanded by the 3<sup>rd</sup> Respondents is not only arbitrary and unconscionable, but also in complete violation and contravention of the Regulations made by the Commission. The demand is exorbitant and well beyond reasonable limits of financial logic since 22% establishment & supervisions charges has sought to be levied in 2022 when the 110 KV JK Pharma Supply line was erected in 1994. The Respondent refused to give any explanations as to how the above demand was calculated but on the other hand insisted that the petitioner should pay the amount within the specified period or the petitioners' additional load application will be treated as cancelled.

1.12. To the sudden shock and surprise of the Petitioner, the 3<sup>rd</sup> Respondent has issued a notice dated 09.11.2022 stating that the 5<sup>th</sup> Respondent vide his letter 11.10.2022 has evolved an revised estimate for improvement works to be done in the exiting 110 KV JK Feeder Supply Line to 230/110KV Auto SS Cuddalore for a sum of Rs.1,69,90,418/-. The 3<sup>rd</sup> Respondent vide notice dated 09.11.2022 has requested the Petitioner to inform whether the above additional works to be done in the exiting 110 KV JK Feeder Supply Line to 230/110 KV Auto SS Cuddalore would be carried out departmentally under DCW basis or under self-execution. The Petitioner, vide letter dated 15.11.2022, sought for a detailed split up details for each and every item with a copy of the detailed estimate charges for Rs.1,69,90,418/- as demanded by the 3<sup>rd</sup> Respondent. The 3<sup>rd</sup> Respondent has issued split up for the estimate charges of

Rs.1,69,90,418/- vide letter dated 21.11.2022 wherein it could be seen that the 3<sup>rd</sup> Respondent has sought to levy the cost for the existing Cuddalore Auto 230/110 KV SS - JK Pharma 110 KV charges which was established in 1994 by JK Pharma. Such a demand is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

1.13. The 110 KV Supply line consists of 28 towers from capper query substation to JK Pharma and hence it is not a dedicated to JK Pharma. Upto Tower No. 23, the 110 KV Supply line is a dual feeder. One side it is going to SPIC Pharma (which is idle from 2011) and other side it goes to JK Pharma (which is idle from 2004). Hence, the present demand of the Respondent seeking to levy the cost of the entire 110 kV supply line and bay which is in existence from 1994 is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

1.14. The 2<sup>nd</sup> Respondent vide letter dated 14.02.2023 has directed the 3<sup>rd</sup> Respondent to utilize the 110 KV bay which is kept idle at 230 KV/110 KV Cuddalore Auto SS for extension of EHT Supply to the Petitioner on collection of establishment and supervision charges of the existing 110 KV JK Feeder Supply Line from 230/110 KV Auto SS Cuddalore to Tower No.26 and in additional to the entire cost of the exiting 110 KV Bay in 230/110 KV Auto SS Cuddalore from the Petitioner. Such a demand is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

1.15. The 3<sup>rd</sup> Respondent has issued the impugned demand notice dated 18.02.2023 wherein a demand for Rs.65,47,200/- has been raised towards 22% establishment and supervision charges for the existing 110 KV JK Feeder Supply Line from 230KV/110KV Auto SS to Tower No.26 plus Rs.86,00,000/- towards the cost of the existing 110KV JK Feeder Bay in 230/110KV Auto SS Cuddalore plus Rs.27,19,500/- towards GST 18% totalling Sum of Rs.1,78,66,700/- as alleged revised estimate charges which is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

1.16. As per the Tamil Nadu Electricity Supply Code, 2004 and the Tamil Nadu Electricity Distribution Code, 2004, no such costs are required to be borne by the consumer. As per the Regulations in force, only when a consumer requires a sanctioned demand of above 112 KW but below or up to 150 KW, the consumer is required to carry out the works for mounting arrangements at the consumer's cost. Moreover, even for this category of consumer (i.e., above 112 KW but below or up to 150 KW), the installation of Distribution Transformer with associated equipment's / accessories, viz., AB switch, HG fuse, DT structure/pole shall be carried out only by the licensee at the licensee's cost. This is evident from the recent June 2020 amendments to the Tamil Nadu Electricity Supply Code, 2004 and the Tamil Nadu Electricity Distribution Code, 2004 vide Notification Nos. TNERC/SC/7-41 dated 09.06.2020 (Lr.No. TNERC/Legal/1190/D.No.471/2020) and TNERC/DC/8-26 dated 09.06.2020 (Lr.No.TNERC/Legal/1190/D.No.472/2020). Vide these Notifications, *inter alia*, the following

amendments were introduced to both the Supply Code (in Regulation 2, in Sub-Regulation (1)) and the Distribution Code (Regulation 26, in Sub-Regulation (1)):

*(a) for the expression "(1) Supply of electricity available to the consumer is of the following categories" the following shall be substituted, namely: -*

*"(1). Supply of electricity shall be availed by the consumer under the following categories: -*

*(a) for clause (b), the following clause shall be substituted, namely*

*"(b). Three-phase 4 wire 415 volts between phases and 240 volts between phase and neutral for supply to a total connected load exceeding 4000 watts but not exceeding a demand of 150 KW:*

*Provided that a consumer requiring a sanctioned demand above 112 KW but below or up to 150 KW, availing of supply shall be subject to the following conditions:*

*(i) Space for erection of a Distribution Transformer by the licensee shall be provided by the consumer free of cost and such space for erecting the Distribution transformer shall either be provided within the consumer's premises or in a private land within a radius of 50 meters from the consumer's premises. The site provided for erection Distribution transformer should have free space for inspection and maintenance.*

*(ii) Where possible, the licensee may erect a single pole Distribution Transformer in the consumer's premises with separate mounting arrangement that can support and hold the Distribution transformer like providing a stud/plinth or concrete pillar like arrangement etc. Works for mounting arrangements shall be carried out by the consumer at consumer's Cost.*

*(iii) Installation of Distribution Transformer with associated equipment's/ accessories Viz. AB switch, HG fuse, DT structure/pole shall be carried out by the licensee at the Licensee's cost.*

*(iv) The cost of installation works from the Distribution Transformer to the consumer's meter, portion of any HT line within the consumer's premises when the Distribution transformer is erected inside the consumer's premises, shall be borne by the consumer. Works of erection of overhead lines/laying of cables, equipment's /accessories necessary for supply of electricity to the Consumer's premises may be carried out in compliance of safety norms notified by the Authority and by the Commission, and other relevant regulations of the Distribution Code.*

*(v) The fixed/demand charges of electricity for the sanctioned demand shall be at the rates applicable to the relevant HT category of service notified in the Commission's Tariff orders issued from time to time, that is to say, the rate notified per kVA shall be applied on per KW basis without any conversion of the sanctioned demand in KW to kVA. To illustrate, for a sanctioned demand of 130 KW, the fixed/demand charges shall be 130 multiplied by [Rs.350/-] demand charges applicable per kVA for the HT category. The energy charges shall be the applicable LT tariff rates notified in the Commission's tariff orders. The losses in the Distribution Transformer shall be borne by these consumers of the LT category as per the formula prescribed in sub-regulation (7) of regulation 7 of this Code.*

*Explanation - (i) Existing Consumers i.e. LT consumers prior to the notification of amendment in the Government Gazette which is the effective date of coming into force of this regulation, whose demand exceeds 112 KW but less than or equal to 150 KW or who require additional demand over and above 112 KW may opt to avail supply under LT category subject to the above conditions in the proviso to clause (b) of this sub-regulation. Existing LT Consumers whose demand exceeds 112 KW and who do not opt to avail supply as per the conditions in the proviso to clause (b) of this sub-regulation shall pay excess demand charges in accordance to clause (ii) (c) in sub-regulation (2) of Regulation 5 of this Code. relevant regulations of the Distribution Code.*

*(ii) New consumers who require demand above 112 KW but less than or equal to 150 KW and who are unable to comply with the Conditions in the proviso to clause (b) of this sub-regulation shall obtain supply under HT category. This is also applicable for existing consumers with sanctioned demand of 112KW and below who require additional demand over and above 112 KW. "*

Thus, it could be seen that the Petitioner and the other co-owners, who have applied for a total demand of 47 KW only, are not required to bear any cost/ expense, including for installing a structure mounted Distribution Transformer with associated equipment's/accessories viz. AB Switch, HG fuse, DT structure/ pole, etc.

