

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Order of the Commission dated this the 1st Day of August 2024

PRESENT:

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

M.P. No. 23 of 2023

M/s. Christian Medical College, Vellore
Ida Scudder Road
Vellore- 632004.

..... Petitioner
M/s.Ramasubramaniam Associates
Advocate for the Petitioner

Vs.

1. The Chairman & Managing Director
TANGEDCO (formerly TNEB)
144 Anna Salai,
Chennai – 600 002.

2. The Superintending Engineer
Vellore Electricity Distribution Circle
TANGEDCO, (formerly TNEB)
Vellore.

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

This Miscellaneous Petition stands preferred by the Petitioner Christian Medical College, Vellore with a prayer to set aside and declare as illegal, the Letter No.SEV/RCS/AS/AAG's Audit 2004, dt. 20.08.2004 issued by the 2nd Respondent and consequently direct the Respondents to classify the HTSC 1095 of the Petitioner under the Tariff for Educational Institutions instead of the Commercial Tariff.

This petition came up for final hearing on 25-07-2024 in the presence of Thiru. Ramasubramaniam & Associates, Advocate for the Petitioner and Tvl. N.Kumanan and A.P.Venkatachalapathy, Standing Counsel for the Respondent and on consideration of the submissions 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 Institution is an Unaided Minority Educational Institution imparting medical and allied education and conducting research. The object for which it was founded was to establish, maintain and develop a Medical College & Hospital, in India where men and women could receive medical and allied education of the highest order. An Association is running and administering the Medical College & a College of Nursing in Vellore, both of which are affiliated to the Dr. MGR Medical University.

1.2. The Petitioner institution conducts Graduate Medical Courses, Post Graduate Diploma Courses and Post Graduate Degree Courses, M.D. MS, DM., M.ch., Ph.D., etc. The Institution has been a Pioneer in India in the development of super specialties such as Cardiology, Neuro Surgery etc. The Petitioner also offers number of Allied Health Science courses. The College of Nursing provides a 4 year and 2-year B.Sc. degree course in Nursing, Post Graduate M. Sc. Degree course in Nursing affiliated to the Dr. MGR Medical University besides Certificate Courses in general nursing and mid-wifery, etc. The Medical College also conducts research into the fundamental causes of diseases and their prevention and treatment. The University regulations require that

there should be a hospital attached to the Medical College and the College of Nursing. The number of permissible admissions of students to the Medical College and the College of Nursing depends on the number of beds in the Hospital. Therefore, attached to the Medical College and the College of Nursing. and as an integral part of the Educational Institution, the Hospital is known as Christian Medical College Hospital, with an Eye Hospital, Mental Health Centre, a Rural Health Centre, Rehabilitation Institute and the RUHSA (Rural Unit for Health and Social Affairs), a Department of CMC at K.V. Kuppam where the students of Medical College and College of Nursing and Allied Health Science courses obtain practical training through-out the educational courses.

1.3. The practical training in the hospital is an essential and integral part of the educational training for the students of all the above courses and in the case of medical and nursing courses is a requirement stipulated by the Dr.M.G.R. Medical University, Indian Medical Council and Indian Nursing Council. In order to impart education in the College and the Hospital annexed to it, the Institution employs several staff comprising of Doctors, Nurses, Technicians and Paramedical staff etc. The teaching staff of the Medical College and the College of Nursing are appointed with the qualifications prescribed by the Dr.M.G.R. Medical University. As part of their teaching responsibilities they also work as physicians, surgeons and nursing assistants in the Hospital where they impart practical training to the students. This work is an integral part of the teaching activities. For this purpose, the medical and nursing students are distributed and posted in the different medical and clinical units and wards of the

Hospital during the course of the training. Treatment of the patients in the Hospital is part of the medical training and the hospital is a Teaching Institution. This has been upheld by the Hon'ble Supreme Court in its Judgement dated 20.10.1987.

1.4. The Hospital is recognized as a Charitable Institution and 10% of the Inpatients and 40% of the outpatients are treated free every year. The Institution is administered on a non-profit basis. All the staff are interchangeable between the College and Hospital whenever so required and the conditions of service and the Service Rules are the same for both the college and Hospital. The Tamil Nadu Government in its [G.O.No.](#) (R.T. 2031) dt. 04.10.76 has recognized that the Hospital is a part of the Petitioner Institution. There is no profit or surplus at the end of each accounting year because of its charitable nature and there is only a deficit.

1.5. The quarters which are provided for most of the staff are attached within the campus and the Electric supply is fed from the H.T. Service. Separate meters are provided to each of the Quarters.

1.6. The following separate metering arrangements is as given below and are all connected and attached to the service.

H.T. Connections

S.C. No.	<u>Location</u>
H.T. 81 (1001)	C.M.C.H. Main Hospital
H.T. 83 (1003)	Medical College (1 st Point Supply)
H.T. 87 (1007)	Medical College (2 nd Point Supply)
H.T. 100 (1059)	Schell Eye Hospital RUHSA (K.V. Kuppam)

The Standby Generator supply is available to maintain the essential services but are not connected to any of the Quarters.

1.7. In the year 1992, the Government of Tamil Nadu by G.O.Ms.No.102 dt. 24.01.1992 sought to amend the Tariff rates for consumption of electrical energy. Pursuant to the said G.O., the Electricity Board sought to apply the rates applicable to Category HT VII to the HT II service connections of the Petitioner institution.

1.8 The Petitioner Institution had made detailed representations dt. 07.11.1992 and 10.11.1992 to the Tamil Nadu Electricity Board requesting that their HT services may be brought under HT II instead of the proposed HT VII *inter-alia* on the ground that the Petitioner is a recognized Educational Institution and its Hospital was a Teaching Hospital and an integral part of a Recognized Educational Institution.

1.9 The 1st Respondent on a favourable consideration of the Petitioner's request, vide letter No.CH/EA79047/92-2 dt.05.12.1992 issued instructions to the 2nd Respondent, that the HT service connections of the Petitioner institution be brought under HT Tariff II (Education Institutions) instead of HT Tariff VII (Commercial). Consequent to the said instructions dt.05.12.1992, the HT services of Petitioner institution have been classified under HT Tariff II on and from December 1992 and the same has continued till December 2001.

1.10. The Government of Tamil Nadu, issued G.O.Ms.No.95 dt.28.11.2001 increasing the rates applicable to the various Tariffs and also consolidated the various types of

Consumers into different categories. However, in so far as the petitioner was concerned, there was no alteration or change in the nomenclature of HT Tariff II customers in G.O.Ms.No.102 dt.24.01.1992 and the nomenclature of HT Tariff IIA customers in G.O.Ms.No.95 dt. 28.11.2001. Furthermore, since the 1 Respondent Chairman, (then Tamil Nadu Electricity Board), had vide his proceedings dt.05.12.1992 placed the HT connections of the petitioner CMC&H under HT II, the said G.O.Ms.No.95 dt.28.11.2001 did not affect the classification of HT services of petitioner in any manner. The Electricity Board being obviously aware that the G.O. Ms.No.95 dt.28.11.2001 did not alter the situation as far as this petitioner was concerned, did not make any change of classification from November 2001 till June 2002 for four of the five connections and in respect of the 5th connection for RUHSA till August 2004.