1.17. The legal position being thus, the impugned proceedings of the Respondent 2 to 5, issued in contravention of and in violation of the Act and Regulations framed by the Commission, are arbitrary, illegal, unconstitutional, issued without authority of law

and jurisdiction. It is the duty of the distribution licensee, i.e., the 1<sup>st</sup> Respondent and its officers to provide the electricity service connections to the premises in accordance with the Act, Rules and Regulations and only collect such amounts authorized by the Commission. However, the huge demands made by the Respondent 2 to 5 for effecting the electricity supply are without any sanction of law and these Respondents have no authority to make any such demands from the Petitioner. Only the demand made towards Meter Caution Deposit, CC Deposit and Development Charges vide the said impugned proceedings may be in accordance with the Regulations in force and the Petitioner may be required to make the said payments. The Respondents 2 to 5 are well aware of the Regulations framed by the Commission and they are also fully aware that no such cost/expense can be demanded from or mulcted on the consumer. Despite the same, they have made such demands.

1.18. The Respondents herein, who are the transmission & distribution licensee in the State of Tamil Nadu, are bound by the Electricity Act, 2003, the Rules therein and more particularly the Regulations framed by the Commission, which are amended from time to time. The Respondents can levy, demand and collect any charges towards any work only as per the Regulations in force and only as per the rates determined by the Commission. Any demand made in violation or in contravention of the Regulations in force is per se illegal. Any contravention of the Regulations or directions issued by the Commission by the distribution licensee and its officers, i.e., the Respondent herein, is punishable under Sections 142 and 146 of the Electricity Act, 2003.

## **2. Counter filed on behalf of the Respondents :-**

2.1. The petitioner has filed the above petition before the Commission viz M.P.No.12 of 2023, praying to pass an order of interim directions to effect additional demand of 275 KVA in the Petitioner's HT Service Connection No.83, without insisting on payment of the amounts demanded vide impugned proceedings dated 18.02,2023 or any other amount, in contravention of the Electricity Act, 2003 and the orders passed by the Commission pending disposal of the above M.P. and pass such further or other orders as the Commission may deem fit.

2.2. The above M.P.No.12 of 2023 came up for hearing on 25.04.2023. The Commission, while admitting the petition, has directed as follows:

*"the concerned Superintending Engineer of TANGEDCO is directed to effect the existing additional load electricity supply to the petitioner within infrastructure"*

2.3. In compliance to the daily order dated 25.04.2023, the details of application received from the petitioner and the communication were sent to the petitioner Vide proceedings dated 18.02.2023.

2.4. In addition to the above details, the following submissions are made before the Commission for kind consideration with respect to the collection of amounts for extending supply under 110 KV voltage level.

2.5. M/s Tagros Ltd. with sanctioned demand 4975 KVA at 22 KV applied for an additional demand of 275 KVA in the HT on line application tracking and requested for 110 KV supply. As it an EHT service application Distribution has to rely on other



agencies likes GCC & Operation wing to effect the 110 KV supply. Based on the reports from the GCC & Operation wing, the demand was raised to the applicant then and there.

i) The Exg. HT Sc.83 M/s Tagros Ltd., is in 22 KV supply as per the TNERC norms. 22 KV line can be loaded upto 5 MVA only. After adding the additional demand 275 KVA over and above the existing demand of 4975 KVA, it exceeds the demand of 5 MVA which has to be extended from 33 KV network as per TNERC Supply Code. The consumer is eligible for 33 KV network only. As the consumer opted for 110 KV as 33 KV network is not available in the Cuddalore SIPCOT area as per the TNERC Supply code.

Chapter 2.(3) point no 3. " If the consumer opts for higher levels of voltages for demands less than that specified, the consumer shall bear the extra expenses to be incurred by the licensee to provide supply at higher voltages". Hence the demand for Rs. 1,78,66,700/- for Bay extension cost and 110 KV line extension cost is not against the Electricity Act 2003.

ii) Additional demand will be effected as per the direction of TNERC.

iii) Application registration fee Rs.1180/- and EMD for additional demand of 275 KVA @ of 800 per KVA Rs.2, 20,000/- collected vide receipt No,102418112022111331186 Dt: 12.02.2021 and

|   |                  |
|---|------------------|
| 1. Development charges at Rs.1500/- per KVA | : Rs.4,12,500/-  |
| 2. Meter Caution Deposit                    | : Rs. 40,000/-   |
| 3. Estimate cost for metering arrangement   | : Rs. 38,800/-   |
| Total                                       | : Rs. 4,91,300/- |

was collected vide PR.No.102418112082111403411 Dt:12.08.2021. in TANGEDCO account.

22% Establishment and Supervision Charges  
(Work to be done under self-execution): Rs.37,59,900/-

was collected by TANTRANSCO GCTRYRA1D9161 Dt: 09.08.2021.

All above mentioned amount were collected as per Tariff order at that time and no excess amount has been collected. Hence refund is not possible.

iv) The HT Sc. 83 M/s Tagros Chemicals Pvt. Ltd. is fed from 110 KV /22 KV Semmankuppam SS through 22 KV Tagros dedicated feeder for a route length of 5.5 Km. Hence there is no frequent power failure in 22 KV as the petitioner mentioned. The petitioner has sought for 110 KV supply only to expand their plant in future as mentioned in, their various letters addressed to Superintending Engineer/ CEDC/ Cuddalore, the 3rd respondent herein.

v) The HT Sc. No 83 Tagros Chemicals Pvt. Ltd Cuddalore was approved for extending the 110 KV line by T-off arrangement under self-execution scheme from the 110 KV JK Pharma feeder fed off 230/11 Kv Auto SS, Cuddalore, for which an agreement was executed dated 03.08.2021. As per the agreement they have to complete the works within 150 days. But they came forward to avail supply only on 29.09.2022 after a lapse off 8 months.

vi) The BOAB Internal Audit was conducted by the Inter Audit Officer, Villupuram. On scrutinising the estimate, they raised an audit Slip No. 48 dated 09.12.2021 for the short

collection of 22% Establishment and Supervision charges for the 110 KV Bay extension work at Cuddalore 230 KV Auto SS and erection of 110 KV SC line on DC tower with DC tower with Panther conductor from 230 KV SS Cuddalore to Loc No.26 of Capper Quarry-JK Pharma 110 KV line of length 4.8 Kms to M/s.Tagros chemicals (P) Limited and irretrievable materials cost has been omitted. As the petitioner came out with readiness on 29.9.2022 only the amount raise as per the audit slip was informed vide letter dated: 16.09.2022.