1.11. In the above said circumstances, the petitioner institution was surprised to receive the Current Consumption Bill for the month of July 2002 which abruptly changed the classification from HT Tariff II A (old HT II) to HT III claiming an amount of Rs.62,44,741/- (Rupees Sixty-two lakhs forty-four thousand seven hundred and forty-one only) for the month of June 2002. The said change was not preceded by any notice or communication.

1.12. The Petitioner was under the impression that the Billing from HT Tariff II A to III was probably a typographical or clerical error, and therefore took up the matter with the 2nd Respondent, the Superintending Engineer, vide letter dt.05.08.2002 seeking clarification on the sudden change of tariff. Unfortunately, no response was received to the said letter dt 05.08.2002. Surprisingly instead, the

petitioner was served with a Disconnection Notice dt.05.08.2002 and 06.08.2002. Being a college and Teaching Hospital and not wanting to expose itself to even the remotest risk of disconnection of power, the petitioner institution paid the Current Consumption Bills for July 2002 under protest vide their letter dt. 04.09.2002 and once again requested the Electricity Board to clarify the abrupt change in classification to enable the petitioner institution to take up the matter further, if necessary.

1.13. In response to the various requests of the petitioner they received letter No.SEV/RCS/AS/A1/F.TF/2002 dt.06.08.2002 from the 2nd Respondent that the change from Tariff IIA to HT Tariff III has been done under instructions of 1st respondent the Chairman, then Tamil Nadu Electricity Board, vide The Chairman's Letter No.SE/Commercial/EE/T/AEE1/F.SFMC/CR.No.3766/2002 dt. 04.07.2002. Since the Medical College & Hospital are attached to each other, the billing was done previously upto 6/2002 under Tariff IIA as per the Tariff conditions. The Petitioner is not aware of the contents of the letter of the Chairman dt.04.07.2002. The Petitioner requested the Superintending Engineer vide its letter No.GS:33.2(Electl.): 2002 letter dt. 13.08.2002 for a copy of the Chairman's instructions dt.04.07.2002

1.14. Taken aback by the unilateral and abrupt change in tariff, the Petitioner made a detailed representation dt.14.08.2002 to the 1st Respondent setting out the facts of the matter in detail. The representatives of the Institution including its Director also met personally with the 1st Respondent on 16.08.2002 and explained the factual position in detail. At the conclusion of the meeting, the 1st Respondent assured the representatives of the Petitioner that he would look into the matter and take a decision shortly.

1.15. In the meanwhile, the Petitioner received the current consumption bill for the month of August, 2002 also. However, as the representation before the 1st Respondent was still pending consideration and they had been assured that the matter would be looked into, it was decided that the said current consumption bill would also be paid at the higher tariff rates under protest. As a result, the current consumption bills for two months i.e., July and August, 2002 at the revised tariff has been paid by the Petitioner Institution straining themselves to a very great extent, under protest.

1.16. The Petitioner was expecting the 1st Respondent to take a decision in the matter at least by the end of September so that the current consumption bill for the month of September which would be received by the month end would not charge them at the revised tariff. However, unfortunately since nothing was heard from the 1st Respondent a reminder dt. 19.09.2002 was sent to the 1st Respondent requesting him to pass orders in the matter.

1.17. As no reply was forthcoming with regard to the representation dt. 19.09.2002 made by the Petitioner to the First Respondent, the Petitioner filed W.P. No. 37681 of 2002 before the Hon'ble High Court, Madras on 01.10.2002 challenging the communication of the second Respondent dt.06.08.2002 In the meanwhile, on 3rd October 2002, a reply dt.27.09.2002 was received from the First Respondent rejecting the representation of the Petitioner on a most frivolous and untenable ground that the Petitioner's Institution, is a hospital, which charges patients and therefore would not fall under HT Tariff- II A. The said Communication dt.27.09.2002 of the First Respondent

has disregarded various pleas raised by the Petitioner in its representation and has also failed to consider one of the primary contentions of the Petitioner that it is an Educational Institution and the Hospital attached to the said institution is only a Teaching Hospital.

1.18. The aforesaid demands made by the Respondents only relate to following HT Connections: -

HT Connections

<u>S.C. No.</u>	<u>Location</u>
H.T. 81 (1001)	C.M.C.H. Main Hospital
H.T. 83 (1003)	Medical College (1 st Point Supply)
H.T. 87 (1007)	Medical College (2 nd Point Supply)
H.T. 100 (1059)	Schell Eye Hospital

The H.T. Connection bearing No. HT SC 1095 relating to RUHSA was not altered by the Respondents and the said connection continued to be governed by HT Tariff I-A.

1.19 The Petitioner, aggrieved by the change of classification from Tariff I-A to III, in respect of the aforesaid 4 HT Power connections filed W.P.No.38076 of 2002 before the Hon'ble High Court of Madras and also sought an Injunction restraining the Respondents from subjecting the 4 HT Connections of the Petitioner Institution to rates under HT Tariff-III and to continue to charge the Petitioner under HT Tariff II-A The Hon'ble High Court, Madras was pleased to admit the W.P.No.38076 of 2002 on 22.10.2002 and in WPMP No.57058 of 2002 and pleased to issue an Injunction as

prayed for by the Petitioner. Subsequently, the injunction granted on 22.10.2002, was also made absolute by the Hon'ble High Court, Madras on 02.09.2003.

1.20 As already pointed out, for reasons best known to the Respondents, they did not choose to change the Tariff Classification for HT Connection SC No.159 (1095) relating to RUHSA and the same was changed only later, as explained below.

1.21 In the above background, all of a sudden without any prior intimation, the Petitioner Institution has received a communication bearing No.SEV/RCS/AS/F AG's Audit 2004, dt.20.08.2004 from the 2nd Respondent stating that the Tariff for HT Connection SC 1095 relating to RUHSA is changed from Tariff II-A to III and the bills from December 2001 to till date were revised under Tariff-III. In this erroneous view, the 2nd Respondent has called upon the Petitioner to pay a sum of Rs.10,10,398/- as short levy.

1.22. It is highly unfortunate and regrettable that despite Orders of the Hon'ble High Court, Madras in WPMP No.57058 of 2002 in WP No.38076 of 2002, though relating to the 4 other connections in the Petitioner Institution, which has nevertheless been enjoined, the 2nd Respondent has now sought to change the classification for the 5th connection also which is identical to the subject matter of the earlier proceedings.

1.23. In such circumstances, the Petitioner, aggrieved by the change of classification from Tariff-II A to III, in respect of the aforesaid HT Connection SC 1095 relating to RUHSA filed in W.P. No. 27161 of 2004 before the Hon'ble High Court, Madras and also sought an Injunction restraining the Respondents from subjecting the aforesaid

HT Connection SC 1095 relating to RUHSA of the Petitioner Institution to rates under HT Tariff-III and to continue to charge the Petitioner under HT Tariff II-A. The Hon'ble High Court, Madras was pleased to admit the W.P.No.27161 of 2004 on 24.09.2004 and in WPMP No.33053 of 2004 and pleased to issue an Injunction.

1.24. Several Writ Petitions were filed by other educational institutions having medical colleges with teaching hospitals before the Hon'ble High Court, Madras whose HTSC electricity connections were changed from Tariff II-A to Tariff III similar to the Petitioner.