vii) As per TNERC Supply code Chapter 2 (3) Regulation No 3. " If the consumer opts for higher levels of voltages for demands less than that specified, the consumer shall bear the extra expenses to be incurred by the license a provide supply at higher voltages". Thus, the above proceedings are in accordance wits the provisions of Electricity Act 2003.

viii) The petitioner opted for extension of supply under self-execution scheme through M/s SHRI VAARI ELECTRICALS PVT LTD., Chennai-32 and accepted to pay necessary establishment and Supervision charges and also proposed to execute the entire work like 110 KV AIS with metering at consumer end. Extension of 110 KV feeder etc. was proposed to be carried out by the respondent on payment of establishment and supervision charges to TANTRANSCO. As per the TNERC Supply code Chapter 2. (3) Regulation No.3 the entire cost of 110KV line from 230 KV auto SS end upto the supply point is chargeable to consumer. The entire cost works out to Rs.722.052/- Lakhs. As

they have been approved under self-execution scheme, only 22% Establishment and Supervision charges has been arrived to Rs.75,06,650/- .

ix) As per the HT application flow process, the applicant should have "NIL" Audit arrears before effecting the supply. Hence the petitioner was informed to pay the amount within 15 days to get clearance from audit wing.

x) As the petitioner itself has mentioned, JK -Pharma feeder 230/110 KV Auto SS was established in 1994 for EHT Sc JK Pharma and it is under disconnection from 25.08.2004 due to non-payment of CC charges, in order to bring the 110 KV line to working condition, the estimate was evolved by the GCC wing and the same was intimated to the petitioner/applicant. The details of the estimate are submitted hereunder:

|    |   |                  |
|----|---|------------------|
| 1) | Extension of 1 No 110 KV Feeder at 230 KV Cuddalore Auto SS   | Rs.86,48,300/-   |
| 2) | Providing foundation concrete for various structural plinth and allied civil works for the introduction of one no. bay for M/s. Tagros Chemical India (P) Ltd                           | Rs.6,06,540/-    |
| 3) | Dismantling of Towers from M/s Tagros tapping location and replacement of old disc insulators and earth wire in JK Pharma from Cuddalore 230 KV Auto SS to M/s Tagros Tapping location. | Rs.53,56,135/-   |
| 4) | Tower leg strengthening in red sand quarry rivertment as found water logged Lump Sum  | Rs.20,00,000/-   |
| 5) | Replacement of rusted tower bold & nuts painting and provision of number plate, name, phase sequence board, Danger board Lump Sum   | Rs.80,00,000/-   |
|    | Total   | Rs.1,74,10,975/- |

2.6. The Chief Engineer/Distribution/Villupuram vide Memo. No. CE/D/VPM/EE/ELE/AEE/PLG/F.M/s HT Tagros /D.No444/2022 Dt:08,11.2022, has instructed to

address the consumer whether the additional works to be done in the 110 KV JK Pharma feeder fed from 230/110 KV Auto SS Cuddalore to be carried out departmentally under DCW basis or under self-execution vide letter dated 09.11.2022.

2.7. M/s Tagros chemicals India Pvt Ltd., the petitioner vide letter dated 15.11.2022 had requested to give the split details of the estimate of the additional works proposed by operation wing. The petitioner has been provided with the split up details of the estimate vide letter dated 21.11.2022. M/s Tagros Chemicals India Pvt. Ltd., had given consent vide letter dated 06.12.2022 to carry out the improvement works under self execution and agree to pay the necessary charges towards the Establishment & Supervision charges.

2.8. The additional estimate Engineer/Distribution/Villupuram along with the acceptance was obtained for the improvement works to be carried out from 230 KV Auto SS end to Tower from which it is tapped for M/s Tagros 110 KV supply.

2.9. In addition as per the instruction vide Memo.CE/the Comml/ SE/EE2/AEE2/F.M.s Tagros-HT-83 - Addl-EHT/D.87/23 Dt:14.02.2023 the following items are included :

- a) Erection of 110 KV SC line on Dc tower with panther conductor ( from Auto SS end to tapping location tower, no 26. of capper -quarry JK pharma line) for 4.8 Km (22 % establishment charges only)
- b) Erection of 1 no. 110 KV Bay for M/s Tagros Chemicals India Pvt. Ltd., EHT Sc at Cuddalore 230 KV auto SS end. (Entire cost).

2.10. After adding the above items to the already sanctioned estimate, the estimate works out to Rs.656.56 Lakhs (Gross & Nett) and the amount to be amount to be paid by the consumer is Rs.189.07 lakhs (Entire bay extension cost plus 22% establishment supervision charges for the portion from Auto SS to metering point location.)

2.11. As per the above instruction, the estimate works out to Rs.656.56 Lakhs which is more than 10% difference rate with already sanctioned estimate. Hence the revised estimate is prepared based on the estimates received from SE/O/Villupuram vide letter dt: 14.02.2023 and SE/GCC/Trichy dt:4.3.2021 for arriving the Bay extension cost and 110 KV lines respectively and approved on 18.02.2023.

2.12. In the sanctioned estimate the amount to be paid by the Consumer is Rs.189.071 Lakhs out of which Rs.37.599 Lakhs has been already collected from the consumer. Hence the balance amount to be collected from consumer works out to Rs.151,472 Lakhs + 18% GST Rs.27.195/- Lakhs, totalling to Rs.178.667 Lakhs. Hence the petitioner was intimated vide ref 634/23-24 Dt: 18.02.2023 to pay the amount of Rs.151.472 lakhs + 18% GST Rs.27.195/- lakhs.

2.13. An additional amount of Rs.151.472 Lakhs + 18% GST Rs.27.195/- lakhs alone should be paid by the HT SC.No.83 M/s Tagros Chemicals Pvt Ltd for extending supply under 110 KV voltage level. On receipt of the payment, recommendation will be made for dropping the audit slip and hence the amount Rs.75,06,650/- need not be paid by the petitioner. The demand raised is only as per the TNERC regulation only.

2.14. In compliance with the order of the Commission issued on 25.04.2023, the additional demand of 275 KVA over and above the existing demand of 4975 KVA has been effected to the petitioner in HT SC No.83, SIPCOT Industrial Complex on 03.06.2023 in the existing (22 KV) infrastructure.

### **3. Contentions of the Petitioner in Rejoinder:**

3.1 The Respondent has complied with the interim order dated 25.04.2023 by the Commission in its true letter and spirit. The Commission vide interim order dated 25.04.2023 directed the respondent to effect additional load in the existing infrastructure pending disposal of the present petition. As per the direction of the Commission, the Petitioner gave letter dated 03.05.2023 to the 3<sup>rd</sup> Respondent for additional demand enhancement. But the 3<sup>rd</sup> Respondent neither replied nor effected additional load till 02.06.2023. The 3<sup>rd</sup> Respondent orally replied to the Petitioner that they have not received any official directions from the head office. Since the matter was posted for further hearing on 06.06.2023, only on 03.06.2023 afternoon around 15.00 hrs, the Respondent TANGEDCO enhanced the demand to 5250 KVA at 22KV without any prior intimation. Till date, the Petitioner has not received any official correspondence regarding this demand enhancement. Hence attitude of the 3<sup>rd</sup> Respondent against the interim order passed by the Commission is highly contemptuous.