1.25 Thereafter the batch of Writ Petitions including the WP No.38076 of 2002 and W.P. No. 27161 of 2004 came up for final hearing before the Hon'ble High Court, Madras. After submissions, the Hon'ble High Court passed final Order dt. 24.03.2023 in the batch of Writ Petitions including the WP No.38076 of 2002 and W.P. No. 27161 of 2004 filed by the Petitioner. The relevant extract of the order dt. 24.03.2023 is reproduced below:

"3.In view of the above observations, the writ petitions are disposed of. However, the petitioners are at liberty to file appropriate petition before the Tamil Nadu Electricity Regulatory Commission as per Regulation 26(3) of the Tamil Nadu Electricity Supply Code, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Regulatory Commission shall dispose of the petitions as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed."

1.26. The certified copy of the Order dt. 24.03.2023 was obtained by the Petitioner on 05.05.2023 and accordingly, the Petitioner has approached the Commission by way of the present Petition to redress its grievances relating to the change of tariff for its HTSC electricity connections from the tariff for educational institutions to the commercial tariff.

1.27. The change of Classification of Petitioner's Service Connections from HT IIA to III is not sustainable either legally or on facts for the following Grounds :-

- (a) The Petitioner is a Recognized Educational Institution imparting the highest standards of education to which a Teaching Hospital is attached. The said Hospital is an integral part of the College. This position has been recognized by several Courts and Government Departments. The Electricity Board itself has recognized this position in 1992.
- (b) The change of tariff was done without the prior notice to the petitioner Institution.
- (c) The petitioner's Service Connections have been confirmed and put under HT II pursuant to Letter No.CH/EA/79047/92-2 dt.05.12.1992 of the 1st respondent. The said decision has been in force from 1992.
- (d) The nomenclature of customers under HT Tariff II in the erstwhile G.O.Ms.No.102 dt.24.01.1992 and the nomenclature of customers in HT Tariff IIA in G.O.Ms.No.95 dt. 28.11.2001 are identical as far as Petitioner is concerned. There is, therefore, no warrant for change in the classification from HT IIA to HT III. Having specifically been kept out of the purview of HT VII of G.O.Ms.No.102 dt.24.01.1992, the Petitioner cannot be put back under the same category in the now re-numbered HT Tariff III of GO Ms. No 95 dt.28.11.2001.
- (e) The abrupt and unilateral change of classification without the Petitioner being informed of the same has caused prejudice and irreparable loss to the Petitioner. If only the Petitioner had been given an opportunity it would have been in a

position to explain the above facts. Further the said change in classification being made without taking any Test Report is also against the Rules of the Electricity Board.

- (f) The Petitioner is a Charitable Unaided Institution and as pointed out hereinabove, cannot afford to pay for power consumption at the HT Tariff III. With the threat of disconnection orders issued by the Vellore Electricity Distn. Circle, the petitioner paid the Current Consumption Bills under HT III under protest.

1.28. The Petitioner is an unaided Charitable institution rendering yeoman medical education and treatment. If the Petitioner is called upon to pay the charges at the higher tariff it would be put to irreparable loss and hardship.

1.29. In such circumstances and having no other efficacious alternate remedy, the Petitioner has approached the Commission to redress its grievances and set aside and declare as illegal, the Letter No. SEV/RCS/AS/A AG's Audit 2004, dt.20.08.2004 issued by the 2nd Respondent and consequently direct the Respondents to classify the HTSC 1095 of the Petitioner under the Tariff for Educational Institutions instead of the Commercial Tariff.

2. Counter affidavit on behalf of the Respondents:-

2.1. The Petitioner is having Medical College with Hospital and obtained HT Services having SC No- 1001, 1003, 1007, 1059, and 1095 effected on 23.3.1987, 15.2.1953, 27.8.1964, 21.1.1981 and 13.8.1986 respectively. The applicability of Tariff is based on the orders issued by the Govt. of Tamil Nadu and the Commission from time

to time. The HT services are billed under HT Tariff IIA (up to June-2002) and changed to HT Tariff-III as per the Tariff G.O.Ms. No.95 Energy (A2) Department dt. 28.11.2001. Based on the circular Chairman/TNEB/Chennai in his letter dated 04.07.2002, the HT Bill for the month of July-2002 was billed under Commercial Tariff. Further the Petitioner had been informed regarding the applicable Tariff. letter No.SE/Comml/ EE/T/AEE1/ SFMC/ CR.No.7887/2002, dt.27.09.2002.

a. The petitioner has filed a Writ Petition vide W.P.No.27161/2004 before the Hon'ble High Court of Madras challenging the tariff change. The Hon'ble High Court issued interim stay and disposed the case on 24.3.2023 with the following direction:-

In view of the above observations, the writ petitions are disposed of. However, the petitioners are at liberty to file appropriate petition before the Tamil Nadu Electricity Regulatory Commission as per Regulation 26(3) of the Tamil Nadu Electricity Supply Code within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Regulatory Commission shall dispose of the petitions as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

b. The petitioner has filed this Miscellaneous Petition vide M.P.N.23 of 2023 before the Tamil Nadu Electricity Regulatory Commission/Chennai for applicable of Tariff.

2.2. The following service connections are used for Medical College & Hospital.

(a) HT.SC.No.1001--CMC Main Hospital.

(b) HT.SC.No. 1059--Eye Hospital,

(c) HT.SC.No. 1007--Medical College, Mental Hospital, CHAD

(Electrically and physically not segregated)

(Community Health and Development Hospital, Auditorium

(Marriage Hall), Doctors quarters and women's Hostels.

(d) HT.SC.No.1003-Men's Hostel, Bank, Post Office, Quarters and Shops etc.

(e) the HT.SC.No.1095. Which is also functioning as private Hospital in the name of RUSHA.

2.3. The G.O.Ms. No.95 Energy (A2) Department dated 28.11.2001 has fixed the HT Tariff-IIA & HT Tariff-III as furnished below:-

High Tension Tariff – IIA

Recognised educational institutions, Hostels run by recognised Education Institutions, Govt. Hospitals, Hospitals under the control of Panchayat Unions, Municipalities, Veterinary Sub Centre, Primary Health Centres, Health Sub Centres, Orphanages, Public Libraries, Water Works, Public Lightings, Public Sewerage works by Govt., Local bodies, Laboratories, Research Institutions, Studio, Cinema Theatres and such other Institutions declared by the Govt. from time to time.

Area	Rate per KWH Rs.in Paise	Rate per KVA of Maximum Demand Rs.
Metropolitan	3.60	150
Non Metropolitan	3.50	150

High Tension Tariff-III

Commercial and all categories of consumers not covered under High Tension Tariff 1A, 1B, IIA, IIB, IV, and V.

Area	Rate per KWH Rs.in Paise	Rate per KVA of Maximum Demand Rs.
Metropolitan	4.30	300

2.4. The petitioner is rendering treatment on chargeable basis and self financed institution imparting Medical and allied education and conducting research. Though the hospital attached to the institution, the patients are treated on payment basis without free of cost.

2.5. In view of the above, the Commission may refer to the Tariff categorisation made in the Tariff Schedule in respect of recognised Educational Institutions and Hospitals under various Tariff Orders, which provides as follows:

“a) Order in T.P.No.1 of 2002 dated 15.03.2003:

3.0 HT Tariff II-A

High Tension Tariff II-A Tariff Category	Rate in paise per kWhr (unit)- Energy Charges	Rate in rupees per KVA of Maximum Demand
HT Tariff II-A	350	200

This tariff is applicable to recognized educational institutions, hostels run by the recognized educational institutions, Government Hospitals and the hospitals under the control of Panchayats, Municipalities and Corporations, Veterinary hospitals, Leprosy Centre, Primary Health Centre, Orphanages, Public Libraries, Water Works, Public Lighting, Public Sewerage Works by Government / Local Bodies, Laboratories, Research Institutions, Studios, Cinema Theaters, Ministry of Defence Establishments, Housing Complexes and such other institutions declared by the Commission from time to time.

4.0 High Tension Tariff II-B

Tariff Category	Tariff	
	Rate in paise per kWhr (unit)- Energy Charges	Rate in rupees per KVA of Maximum Demand
HT Tariff II-B	2.80	125

This tariff is applicable to actual places of worship and specially notified places of public interest, Mutts, religious institutions etc., declared by the Commission from time to time.

5.0 High Tension Tariff III

Tariff Category	Tariff	
	Rate in paise per kWhr (unit)- Energy Charges	Rate in rupees per KVA of Maximum Demand
HT Tariff III	500	300

This Tariff is applicable to all commercial Establishments and other Categories of Consumer not covered under HT Tariff- IA, IIA, IIB, IV &V.

b) Order in 3 of 2010 dated 31.07.2010:

9.11.1 High Tension Tariff II- A

Tariff Category	Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff IIA	200	400

The tariff is applicable to Government and aided educational institutions, Hostels run by such educational institutions, Government Hospitals, Hospitals under the control of Panchayat Unions, Municipalities or Corporations, Veterinary Hospitals, Leprosy sub-Centres, Primary Health Centres. Health Sub-Centres, Orphanages, Public Libraries, Water works, Public Lighting, Public Sewerage Works by Government / Local Bodies,

Public Water Supply by New Tirupur Area Development Corporation, Electric crematorium by Local bodies, Laboratories, Research institutions, Ministry of Defence and Avadi CRPF Establishment, Desalination plant at Kudankulam Nuclear Power Plant.

High Tension Tariff II-B

Tariff Category	Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II-B	200	450

The tariff is applicable to private educational institutions and hostels run by them, Studios, Cinema Theatres.

High Tension Tariff III

Tariff Category	Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff III	300	580

This tariff is applicable to all commercial Establishments and other Categories of consumer not covered under HT Tariff-IA, IIA, IIB, IV & V.

c) Order No.1 of 2012 dated 30.03.2012

High Tension Tariff II-A

Tariff Category	Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff IIA	300	450

This tariff is applicable for the following services under the control of Central / State Governments /Local bodies / TWAD Board/ CMWSSB:

1. Educational institutions including government aided educational institutions and Hostels run by such educational institutions, Hospitals, Veterinary Hospitals, Leprosy Sub-Centres, Primary Health Centres and Health Sub-Centres, Orphanages, Public Libraries, Public Water works and sewerage works, Public Lighting, Residential colonies and Housing complexes, Senior Citizens communities, Electric crematorium, Research Laboratories and institutions, Ministry of Defence and Avadi CRPF establishment, Dairy units, Hospitals and Rehabilitation centres run by charitable trusts which offers totally free treatment for all categories of patients on par with government hospitals, Desalination plants and Art Galleries.
2. Desalination plant at Kudankulam nuclear power plant and Minjur Desalination plant of Chennai water desalination Ltd.
3. Single point supply to Co-operative group housing society as specified in “The Electricity (Removal of Difficulties) Eighth Order 2005”.
4. Actual places of public worship.

High Tension Tariff II-B

Tariff Category	Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff IIB	300	550

The tariff is applicable to private educational institutions and hostels run by them.

High Tension Tariff III

Tariff Category	Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff III	300	700

This tariff is applicable to all commercial Establishments and other Categories of consumer not covered under HT Tariff-IA, IIA, IIB.IV & V

d) SMT – Order No.9 of 2014 dated 11.12.2014:

High Tension Tariff II-A:

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff IIA	350	635

- i. This tariff is applicable for the following services under the control of Central / State Governments / Local Bodies / TWAD Board/ CMWSSB:
 - a) Educational institutions including government aided educational institutions and Hostels.
 - b) Teaching and training institutions of Ministry of Defence and CRPF establishments.
 - c) Hospitals, Primary Health Centres and Health Sub-Centres, veterinary Hospitals, Leprosy Centres and Sub-Centres.
 - d) Public Water works and sewerage works and desalination plants.
 - e) Residential colonies and Housing complexes, Senior citizen communities, Old age Homes and Orphanages.
 - f) Public Lighting and Electric crematorium.

- g) Public Libraries and Art Galleries.
 - h) Research Laboratories and institutions
 - i) Dairy units
- ii. This tariff is also applicable to the following
- a) Hospitals and Rehabilitation Centres, Training & Rehabilitation centres, Old Age Homes and Orphanages run by Charitable Trusts which offer totally free treatment/ services for all categories of which offer totally free treatment/ services for all categories of patients/inmates on par with government hospitals and institutions.
 - b) Desalination plant at Kudankulam Nuclear Power Plant and Minjur Desalination plant of Chennai Water Desalination Ltd. Water Supply Works by new Tirupur Area Development Corporation as long as they supply drinking water predominantly to local bodies/public.
 - c) Single point supply to Cooperative Group Housing Society and for the residential purpose of the employees as specified in "The Electricity (Removal of difficulties) Eighth Order 2005".
 - d) Actual places of public worship.

High Tension Tariff II – B:

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff IIB	350	635

- i. The tariff is applicable to all private educational institutions and hostels run by them.

High Tension Tariff III

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff III	350	800

This tariff is applicable to all commercial Establishments and other Categories of Consumer not covered under HT Tariff-IA, IIA, IIB.IV & V.

Tariff Order in T.P. No.1 of 2017 dated 11 -08-2017:

High Tension Tariff II-A

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II A	350	635

This tariff is applicable for the following services under the control of Central/ State Governments/Local Bodies/ TWAD Board/ CMWSSB:

- (a) Educational institutions including government aided educational institutions and Hostels.
- (b) Teaching and Training institutions of Ministry of Defence and CRPF establishments,
- (c) Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.

(d) Public Water Works and sewerage works and Desalination plants.

(e) Central Prisons and other Prisons of the State Government.

(f) Public Lighting and Electric crematorium.

(g) Public Libraries, Art Galleries and Museums.

(h) Research Laboratories and Institutions

(i) Dairy units

J Residential colonies and Housing Complexes, Senior citizen communities, Old age Homes and Orphanages,

This tariff is also applicable to the following

Hospitals and Rehabilitation Centres, Training & Rehabilitation Centres, Old Age Homes and Orphanages run by Charitable Trusts which offer totally free treatment/services for all categories of patients / inmates on par with Government Hospitals and Institutions.

Desalination plant at Kudankulam Nuclear Power Plant and Minjur Desalination plant of Chennai Water Desalination Ltd. Water Supply Works by new Tirupur Area Development Corporation as long as they supply drinking water predominantly to local bodies / public.

Single point supply to Cooperative Group Housing Society and for the residential purpose of the employees as specified in "The Electricity (Removal of difficulties) Eighth Order 2005". Actual places of public worship.

High Tension Tariff II-B:

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II-B	350	635

The tariff is applicable to all Private Educational Institutions and Hostels run by them.