3.2. That the Petitioner had opted for higher levels of voltages i.e., 110KVA is denied as false and misleading. The Respondent has no material proof of such a claim to the effect that the Petitioner has voluntarily opted for 110KVA line instead of 33KV line. The

Petitioner's HTSC No.83 is coming under the 3<sup>rd</sup> Respondent with a sanctioned demand of 4975 KVA which is connected to a 22KV supply line. Since the Petitioner wanted to expand the manufacturing activity, the Petitioner made application dated 14.07.2020 and 22.10.2020 for additional power supply of 275KVA which make the sanctioned demand as 5250 KVA (i.e., 4975KVA + additional demand of 275KVA). As per Regulation 3(e) of the Tamil Nadu Electricity Supply Code a consumer shall be provided 33KV supply line for a demand exceeding 3000KVA i.e., 3MVA and upto 10,000KVA i.e., 10MVA if the area of supply of such consumer is fed through a 22KV system as in the case of the Petitioner herein. Further Regulation 3(g) of the supply code provides that 110KV supply line is provided for a demand above 10 MVA upto 50 MVA. Since 33KV is not available in SIPCOT Cuddalore coming under the jurisdiction of the 3<sup>rd</sup> Respondent, the officials of TANGEDCO suggested the Petitioner to go for 110KV line. The officials of TANGEDCO suggested the 110KV JK Pharma Supply line which was erected in 1994 from 230/110KV Cuddalore Auto Sub-Station for a distance of 4.8Kms with total number of 28 towers. However, the 110KV JK Pharma Supply line is kept idle till date from 2004 since JK Pharma has closed its operations and EHT Service connection was disconnected from 28.08.2004 itself. The Respondent TANGEDCO suggested tapping this existing 110KV supply line running from 230/110KV Cuddalore Auto Sub-Station to 110 KV JK Pharma Feeder at location Tower No.26. Since the exiting 110KV JK Pharma OH feeder is idle for more than 18 years, the Respondent suggested to the Petitioner to tap in the existing Cuddalore Auto 230/110kV SS - JK Pharma 110KV Feeder at location Tower No.26 by establishing new 110 KV line with 7 Towers from the point of tapping to



the point of petitioner's connection for a total length of 0.6KM. Hence the stand of the respondent in its Counter that the Petitioner had opted for higher levels of voltages i.e., 110 KV instead of 33KV is incorrect and denied as false. The Petitioner had never opted for higher levels of voltage and it is the Respondent who directed the Petitioner to go for 110KV Supply line for two reasons (i) 33KV is not available in the area of supply i.e., SIPCOT Cuddalore coming under the jurisdiction of the 3<sup>rd</sup> Respondent (ii) 110KV JK Pharma Supply line which was erected in 1994 from 230/110KV Cuddalore Auto Sub-Station which is idle for 18 years and the same can be put to use.

3.3. If the Petitioner has really opted for 110KV line instead of 33KV line, the Respondent would have given an official communication to the Petitioner that the request of the Petitioner is being considered under Regulation 3(3) of the Supply Code. In the present case, there is no such communication from the Respondents and further such a stand was never mentioned in any of the communications given by the Respondent to the Petitioner till date. It is impermissible under law for the Respondents to build his case or to take a different stand vide this counter which has nowhere been mentioned in any of their communications to the Petitioner. Hence the stand of the Respondent in the counter that the Petitioner has opted for higher voltage is an afterthought exercise and liable to be set aside.

3.4. The Petitioner has made application for additional demand of 275KVA on 14.07.2020. At the time of initial estimation & feasibility report, the impugned demand of Rs.1,78,66,700/-i.e., Rs.65,47,200/- has been raised towards 22% establishment and

supervision charges for the existing 110KV JK Feeder Supply Line from 230KV/110KV Auto SS to Tower no.26 plus Rs.86,00,000/- towards the cost of the existing 110KV JK Feeder Bay in 230/110KV Auto SS Cuddalore plus Rs.27,19,500/- towards GST 18%. It was never intimated nor informed to the Petitioner. After investing around Rs.10 crores for establishing the 110 KV supply line and at the time of energizing the same the Respondent has slapped the impugned demand notice dated 18.02.2023 and made payment of the same as a precondition for effecting the additional load. Such action of the Respondent is not only against Regulations 3 of the Supply Code and other provisions of the Electricity Act, 2003 but also arbitrary, illegal, arm twisting and very harsh on the petitioner.

3.5. The Respondent in para 5(ii) of the Counter has stated that 22% Establishment and Supervision Charges (Work to be done under self- execution) for a sum of Rs.37,59,900/- was collected by TANTRANSCO on 09.08.2021 from the Petitioner. The Respondent has stated that the above mentioned amount was collected as per Tariff order at that time and no excess amount has been collected and hence refund is not possible. That the above mentioned establishment and supervision charges at 22% for a sum of Rs.37,59,900/- is wrongly calculated in the estimation and in the revised estimation also. Total length of tower and line taken into account by the Respondent is 1.5 k.m. in their estimation. But the actual length from the tapping point to metering point is 0.55KM only. The Respondent has calculated Rs.44 lakhs per Kilometer for tower and line in their estimation. Based on this account alone, the Petitioner has been charged

Rs.15 lakhs extra in 22% Establishment and Supervision Charges and hence the same must be revised and consequently refunded to the Petitioner.

3.6. That the Petitioner has delayed the work by 8 months is denied as false. The Petitioner made application dated 05.04.2022 & 21.12.2021 to the SIPCOT Cuddalore for approving the new 110kV supply line route drawings and granting permission to start the erection works since the towers were passing through the SIPCOT lands. The officials of SIPCOT suggested alternate route by making T-off arrangement which would result in laying 5 towers only instead of 7 towers and further the revised route will reduce the distance from 0.6Km to 0.52 KM. Based on the above, SIPCOT Cuddalore granted approval dated 19.05.2022 for erection of 5 towers with HT Overhead Power Supply line in SIPCOT land/road on payment of one time non-refundable track rent/usage charges for a sum of Rs.20,80,567/- plus processing fee of Rs.11,800/-. The Petitioner also paid the same on 26.05.2022. The 4<sup>th</sup> Respondent vide letter dated 15.06.2022 approved the revised route for erection of 110KV SC line on DC Tower with Panther conductor by making T-off arrangement at Location No.26 in the existing 110KV JK Pharma SC Line fed off from Cuddalore Auto 230/110KV SS-JK Pharma 110KV SC line up to the Petitioner's metering point. While work was in progress the Respondent suddenly stated that a 22 KV Overhead line and 415V line were passing through the route which needs to be shifted to the opposite side of the road by the Petitioner on paying the necessary charges for shifting the 22KV Overhead line and 415V line along with the establishment and supervisions charges of the same. Based on the above, the Assistant Engineer,

O&M TANGEDCO coming under the 3<sup>rd</sup> Respondent vide his letter dated 12.04.2022 directed the Petitioner to pay Registration fees for shifting the 22KV Overhead line and 415V line and same was paid by the Petitioner. Consequently, the Assistant Engineer, O&M TANGEDC coming under the 3<sup>rd</sup> Respondent vide his letter dated 08.06.2022 directed the Petitioner to pay the estimate charges under DCW basis for shifting of the 22KV Overhead line and 415V line along with the establishment and supervisions charges for a sum of Rs.14,27,290/- . The Petitioner also paid the same on 15.07.2022. Thereafter, for shifting of this 22KV line work TANGEDCO took approximately 4 months. On 12.09.2022, the Petitioner completed the entire erection work of the new 110KV line with 5 Towers from the point of tapping i.e., Location No.26 in the existing 110KV JK Pharma Supply line to the point of Petitioner's connection for a total length of 0.52KM. From the above it is clear that the Petitioner was put to heavy hardship in completing the line due the attitude of the Respondent TANGEDCO and stand of the Respondent in the counter that the Petitioner has delayed the work is arbitrary and untenable.