High tension Tariff III

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff III	350	800

This tariff is applicable to all Commercial Establishments and other categories of consumer not covered under HT Tariff – IA, IIA, IIB, IV & V

Tariff Order No.7 T.P.No.1 of 2022 dated 9.9.2022:

High Tension Tariff II-A

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II A	550	700

This tariff is applicable for the following services under the control Central/State Governments/ Local Bodies/TWAD Board/ CM WSSB:

- (a) Educational institutions including Government Aided Educational Institutions and Hostels.
- (b) Teaching and Training institutions of Ministry of Defence and CRPF establishments.
- (c) Hospitals, Primary Health Centres and Health Sub- Centres, Veterinary Hospitals, Leprosy Centres and Sub- Centres.
- (d) Public Water Works and Sewerage Works and Desalination plants.

- (e) Central Prisons and other Prisons of the State Government.
- (f) Public Lighting and Electric crematorium.
- (g) Public Libraries, Art Galleries and Museums.
- (h) Research Laboratories and Institutions
- (i) Dairy units
- (j) Residential colonies and Housing complexes, Senior citizen communities, Old age Homes and Orphanages,

This tariff is also applicable to the following

Hospitals and Rehabilitation centres, Training & Rehabilitation centres, Old Age Homes and Orphanages run by charitable trusts which offer totally free treatment/services for all categories of patients/inmates on par with Government Hospitals and Institutions.

Desalination plant at Kudankularm Nuclear Power Plant and Minjur Desalination plant of Chennai Water Desalination Ltd. Water Supply Works by new Tirupur Area Development Corporation as long as they supply drinking water predominantly to local bodies/public.

Single point supply to Cooperative Group Housing Society and for the residential purpose of the employees as specified in "The Electricity (Removal of Difficulties) Eighth Order 2005".

This tariff is also applicable to:

- a) Railway traction of Indian/Southern Railways, Metro Railways, MRTS
- b) All the connected loads of CMRL, Loads other than CMRL like ATM, Kiosks, Stalls, Hotels, etc. which are operated by third parties of private agencies shall be separately metered and charged under applicable LT

Miscellaneous Category and the above consumption shall be deducted from the total energy consumption recorded in the main meter at the CMRL's point of supply.

This tariff is applicable to Lift Irrigation Societies for Agriculture registered under Co-operative Societies Act or under any other Act. (To be fully subsidized by the Govt.).

Hospitals accredited by 'National Accreditation Board for Hospitals and Health care providers' (NABH) situated in Rural areas (Village / Town Panchayats

Actual places of public worship.

High Tension Tariff II – B

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II-B	550	750

Tariff IIB is further re-classified as under

1. All private educational institutions and hostels run by them.
2. All private Medical colleges and hostels which are physically & electrically segregated from, private Hospitals, within same premises.

High Tension Tariff III

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff III	550	850

This tariff is applicable to all commercial establishments and other categories of consumer not covered under HT Tariff-IA, IIA, IIB, IV & V.

From the above, it is clear that High Tension Tariff II-A is applicable for the Hospitals under the control of Central /State Governments. Since the Petitioner does not fall under the aforesaid category, then High Tension Tariff II-A is not applicable.

High Tension Tariff II- B:

The Tariff-IIB is applicable as and when the Educational Institutions are Electrically and Physically segregated from the Hospitals. Since the Petitioner does not fall under the aforesaid category, then High Tension Tariff II-B is not applicable.

The applicability of other tariff categories of High Tension Tariff are as follows:

High Tension Tariff IA: Applicable mainly for Industries

High Tension Tariff IB: Applicable mainly for Railway

High Tension Tariff II B: Applicable mainly for Private Educational institutions and hostels run by them

High Tension Tariff IV: Applicable mainly for Agriculture

High Tension Tariff V: Applicable mainly for Temporary supply

From the above, it is clear that the tariff category applicable to the Petitioner's Hospital, does not fall under any of the Categories mentioned above. The only alternative available to the Petitioner is High Tension Tariff III, which is applicable to all other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V.

2.6. The Medical Colleges were Billed under HT Tariff-IIA till the issuance of Tariff G.O.No: 95 of 2001 dt: 28. 11.2001. As per the G.O. the tariff has been changed to HT Tariff-III from the month of 07/2002 which is correct and the G.O has been implemented.

2.7. The Medical College Hospitals are being run under self financing and chargeable basis from the patients.

2.8. The Petitioner has represented the Chariman/TNEB vide Letter dated: 14.8.2002 for Tariff change. The same was replied in a separate letter dated 27.09.2002 addressed to the Director / CMC Hospital/ Vellore properly.

2.9. The petitioner has approached the Hon'ble High Court for the Tariff revision made from Tariff II to HT tariff III from 07/2002 onwards, and filed the W.P. No.38076 of 2002 seeking order to bill the following services under IIA applicable to Govt. Hospitals in respect of

(a) HT.SC.No. 1001--CMC Main Hospital

(b) HT.SC.No. 1059--Eye Hospital,

(c) HT.SC.No.1007--Medical College, Mental Hospital, CHAD

(Electrically and physically not segregated)

(Community Health and Development Hospital, Auditorium (Marriage Hall), Doctors quarters and women's Hostels.

(e) HT.SC.No.1003-Men's Hostels, Bank, Post Office, Quarters and Shops etc.

(f) and another W.P. No. 27161/2004 filed in similar nature of the case for the HT.SC.No. 1095. (which is also functioning as Private Hospital). It has been informed vide

SE/Vellore letter dt.20.8.2004 and interim stay was issued by the Hon'ble High Court dated 28.9.2004.

2.10. Though the petitioners hospital is attached to its educational institution to give training to the students, most of the inpatients and outpatients are treated under chargeable basis which is a commercial activity of the hospital. In real, the Hospital is not a part of the Medical College, whereas the Medical College is a very small part of the Hospital and it also not attached to the premises. The petitioner has run its hospital under the name of their Educational Institution and availed tariff concession in 1992.

2.11. The Tariff has been changed as per the G.O.No: 95 of 2001 which is published in the Govt. Gazette and notified to all public vide Govt. notification.

2.12. The new G.O has clearly mentioned HT Tariff-IIA is applicable to Govt. Hospital and Educational institute run by Govt. only. Hence the Petitioner, was covered under HT Tariff-III and billed accordingly. The HT Bill were revised accordingly. Due to interim stay the petitioner is paying the bills as per the HT Tariff-IIA rates.

2.13. The Commission has issued order in similar case in M.P.No: 9 of 2020 filed by M/s Rajah Muthiah Chettiar Charitable and Educational Trust Vs TANGEDCO which has been taken on file consequent to the Hon'ble High Court order in W.P.No: 5994 of 2007 dated 17. 7.2019. The findings of the Commission in its order dated: 22.12.2020 as reproduced below:-

7.14 The Respondent has further stated that in respect of hospitals, the respective tariff orders of TNERC have assigned the tariff of HT Tariff IIA to only government hospitals and hospitals run by charitable trusts wherein they offer

totally free treatment / services for all categories of patients / inmates on par with government hospitals and institutions. But there was no specific categorization for private hospitals. Hence, as per the tariff orders the categories of consumers not covered under the categories of High Tension Tariff IA, IB, IIA, IIB, IV and V should be assigned the tariff of HT Tariff III (Commercial) and hence all the private hospitals are being charged under HT Tariff III. For the reason being associated with an educational institution if a hospital has to be assigned the tariff of HT Tariff IIB, then it will invalidate tariff categorization procedure in the manner of disparity in the application of tariff.

7.15 The Respondent further states that the Petitioner contends that the treatments to the out patients in their hospital attached with their medical college are not charged at all and it is only for the medicines for some serious ailments that the patients are charged for. It must be specifically mentioned that in government hospitals, the outpatients are not even charged for medicine also. So, the educational institution attached to the hospital of Dr. Rajah Muthiah Chettiar Charitable and Educational Trust eventhough being run by the Charitable Trust may not even be treated on par with the government hospitals hence only the tariff of HT Tariff III is appropriate as a commercial category.

On the above grounds the application of the tariff of HT Tariff III is proper for medical educational institution as being attached with a hospital with predominated load and public utility. The tariff of HT Tariff IIB is applicable only if the educational institution functions as a separate entity under a individual service connection assigned exclusively for that respective medical college. And only the tariff of HT Tariff III may be assigned for the separate connection for that respective hospital attached with that medical institution.

14. Further the final order in M.P.No: 09 of 2020 is as follows

From the above it is clear that the tariff category applicable to the Petitioner's Hospital, which doesn't fall under any of the Categories mentioned above, the only alternative available to the Petitioner is High Tension Tariff III, which is applicable to all

other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V.

In view of the foregoing, the Commission Orders that separate service connections may be given to the Petitioner as proposed by the Respondent and accepted by the Petitioner for No.1 of 2017 the following purposes as per Tariff Order in T.P dated 1-08-2017.

- 1. For the College and the hostels run them: High Tension Tariff II-B Category*
- 2. For the Hospital High Tension Tariff III Category Subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation. With this the petition is disposed of.*

The Commission has clarified in the order in M.P. No.25 of 2020 order dated 16/11/2021 as follows:-

Whether Physical and Electrical segregation has been done for hospital and Educational institution for availing separate service Connection? The Commission in its Order in M.P. No.9 of 2020 dated 22- 37 12-2020 has, interalia, ordered as under: "Two separate service connections may be given to the Petitioner as proposed by the Respondent and accepted by the Petitioner for the following purposes as per Tariff Order in T.P. No.1 of 2017 dated 11-08-2017: 1. For the College and the hostels run by them: High Tension Tariff II-B Category and 2. For the Hospital :High Tension Tariff II Category Subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation". Thus, the crux of the issue is physical segregation and the impugned demand notice can be quashed only if the petitioner has established the factum of physical segregation. It is seen from the material records no evidence has been let into prove the factum of physical segregation which is the basic requirement. In this connection, the Commission would also like to refer sub clause 14 in main clause 27 of Tamil Nadu Electricity Distribution Code, 2004, which states as under: "27. Requisitions for Supply of Energy: 38 (14) Where more than one person or more than one establishment is or intended to be in occupation of a door number or sub-door number, more than one service connection

will be given only if there is a permanent physical / electrical segregation of areas for which different service connections are applied for". Also, the Commission would like to refer sub-clause 3 in main clause 29 of Tamil Nadu Electricity Distribution Code, 2004, which states as under: "29. Service Lines: 3) The existing High Tension Consumers who want to avail a separate service for their expanded industrial activities within a door No. or sub-door No. (in the same premises) a new service connection shall be given provided the extension is physically and electrically segregated." But, there is no averment to the effect that physical segregation has been done. 2. Whether the prayer of the Petitioner to set aside the demand of Rs.8, 48,47, 888 is tenable? The Petitioner has contended that it has received a show ca use notice dated 03-05-2002 1 from TANGEDCO in respect of the Petitioner's electricity service connection in HT SC 513 issued under HT Tariff-III 39 wherein the Petitioner was charged for the electricity under the Category of "HT Tariff-III" instead of "HT Tariff-IIA", which is the tariff applicable to the Petitioner. In order to set right the same, as stated supra, the physical segregation and obtaining of two separate connections are necessary. The section 62 of the Electricity Act, 2003, also provides for differential tariff on the basis of purpose for which the supply is requested. Further, the demand notice of the year 2006, which has been stayed pending proceeding (before High Court and the Commission) has not been quashed. In absence of physical segregation, the mixed load will have to be charged under higher of the two loads only. In this case, higher of two loads i.e. HT Tariff II-A and HT Tariff III, which is Tariff III is claimed by the Respondent. Hence, the Respondent's claim is tenable. With the above order, the petition is dismissed.

Further the Commission has dismissed the review petition filed by the M/s Rajah Muthiah Chettiar Charitable and Educational Trust vide order dated: 01/08/2023 in R.P. No.7 of 2021 in M.P.No.25 of 2021.

2.14. The Commission's order in M/s Rajah Muthiah Chettiar Charitable and Educational Trust is applicable to all HT services of CMC and CC charges are payable under HT Tariff-II. The details of CC charges payable and applicable BPSC of 1.5% Per Month, as follows:-

The difference of CC charges payable as per HT Tariff –II to III

H.T. Service connection Number	Purpose of the service	Place	Distance from the college	Arrear amount Prior 12/2001 to 03/2003	Arrear amount from 04/2003 to 07/2023	Total amount in Rupees	BPSC
1059	CMC college run with bank, post office, Hostel and shops	Bagayam	College at Bagayam	5,66,128	14,337,800	14,903,928	27308990
1001	CMC main hospital	Vellore	9KM	15,070,946	667,938,544	683,009,490	1191830683
1003	CMC Eye Hospital	Vellore	5KM	495,942	17,414,295	17,910,237	34144297
1007	CMC CHAD Hospital	Bagayam	Hospital at Bagayam	1,257,678	59,331,799	60,589,477	110407970
1095	RUSHA Hospital	K.V.Kuppam	35KM	307,142	8,612,863	8,920,005	17568616
Total				17,697,837	767,635,300	785,333,137	1,381,260,555
Rs.in crore							
						78.53	138.13

The total amount receivable from the petitioner is Rs.78.53 Crore as CC charges and approximately BPSC upto 31.7.2023 is around Rs.138.13 crore totaling Rs.216.66 crore.

3. Reply Affidavit filed by the petitioner:-

3.1. A Medical College has various levels of facility requirements depending on the courses being conducted by the Medical College. Only for MBBS Undergraduate course, it needs to have certain facilities, but for Post graduate course, it requires certain additional facilities and for Super specialty courses, further facilities are required to be provided by the Medical College as per applicable laws.

3.2. It is a college offering MBBS course and various Postgraduate Level and Doctorate Level [MD, MS Broad Specialty Courses & DM & MCH Super Specialty courses]. The college prospectus of the Petitioner indicates the number of courses provided by the college. The Petitioner needs all the required facilities for effective functioning of these courses as mandated by the Medical Council of India or other appropriate Governing Bodies as applicable.

3.3. It is a well-recognized and highly reputed educational institution, not only in southern part of India, but throughout India and abroad. The patients getting treated at the Petitioner's teaching hospital are not limited to Tamil Nadu, but come from all over India and even abroad. The services rendered by the Petitioner (Christian Medical College and Hospital) to the community is well-known. Categorizing such an institution under the commercial electricity tariff only for the sake of financial benefit of the Respondents is unfair. It is only second to AIIMS, Delhi in the Country, which makes it the Best Private Medical College in the Country. An age-old institution of this standing and reputation, which is an asset and blessing to the State of Tamil Nadu, should not be discouraged through such wrongful acts of the Respondents.