3.7. In para (vi) of the Counter the Respondent has stated that the BOAB Internal Audit was conducted by the Inter Audit Officer, Villupuram and the notice was served on the Petitioner on 16.09.2022 i.e., before the Petitioner expressed the readiness on 12.09.2022. Only the audit slip amount to be paid was informed vide letter dated: 16.09.2022. From this submission the Respondent, it is clear that the impugned demand dated 16.09.2022 was issued as an afterthought exercise to arm twist the Petitioner with an illegal demand. At the time of the initial estimation and collection of supervision

charges, the 3<sup>rd</sup> Respondent did not consider the impugned amount since they are well aware that the existing infrastructure and lines i.e., 110 KV JK Pharma Supply line was erected in 1994 from 230/110KV Cuddalore Auto Sub-Station for a distance of 4.8Kms with total number of 28 towers and said line/towers are kept idle till date from 2004 since JK Pharma has closed its operations and EHT Service connection was disconnected from 28.08.2004 itself. Hence the present demand of the Respondent seeking to levy Rs.65,47,200/- towards 22% establishment and supervision charges for the existing 110KV JK Feeder Supply Line from 230KV/110KV Auto SS to Tower No.26 plus Rs.86,00,000/- towards the cost of the existing 110KV JK Feeder Bay in 230/1 10KV Auto SS Cuddalore plus Rs.27,19,500/- towards GST 18% totaling a sum of Rs.1,78,66,700/- as alleged revised estimate charges is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

3.8. The levy of 22% Establishment and Supervision charges for a sum of Rs.75,06,650/- by the Audit party vide Audit Slip No.48 dated 09.12.2021 is not in order and hence it should be paid for effecting the additional load. Such a stand of the Respondent is without any application of mind. In pursuance of the demand notice dated 16.09.2022, it could be seen that the 3<sup>rd</sup> Respondent has relied on certain Audit Slip No.48 dated 09.12.2021 on the allegation that there is a short levy of estimate cost @ 22% establishment & supervisions charges and irretrievable materials cost for an amount of Rs.75,06,650/-. In pursuance of the audit slip, it could be seen that the audit

party has sought to levy 22% establishment & supervisions charges on the existing 110KV Bay at Cuddalore 230KV /110KV Auto SS for a sum of Rs.12,58,400/- i.e., 22% of 69.79 lac. In addition to that, the audit party has sought to levy 22% establishment & supervisions charges in the existing 110KV Side DC Tower with Panther Conductor from 230KV/110KV Auto SS Cuddalore to Location No.26 of capper Query-JK Pharma 110KV line for a sum of Rs.60,59,000/- i.e., 22% of 275.412 Lacs totaling a sum of Rs.75,06,650/-. Such an action of the 3rd Respondent and audit party is illegal, arbitrary and contrary to the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

3.9. The Respondent, in para 5(x) of the Counter, has tried to justify the impugned demand of Rs.1,74,10,975/- by stating that the impugned amount is levied in order to bring the JK Pharma 110KV supply line to working condition since the same is kept idle from 2004. Such a stand of the Respondent is misleading, arbitrary and contemptuous. The 3<sup>rd</sup> Respondent vide estimate dated 17.02.2023 and the consequential impugned dated 18.02.2023 has levied Rs.65,47,200/- towards 22% establishment and supervision charges for the existing 110kV JK Feeder Supply Line from 230KV/110KV Auto SS to Tower No.26 plus Rs.86,00,000/- towards the entire cost of the existing 110KV JK Feeder Bay in 230/110KV Auto SS Cuddalore which is readily available from 1994 plus Rs.27,19,500/- towards GST 18% totalling Sum of Rs.1,78,66,700/- as alleged revised estimate charges which is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission.

3.10. The impugned proceedings of the Respondent are contrary and in contravention and violation of the Act and Regulations framed by the Commission and are arbitrary, illegal, unconstitutional, issued without authority of law and jurisdiction. It is the duty of the distribution licensee, i.e., the 1st Respondent and its officers to provide the electricity service connections to the premises in accordance with the Act, Rules and Regulations and only collect such amounts authorized by the Commission. However, the huge demands made by the Respondent 2 to 5 for effecting the electricity supply are without any sanction of law and these Respondents have no authority to make any such demands from the Petitioner. Only the demand made towards Meter Caution Deposit, CC Deposit and Development Charges vide the said impugned proceedings may be in accordance with the Regulations in force and the Petitioner may be required to make the said payments. The Respondents 2 to 5 are well aware of the Regulations framed by the Commission and also fully aware that no such cost/expense can be demanded from or mulcted on the consumer. Despite the same, the Respondents have taken a stand at para 5(x) that the Petitioner is liable to pay the impugned demand which is arbitrary, illegal and liable to be set aside.

3.11. The Respondent has stated that the Petitioner has given consent letter dated 06.12.2022 to pay the impugned demand and hence the impugned demand is justifiable. The impugned demand notice dated 18.02.2023 levying Rs.65,47,200/- towards 22% establishment and supervision charges for the existing 110KV JK Feeder Supply Line from 230KV/110KV Auto SS to Tower no.26 plus Rs.86,00,000/- towards the entire cost

of the existing 110KV JK Feeder Bay in 230/110KV Auto SS Cuddalore which is readily available from 1994 plus Rs.27, 19,500/- towards GST 18% totalling a sum of Rs.1,78,66,700/- as alleged revised estimate charges is illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission. When the root of the demand is contrary to law and illegal, the impugned demand is liable to be set aside irrespective whether the Petitioner has accepted to pay it or not. The question to be adjudicated is whether the impugned demand is sustainable in the eye of law or not.

3.12. The Respondent has tried to justify the impugned demand of Rs.1,69,90,418/- by stating that the impugned amount is levied as per Commission's Regulations. But the Respondent has failed to mention under what provision of law, order or regulations the impugned demand of Rs.65,47, 200 was raised. The Respondent further has stated in the counter if the impugned amount is paid by the Petitioner necessary recommendation for dropping the audit slip for Rs.75,06,650/- i.e., 22% establishment & supervisions charges on the existing 110KV Bay at Cuddalore 230KV /110KV Auto SS for a sum of Rs.12,58,400/- i.e., 22% of 69.79 lac Plus 22% establishment & supervisions charges in the existing 110KV Slide DC Tower with Panther Conductor from 230KV/110KV Auto SS Cuddalore to Location No.26 of capper Query - JK Pharma 110kV line for a sum of Rs.60,59,000/- i.e., 22% of 275.412 will be made. The Audit party has levied only 22% establishment & supervisions charges in the existing 110KV lines & bay whereas the 3<sup>rd</sup> Respondent in the impugned demand notice dated 18.02.2023 has sought to levy the



entire bay cost plus 22% establishment & supervisions charges in the existing 110KV. Hence the both the audit slip and the impugned demand are illegal, arbitrary, clearly in contravention of the provisions of the Electricity Act, 2003 and the Regulations and orders issued by the Commission and liable to set aside.

3.13. The present case is a classic example of how the Respondent TANGEDCO is acting total contravention of the Electricity Act, 2003 and the Regulations made by the Commission and various Orders passed by the Commission are liable to be punished under Section 142 & 146 of the Electricity Act 2003.