3.4. The Petitioner's Hospital was founded by Dr. Ida Scudder, an American Missionary, for the sole purpose of helping the people residing in the region of Vellore and surrounding localities. The original site, where the Hospital started as a small clinic with one bed facility is where now the Schell Eye Hospital presently functions. The area was so small that it could not develop to the level that Dr. Scudder aspired of.

3.5. A Land was purchased at Thottapalayam area, where the main hospital presently functions to cater for the increased requirements and accommodation for Medical staff and nurses. The Hospital was developed into a teaching hospital supporting a Medical college.

3.6. The Petitioner's College and Teaching Hospital is the facility for Undergraduate courses and MBBS with class rooms in ASHA Education building and labs like Microbiology, Pathology, Virology, Clinical Biochemistry, etc. The Post Graduate Medical Education is all about practical learning from patients on side of the bed, unlike classroom teaching in a school. The HT 1001 supports Undergraduate & Postgraduate Medical courses. It also supports the Super Speciality courses of MCH and DM courses and the major Super Speciality section is now transferred to Hospital at Kannigapuram, Ranipet.

3.7. The Land area at Thottapalayam was not enough to set up Medical College, hostels and other staff accommodation and offices. Another suitable land was available at Bagayam which is 7Kms away from Thottapalayam campus. The public road separating the campuses at Bagayam, came into existence much later dividing the area

into two, namely Men's Hostel campus (HT 1003) and Women's Hostel campus (HT 1007).

3.8. The Men's Hostel campus houses accommodation for Boys, staff residences, playground etc. The Women's Hostel campus accommodates the Principal's office, Administration Block, Medical College Buildings only for the basic sciences required for the 1st year of MBBS (Non Clinical Year), Girl's Hostel, other staff accommodations, playground, Auditorium, etc. The Psychiatry Hospital and Community Health Hospital also function in this campus. As the 2nd year and 3rd year of MBBS course are clinical years during their period of education, the students come to Main Hospital which is nothing but the teaching hospital and Labs like Microbiology, Pathology function in the Main Hospital with the necessary class rooms.

3.9. The set-up of Christian Medical College, Vellore is complete only with all the above services functioning in the various campuses.

The RUHSA hospital is a rural hospital catering to the requirements of the local community at KV. Kuppam area.

3.10. The following grounds are raised without prejudice to each other.

a. As per applicable laws particularly the National Medical Commission Notifications, every medical college shall inter-alia comprise of a teaching hospital. Therefore, it is evident that the Petitioner's teaching hospital is required to be maintained and managed by the Petitioner in order to establish and operate its medical college as required under applicable laws. As the teaching hospital is an integral part of the medical college, it cannot be considered independently as

commercial for the purpose of tariff classification as wrongly done by the Respondents. Hence, the Petitioner HTSC will have to be classified only under the HT Tariff II B.

b. As the name "Teaching Hospital" itself suggests, the purpose of a teaching hospital is for the students of the medical college to get practical teaching by attending and rendering medical services to the patients in the teaching hospital. Seen from this perspective, it is evident that the teaching hospital is an integral part of the medical college for providing practical education to the medical students and hence, cannot be considered independently as commercial for the purpose of tariff classification as wrongly done by the Respondents. Hence, the Petitioner HTSC will have to be classified only under the HT Tariff II B.

c. The Tariff Order, 2010 makes reference to the Supreme Court Judgment that hospitals should not be classified under Commercial Tariff and it should be treated as industries for purpose of tariffs. Therefore, even a private independent hospital ought not to be categorized under commercial tariff but under industrial tariff. However, in the case of the Petitioner, its hospital is not a private independent hospital but a teaching hospital forming part of the medical college, a private educational institution, and therefore only Tariff HT II B would be applicable to the HTSC of the Petitioner. In other words, there is no legally or factually sustainable basis for classifying the Petitioner's HTSC under Tariff III moreso since even private independent hospital ought not to be categorized

under commercial tariff and in the present case, the teaching hospital forming part of the medical college of the Petitioner would necessarily have to be categorized under Tariff HT II B in regard to private educational institutions.

d. The relevant extracts of the various Tariff Orders would reveal that HT Tariff III is applicable to commercial establishments and other categories of consumers not covered under the other HT Tariffs. The HT Tariff III would not be applicable to the Petitioner since the teaching hospital cannot be considered on par with a commercial establishment. Also, the hospital cannot be equated at par with other consumers in the commercial category since there is differentiation between the electricity consumed by the hospital compared to commercial usage of electricity by malls and multiplexes.

e. Further, the Hon'ble APTEL has held it is not permissible to create residuary category and put all the non-domestic and non-industrial units into a commercial category in order to impose tariff on such categories. It is necessary for the Respondent to have a separate category for such consumers based on the usage of electricity by such consumers.

f. The tertiary teaching hospitals on CMC have been accredited by NABH.

g. The applicable tariff for the Petitioner's HTSC is only Tariff II B and not Tariff III since the teaching hospital is an integral part of the medical college and necessarily would have to be classified under the Tariff applicable to the private educational institutions which is Tariff II B.

h. HT Tariff III would not be applicable to the Petitioner's HTSC since the teaching hospital cannot be treated on par with the commercial establishments such as malls, multiplex etc.

i. HT Tariff III would not be applicable to the Petitioner's HTSC since it is not permissible to put consumers who do not fall under the other category in a residuary category without considering the purpose and usage of the electricity.

j. The key distinction to be appreciated is that a private hospital is different from a teaching hospital inasmuch as the teaching hospital is required to be established under law for establishing the medical college and for providing practical education to the medical students. Further, the notifications issued by the National Medical Commission stipulates that the medical college shall *inter-alia* comprise of a teaching hospital and seen from this perspective a teaching hospital cannot, by any stretch of imagination, be considered independently as commercial and put on par with commercial establishment and be subjected to commercial tariff.

3.11. The details of the various HTSC of the Petitioner are provided below:

a) HTSC No. 1001 supplies electricity to Christian Medical College, main hospital which includes OPDs, Wards, Theatres, Asha Buildings, Labs where all the medical students undergo training. The main hospital mentioned above is part of the Educational Institution being the Medical College.

b) HTSC No. 1059 supplies electricity to Schell Eye Hospital. The Eye Hospital mentioned above is part of the Educational Institution being the Medical

College. In the Schell Eye Hospital, students from B.Optom (Bachelor of Optometry), Dip. in Optometry and MS, Ophthalmology and Fellowship in Ophthalmology undergo training.

c) HTSC No. 1007 supplies electricity to Medical College, Mental Health Centre, CHAD, New Examination Hall, Doctors' quarters and Women's Hostel, all of which are part of the Educational Institution being the Medical College. The Auditorium is not a marriage hall as wrongly stated in the Counter Affidavit filed by the Respondents.

d) HTSC No. 1003 which supplies electricity to Men' Hostel, Post Office, Bank, Doctors' quarters, all of which are part of the Educational Institution being the Medical College. The Bank and Post office are charged as per the existing L T commercial tariff with separate metering. There are no shops as wrongly stated in the Counter Affidavit filed by the Respondents.

e) HTSC No.1095 supplies electricity to RUHSA (Rural Unit for Health and Social Affairs). RUHSA is a hospital functioning in a rural area and does not come under commercial category. Students from B.Sc Medical Sociology, PG Dip. In Community Health Management, PG Dip. In Health Economics, Policy and Financial Management receive education and training in RUHSA. Therefore, RUHSA is also part of the Educational Institution being a Medical College.