#### **4. Memo filed on behalf of the Respondents:**

4.1. The petitioner has filed the above petition before the Commission viz M.P.No.12 of 2023, praying to pass an order of Interim Directions to effect additional demand of 275 KVA in the Petitioner's HT Service Connection No.83, without insisting on payment of the amounts demanded vide impugned proceedings dated 18.02.2023 or any other amount, in contravention of the Electricity Act, 2003 and the orders passed by the Commission pending disposal of the above M.P. and pass such further or other orders of the Commission may deem fit.

4.2. The M.P.No.12 of 2023 came up for hearing on 05.09.2023. The Commission while admitting the petition has directed in the Daily order as "The Commission observes that there must be consensus between the parties on the choice of contractor to be

engaged .prior to the same both side shall carry out joint inspection within a month and report compliance on 10-10-2023."

4.3. As per the Daily Order dated 5.09.2023 in M.P.12 of 2023, a co-ordination meeting was conducted on 22.09.2023 and joint inspection was conducted on 05.10.2023 with M/s.Tagros Chemicals Pvt. Ltd. by the TANGEDCO represented by Superintending Engineer/Cuddalore Electricity Distribution Circle /Cuddalore and TANTRANSCO represented by Superintending Engineer/General Construction Circle/Trichy and Superintending Engineer / Operation/Villupuram and the report is annexed herewith.

4.4. During the co-ordination meeting M/s Tagros Chemicals Pvt. Ltd., accepted to do the repairing activities of entire lines and towers up to Tagros end for connectivity establishment and also agreed to pay the supervision charges for the repairing estimation except bay extension.

4.5. The estimate which was sanctioned on 07.02.2023 for effecting the additional demand of 275 KVA Over and above the existing demand of 4975 KVA to M/s Tagros Chemicals Pvt. Ltd was evolved only after carrying joint inspection by the TANGEDCO and TANTRANSCO officials and report submitted to CE/Commercial/TANGEDCO/Chennai. As per the instruction vide Memo.CE/Comml/SE/EE2/AEE2/F.M/s.Tagros-HT-83-Addl-EHT/D.87/23,dt.14.02.2023

above the following items are included: the Erection of 110 KV SC line on Dc tower with panther conductor (from Auto SS end to tapping location tower no 26. of capper -quarry JK pharma line) for 4.8 Km (22 % establishment charges only) Erection of 1 no. 110 KV

Bay for M/s Tagros Chemicals India Pvt. Ltd., EHT SC at Cuddalore 230 KV auto SS end. (Entire cost).

4.6. After adding the above items in the already sanctioned estimate, the estimate works out to Rs.656.56/- Lakhs (Gross & Nett) and the amount to be paid by the consumer is Rs.189.071/- Lakhs (Entire bay extension cost plus 22% establishment supervision charges for the portion from Auto SS to metering point location.)

4.7. During the scrutiny of the estimate as per the TNERC Daily Order dated 05.09.2023, a portion of the dismantling tower after the service point location of M/s Tagros Chemicals Pvt. Ltd., is found to be carried out by the TANTRANSCO and hence the 22% supervision charges for the dismantling of Towers charges of Rs.1.709/- Lakhs can be reduced (Rs.5.22/- Lakhs - Dismantling of Tower charges) ie. the 22% supervision charges for Erection of 110 KV SC line on DC Tower with Panther conductor (from Loc. 26 to Capper-quarry JK Pharma) to M/s Tagros chemicals India Pvt Ltd. including the dismantling portion has been reduced from Rs.25.015/- Lakhs to Rs.23.306/- Lakhs.

4.8. The revised total estimate charges to be paid by the consumer works out to Rs.187.363/- Lakhs (without GST). After deducting the already paid amount of Rs.37.599/- Lakhs the total estimate charges to be paid by the consumer works out to Rs.149.764/- Lakhs (without out GST) After adding the GST 18% - Rs.27.195/- Lakhs the total amount to be paid by consumer is Rs.176.959/- Lakhs.

4.9. The Exg. HT Sc.83 M/s Tagros Ltd., is in 22 KV supply as per the TNERC norms 22 KV line can be loaded upto 5 MVA only. After adding the additional demand 275 KVA over and above the existing demand of 4975 KVA, it exceeds the demand of 5 MVA which has to be extended from 33 KV net Work. As per TNERC supply code the consumer is eligible for 33 KV network only. As the consumer opted for 110 KV and since 33 KV network is not available in the Cuddalore SIPCOT area, as per the TNERC Supply Code network charges for 110 KV was arrived and the demand raised for Rs.1,76,95,900/- for Bay extension cost. Hence, 110 KV line extension cost is not against the Electricity Act 2003.

4.10. The M/s Tagros Chemicals Pvt. Ltd., has given an undertaking dated 09.02.2021 agreeing to pay the further amount, if any, as demanded by TANGEDCO/TANTRANSCO over and above the establishment and supervision charges already paid.

4.11. In compliance with the Daily order of the Commission issued on 05.09.2023, during the coordination meeting it has been agreed that the consumer has to pay the revised demand of Rs.1,76,95,900/- for Bay extension cost and 110 KV line extension cost which has been arrived as per the TNERC regulation.

4.12. The joint inspection was carried out on 05.10.2023 by TANTRANSCO and TANGEDCO officials along with M/s Tagros Chemicals Pvt. Ltd.'s representatives as per the TNERC daily order dt:05.09.2023.

4.13. During the joint inspection it was observed that for connectivity of M/s.Tagros Chemicals Pvt. Ltd at 110 KV voltage level, 110 KV Bay is available at the 230/110 KV Auto SS, Capper Hills, Cuddalore and from Tower No, 1 to Tower No. 26 entire renovation and maintenance work to be done.

**5. Affidavit filed on behalf of the Respondents:**

As per the Daily Order dated 10.10.2023 in M.P.12 of 2023, an estimate has been prepared including only the cost of repair works without including bay and line is annexed herewith. The total repair estimate works out to Rs.114,51,160/- As the work is to be executed by the M/s Tagros Chemicals Pvt. Ltd. under self-execution scheme, 22% Establishment and Supervision charges to be paid by M/s Tagros Chemicals Pvt. Ltd. The 22% Establishment and Supervision charges works out to Rs.17,46,370/- and GST 18% - Rs.3,14,346.60/-. Total amount to be paid by M/s.Tagros Chemicals Pvt. Ltd is Rs.20,60,717/-, (Rupees Twenty Lakhs Sixty Thousand Seven hundred and seventeen only.

**6. Findings of the Commission:-**

6.1. We have examined the documents and heard the arguments of both sides.

6.2. The petitioner who is in requirement of 275kVA additional demand over and above the existing demand of 4975kVA for their chemical industry located at Cuddalore has prayed:

- a. To punish the respondent Licensees for demanding payment in contravention of the Electricity Act, 2003 Regulations and set aside the demand notices issued by respondents.
- b. To direct respondents to effect additional demand.
- c. To direct the respondents to refund the amount collected from the petitioner.

6.3. During the course of hearing of the main case, pursuant to the admission of the petitioner's I.A.No.1 of 2023, on the ground of distress expressed by them owing to monetary loss being incurred by the petitioner on every passing day of delay, consequent to investment made in their industry for the additional demand coupled with the huge expenditure incurred by them in developing the portion of 110kV corridor, the Commission deemed it just and necessary in the interest of justice to pass an interim order dated 25.04.2023 to grant additional demand with the existing infrastructure.

6.4. Accordingly the respondents effected the additional demand on 03.06.2023 and thus the petitioner's prayer to this effect stands already answered temporarily as an interim measure.

6.5. We now proceed to deal with the averments relating to the remaining prayers:

The petitioner's net demand i.e. 5250kVA (4975kVA + additional demand of 275kVA) exceeds the ceiling of demand limit of 5000kVA specified for 22kV network system as per Regulation 3 of the Tamil Nadu Electricity Supply Code. Therefore this quantum of enhanced demand is to be supplied at the next voltage level of 33kV as

specified in the same Regulation. However, the 33kV network system is not in existence at present in Cuddalore Distribution Circle in which the petitioner's industry is located.

6.6. In the absence of availability of 33kVA network system, the feasibility of next voltage level i.e. 110kV has been opted, as 110kV network system is available in Cuddalore, that too nearby petitioner's locality that has been remaining unused since 1994. This double circuit 110kV corridor emanating from Cuddalore 230/110kV Auto SS is spanning for 4.8Kms with 28 tower locations. Out of two circuits, one circuit is in service and the other circuit remains idle. Tapping from tower location no.26, a new 110kV line to a distance of 0.6 kM with 7 towers (later revised to a distance of 0.52 kM with 5 towers) was required to be erected to connect to the location of point of supply of the petitioner's industry. The petitioner had consented to execute this new portion of 110kV line on his own at his own expenses and pay the respondents the due establishment and supervision charges incurable by the respondents during execution.

6.7. Accordingly the petitioner, in addition to the application related charges, paid Rs.42,51,200/- towards the said establishment and supervision charges at 22% of extension cost. The petitioner has further borne the unforeseen additional expenses involved on account of shifting the intervening 22kV line in the path of the erection of aforesaid new 110kV line.

6.8. After all the works of this new 110kV line tapped from location 26 of the existing 110kV DC line were completed entirely at the cost of the petitioner as above and the petitioner was ready to avail the additional load, the respondent unexpectedly served a

fresh notice dated 16.09.22, demanding Rs.75,06,650/- based on certain audit slip towards 22% establishment and supervision charges on the works involved in the existing 110kV bay at Cuddalore 230/110kV Auto SS from which the 110kV line emanates . Apart from this, the petitioner had to pay for the works involved in the 110kV main line also. Aggrieved, by the demand so raised, the petitioner has preferred this petition.

6.9. The issue that stands to be decided is whether the charges demanded by the respondent in the impugned original notice dated 16.09.2002 that was subsequently revised vide notice dated 18.02.2023, is payable by the petitioner and the charges already paid by them is refundable as prayed by the petitioner.

6.10. While the respondents claim that the petitioner had opted for supply through 110kV voltage level corridor on their own, the petitioner denies the same stating that only the respondents officers suggested to avail the additional demand through the 110kV corridor in view of the infrastructural limitation that 33kV network system is not in existence in that area of supply.

6.11. The petitioner has submitted that they had only applied for additional load; But neither in their application of additional demand nor by any other request letter after making the application, they had specifically opted for supply through 110kV corridor. During the course of arguments, this point was emphatically highlighted by the Petitioner's counsel which was not denied from the respondents' side. The respondents also have not produced any evidential record to establish their claim that the petitioner



had specifically opted for the 110kV supply on their own. Considering the submission of the respondents that the 33kV network is not readily available but only the spare 110kV corridor is available and submission of the petitioner that they have not volunteered to opt for the 110kV supply on their own but only took the advice of the respondent officers to avail the spare 110kV corridor available and the respondents not denying the same, the resultant conclusion cannot be other than that the 110kV voltage level was not opted by the applicant by their own but only preferred by the respondents, admittedly to utilize the unused 110kV corridor beneficially instead of creating a new 33kV network system which warrants introduction of 110/33kV ratio in the power transformer of the feeding sub-station and conversion of the rating of the existing HT line feeding the petitioner from 22kV to 33kV.

6.12. It is relevant to refer the statutory provisions dealing the above circumstances:

Sub- section 42 (1) of the Electricity Act 2003 is reproduced as below:

*“ It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.”*

Going by this mandate, it is the duty of the Distribution Licensee to develop and maintain an efficient, co-ordinate and economical Distribution System, meaning that when a 33kV network is not available, but the need arises in due course of development or additional requirement, the onus of creating the required infrastructure falls within the purview of Distribution Licensee.

6.13. The Sub- regulation 3(3) of the TN Supply Code relied by the respondent states:

*“If the consumer opts for higher levels of voltages for demands less than that specified, the consumer shall bear the extra expenses to be incurred by the licensee to provide supply at such higher voltages ”*

6.14. The condition of sub-regulation that the consumer shall bear the extra expenses to be incurred by the Licensee to provide at higher voltage shall be applicable only in a condition where the consumer opts for higher level of voltage. It is therefore clear from the plain reading of this sub-regulation that it operates only under the condition where the consumer voluntarily opts for higher voltage supply on their own. However, in the absence of cogent justification by the respondents indicative of concrete reasons for not creating the 33kV system and the consumer not opting the higher voltage on their own as already concluded herein above, the instant case does not squarely fall in the preview of the condition set out in this sub-regulation. Therefore any component of cost or any kind of charges relating to bay extension cannot be made applicable to be payable by the petitioner in relevance to the sub-regulation 3(3) of the Supply Code. In consequence, the demand issued to the petitioner for any cost or charges pertaining the 110kV bay are not sustainable in law.

6.15. On the other hand, following Sub-regulation 3(2) of the Supply Code provides appropriate relevance to the conditions and circumstance involved in the instant case:

*“In case of existing service connection / installation not conforming to the provisions mentioned in Sub-Regulation (1), conversion of such service*

*connection/installation to higher /lower voltage may be carried out based on the mutual consent between the Distribution Licensee and the Consumer duly considering the capacities of the existing line/cable, transformer etc., and the cost-benefit analysis of such conversion.”*

6.16. Sub-Regulation (1) mentioned above, classifies the supply categories in which the category of demand specifying inter-alia that *“if the area of supply is fed through 22 kV system, supply at 33 kV shall be provided for a demand exceeding 5 MVA and upto 10 MV ”.*

6.17. Sub-Regulation 3(2) supplements sub-regulation 3(3) when the stipulated voltage level of infrastructure as specified therein is not available. As the case on hand has to be dealt in tune with both of these sub- regulations 3(3) and 3(2) in tandem, for the reasons narrated supra, a set of directions came to be issued by the Commission in the daily Orders dated 05.09.23 and 10.10.23 in the respective phase of hearings:

- a) Both parties to have joint inspection of the site and reach the consensus between them in order to entail the ‘mutual consent’ contemplated in the Sub-Regulation 3(2).
- b) Respondents to prepare estimate including only cost of further works but not to include the cost of existing bays and lines and to charge strictly only the cost of further works to be undertaken.

6.18. The intent of the Commission to have a joint inspection of the site concerned to reach a reconciliation according to regulation is to attain such ‘mutual consent’ by

practically assessing the extent of the volume of the repair works required to be carried out and the realistic expenditure so involved to bring back the unused 110kV infrastructure in the beneficial use for the purpose.

6.19. As any component of cost relating to sub-station for this case is not payable by the petitioner as already concluded, the Commission in its considered view deemed it fit to consent to the contention of the consumer to pay only for the portion of work which is required to repair the 110kV line to make it fit and safe to resume its usage beneficial to both parties. While the respondents shall make all arrangements in the sub-station to resume supply in the concerned feeder, the petitioner for his part, shall carry out repair work in the line at his cost and pay the due establishment and supervision charges to the respondents for the said repair work.

6.20. Accordingly the parties carried out joint inspection and in consequence the 3<sup>rd</sup> respondent, Superintending Engineer/ Cuddalore EDC has evolved an estimate to a total cost of Rs.79,38,043/- to repair and revitalize the unused 110kV Single Circuit line (currently named as JK Pharma feeder ) in the existing 110kV Double Circuit Tower from Cuddalore 230kV Auto Sub-station to location number 26 to make them fit and safe for resuming supply. This cost covers the components of new material cost, labour charges for dismantling of worn out old parts of the towers/lines and erection of new parts, etc. An overhead component of Rs.17,46,370/-is payable by the petitioner towards 22% establishment & supervision charges of the respondents.

6.21. In addition to the above the other ancillary charges such as transport, cost of irretrievable etc., have also been included under the misconception of treating this work on par with nature of works involved in a deposit contribution work dealt in sub-regulation 5(6) of the Supply Code. It has been already made clear in the earlier parts of this order that the nature and circumstances of the work involved in this case attract the consolidated purview of sub-regulations 3(3) and 3(2) of the Supply code which are not relatable to the provisions of Deposit Contribution Work (DCW) Further, the Regulation 3(2) which deals with capital work of this nature, specifies to convert the service connection / installation on mutual consent, *'duly considering the capabilities of the existing line / cable, transformer etc., and the cost-benefit analysis'* of such conversion. It is indisputable fact that the result of cost-benefit analysis of the expenditure incurred in the instant case is bound to share benefit to both the parties. While the Licensee is going to be benefited in bringing back an idle asset of an EHT corridor to beneficial use, the consumer would be benefited to seize of a corridor with a potential of being capable to augment their possible future expansion besides ensuring an uninterrupted quality supply on a permanent basis. Taking in to account of the mutual benefits and the sanctity behind the significance of cost benefit analysis sandwiched in the Sub-Regulation 3(2) and also the sizable expenditure already incurred by the petitioner in extending the 110kV line by making T- off arrangement from the main 110kV line by their own execution of work in addition to paying the statutory development charges, we are of the view that it is not fair and reasonable to further burden the petitioner indiscriminately by loading entire components of expenditure on the deposit contribution

work basis , given the foregone conclusion that the benefit is going to be shared by both parties. When the consumer is unfortunate to be located in an area of supply where the required 33kV system is unavailable and the consumer comes forward to rescue the situation by way of incurring the expenditure over and above the statutory development charges to avail additional demand through 110kV level, the spontaneous approach of the Licensee has to be in such a way that the additional expenditure so incurred by the applicant is fair and reasonable in tune with the spirit of Sub-regulation 3(2). Given the technical factors and commercial parameters involved in this case, we are of the considered view that only the aforesaid establishment and supervision charges are payable by the petitioner besides taking up the responsibility of carrying out the repair work at their cost by using the materials to be supplied by them in order to balance the interest of both parties. The other component of expenditure such as dismantling, transport cost of irretrievable materials etc., which are relatable only to the DCW work but not the present category of maintenance work, shall be borne by the respondents. Therefore , the petitioner shall supply and erect the materials required for the repair work at their cost and pay the establishment and supervision charges for such materials to be supplied and erected towards repair of the main line and to enable resumption of supply in that line.

6.22. We also take note of the Petitioners submission that the sum of Rs.37, 59,900 already collected by the respondents towards 22% establishment charges of the 110kV spur line work executed by them had been originally estimated for 1.5kM by the

Respondents whereas the actual work after subsequent revision of route was executed only for 0.55kM only and hence the extra quantum of sum corresponding to the reduced volume of work stands refundable. This claim is justified in view of the said valid reason put forth by the petitioner more so when the same is not being objected by the respondents. The Respondents shall revise the estimate based on the actual and refund such extra sum to the petitioner henceforth. Such refundable amount shall be adjusted from the Establishment and Supervision charges payable by the petitioner for the main line repair work. The establishment and supervision charges for the main line repair work shall be calculated as per the current norms in force since being revised from time to time.

6.23. Similarly, after completion of the repair work of the main line, the revised estimate based on actual ( on the basis of the price and quantity of the materials supplied and erected by the petitioner ) shall be prepared and reconciled with both parties on joint site inspection within two months from the date of completion of works. The extra amount paid by the petitioner if any over and above the actual work, shall be adjusted in the future bills of the petitioner.

6.24. The petitioner cannot be penalized for any delay in their execution of work as claimed by Respondent Licensee as the petitioner in overview only helped the Licensee by taking over the responsibility of carrying out the work lessening burden on the Licensee. At the same time, we see no compelling reason to deem fit to invoke section 142 of the Electricity Act, 2003 as claimed by the petitioner inasmuch as the execution of

work, payment of charges etc. have taken place only after mutual consent of the parties and the disputes that have crept in during the process, stand resolved by this order.

6.25. Noting with concern the chequered nature of events and exchange of blames leading to unwanted delay for past three years since the petitioner made the application for an additional demand of 275kVA for his industry, the Commission view it apt to remark that when such situation of establishing the 33kV network system arises on application by consumers, the first attempt of the Licensee has to be to explore creation of the 33kV system to make the infrastructure more versatile and coordinated as aimed by the Electricity Act, 2003.

6.26. In effect we pass orders as below:

1. The petitioner's primary prayer to effect additional demand came to be decided by the Commission during the pendency of the petition vide interim order dated 25.04.23 whereby the additional demand was effected with the existing 22kV network. The same shall continue till the repair works are completed in the 110kV main line.
2. The Respondents shall revise the estimate henceforth, based on the actual, for the portion of the 110kV line works from the tapping location to the petitioner's industry already executed by the petitioner to assess the amount to be refunded to the petitioner as detailed in para 6.22 of this order. On assessment, such refundable amount shall be adjusted from the



establishment and supervision charges payable by the petitioner towards repair work to be carried out by the petitioner in the 110kV main line.

3. Materials for repair work of the 110kV main line (single circuit) from Sub-Station to the tapping location to the petitioner's industry shall be supplied and erected by petitioner at their cost under the supervision of the respondent Licensee. The balance in establishment & supervision charges is further payable by the petitioner towards the said repair work after adjustment of refund as ordered supra and as detailed in paras 6.20, 6.21 & 6.22 of this order. No other charges are payable by the petitioner.
4. On completion of the repair work of the 110kV main line, the feeding net work of the service connection of the petitioner's industry shall be transferred from the present temporary 22kV network to the aforesaid revamped 110kV network, permanently. The revised estimate based on actual of the main line work shall be prepared and shared with the petitioner for reconciliation within two months from the date of completion of works. The extra amount paid by the petitioner if any over and above the actual of the entire work, shall be adjusted in the future bills of the petitioner.
5. Penal action against the respondents vide section 142 of the Electricity Act, 2003 as urged by the petitioner is not warranted for the reasons explained in course of this order.
6. All wings of the respondents shall coordinate among themselves and with petitioner and render all kinds of assistance to complete the work in full within

a reasonable time. The superintending engineer of the concerned distribution circle shall coordinate entire agencies involved for timely completion of the work.

Petition stand disposed accordingly with no order as to costs.

(Sd.....)  
Member (Legal)

(Sd.....)  
Member

(Sd.....)  
Chairman

/True Copy /

**Secretary  
Tamil Nadu Electricity  
Regulatory Commission**