3.12. Hence, it is evident that the HTSC of the Petitioner supplies electricity to premises that are an integral part of the Medical College and therefore, all such HTSC of

the Petitioner have to be categorized under Tariff II B applicable for private educational institutions.

3.13. The Petitioner's hospital is a teaching hospital as required to be maintained and operated under applicable laws for the functioning of its medical college. Therefore, being a teaching hospital, it is an integral part of the medical college and cannot be considered independently as commercial for the purpose of electricity tariff. Further, the Petitioner provides free and subsidized treatment to a large number of patients. Also, the medical college not only provides undergraduate MBBS course but also Postgraduate and Broad Speciality and Super Speciality courses. The auditorium is necessary for any educational institution and the same forms part of the medical college.

3.14. The Petitioner's HTSC do not come under the category of HT Tariff IIA but the Petitioner's HTSC come under the category of HT Tariff IIB since the teaching hospital is an integral part of the Medical College. It is further denied that the Petitioner's HTSC comes under the category of HT Tariff III as wrongly stated the Counter Affidavit filed by the Respondent.

3.15. It is reiterated that the applicable tariff for the Petitioner's HTSC is HT Tariff II B only. The classification of the Petitioner's HTSC under HT Tariff III is wrong and illegal. The details of the treatments provided by the Petitioner's teaching hospital and collection of money as provided by the Respondent are all denied and the Respondent is put to strict proof of the same.

3.16. With regard to HTSC No. 1007, the auditorium is part of the medical college and it is not a marriage hall. The auditorium is used for educational purposes. With regard HT

SC No. 1003, there are no shops as wrongly stated in the Counter Affidavit filed by the Respondents. With regard to the HTSC No.1007, the basic sciences are taught to the students of first year MBBS at Bagayam women's hostel. The HTSC No. 1001 supplies electricity to the main teaching hospital being part of the Medical College.

3.17. A teaching hospital is very much an integral part of the medical college and cannot be considered independently as commercial for the purpose of electricity tariff. It is admitted in Paragraph 13 of the Counter Affidavit filed by the Respondents that students are provided training in the Petitioner's hospital which is attached to the educational institution. This itself substantiates that the teaching hospital of the Petitioner is part and parcel of the educational institution being the medical college. It is denied that the medical college is a very small part of the hospital as wrongly stated in the Counter Affidavit filed by the Respondent. The medical college of the Petitioner provides the following courses. The details of the students in each of these courses are provided below:

- a) MBBS - on roll - 501
- b) B.Sc. (Allied Health Sciences) - 554
- c) D.M. & MCH (Allied Health Courses) - 298
- d) B.Sc. Nursing - 400
- e) Dip. In Nursing - 300
- f) Post Basic B.Sc Nursing - 100
- g) M.Sc Nursing Specialty -58
- h) Post Basic Diploma in Specialty - 20

The classification of the Petitioners HTSC under HT Tariff III is erroneous and the Petitioner's HTSC comes under Tariff II B only. The reference to the Order dated 22.12.2020 in MP No.9 of 2020 is irrelevant and inapplicable to the facts of the present case.

3.18. It is reiterated that the orders in M.P.No.9 of 2020 and 25 of 2020 are irrelevant and do not apply to the facts of the present case and are different. Further, the grounds raised by the Petitioner in the present petitions have not been raised or considered in those cases and their respective orders and therefore, reliance by the Respondent on such orders is wholly misplaced. Hence, such orders cannot be held against the Petitioner.

3.19. The CC charges allegedly payable by the Petitioner and the calculations provided by the Respondents in this regard are denied as false and baseless and the Respondents are put to strict proof of the same. No amount is payable by the Petitioner as wrongly stated by the Respondents in its Counter Affidavit.

4. Heard the counsel for the petitioner and the respondents. Relevant provisions of law traversed. Written arguments submitted on either side perused. Legal precedents pressed into service considered.

5. Issue for Consideration :-

i) Whether the canvass made by the petitioner for Tariff IIB for its hospital services attached to its educational activities is sustainable ?

ii) Whether the petitioner is entitled to any relief, if so, to what extent ?

6. Findings of the Commission on first issue :-

6.1. Having considered the arguments of the petitioner and perused the material records, we find that the subject matter herein is strikingly similar to the one that came up for consideration of this commission in M.P.No.9 of 2020 and M.P.No. 25 of 2020 only in a restrictive sense to the extent of classification under Tariff IIB but there are certain aspects which are factually different as well. Hence, the said case cannot be said to be a covered decision as contended by the respondent. In any case, it is necessary to decide the issue with reference to the facts of the said cases as well. Accordingly, we proceed to discuss. It is seen that the canvass made by the petitioner herein for HT Tariff II from Tariff III was indeed considered in the case of similarly placed Trust by name M/s.Raja Muthuiah Chettiar Charitable and Educational Trust but factually there are certain differences between these cases which will be discussed in the succeeding paragraphs.

6.2. The cardinal question which arose for consideration in the said case i.e., eligibility to tariff II B came to be decided with reference to physical segregation. However, there lies a thin line of distinction between the said case and the present one as, in the said case the entire consumption was charged under HT tariff III in the absence of physical segregation unlike the present case where the hospital services alone have been severed out of the total activities of the petitioner and charged under Tariff III.

6.3. It is seen that the petitioner has felt that even such distinction is unfair given its mandate to maintain a hospital to impart practical training to its medical students under the Rules framed by the National Medical Council and hence the present petition seeking to quash the impugned notice.

6.4. Firstly, it is to be observed that Commission has powers to determine tariff or re-fix tariff only under the Electricity Act, 2003 and this being a case of tariff determination under G.O.Ms. No.95 dated 28.11.2021, the Commission cannot re-visit the tariff on its own as it was determined under a different enactment. However, the Hon'ble High Court having referred the matter for clarification, it is necessary to examine the rival contention of the parties and render a decision in the light of the fact as on date, as the authority to determine or re-fix tariff vests only with the Commission.

In order to appreciate the facts of the case in a better perspective, it is necessary to understand the purpose and intent of HT IIA and HT IIB. Let us reproduce the contents of latest Tariff order of 2022 in this regard.

Tariff Order No.7 T.P.No.1 of 2022 dated 9.9.2022:

High Tension Tariff II-A

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II A	550	700

For FY 2023-24 to FY 2026-27

The applicable tariff (both fixed and energy charge) for FY 2022-23 shall undergo an inflation based adjustment, as per para 6.1.1.13. The revision will be effective from 01st July of each of the subsequent years of the control period.

6.1.3.1 This tariff is applicable for the following services under the control of Central/State Governments / Local Bodies/ TWAD Board/ CMWSSB:

- (i) Educational institutions including government aided educational institutions and Hostels.*
- (ii) Establishments of Ministry of Defence and CRPF (viz., Teaching & Training Institutes, Hostels, Mess, Residential colonies, office, etc..)*
- (iii) Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.*
- (iv) Public Water Works and sewerage works and Desalination plants.*
- (v) Central Prisons and other Prisons of the State Government.*
- (vi) Public Lighting and Electric crematorium, cemetery, burial grounds of all religions.*
- (vii) Public Libraries, Art Galleries and Museums.*
- (viii) Research Laboratories and institutions*
- (ix) Dairy units*
- (x) Stadiums maintained by Government / Local Bodies*

6.1.3.2 This tariff is also applicable to the following:

- (i) Residential colonies and Housing complexes, Senior citizen communities and its common supply used for common lighting, water supply, lift.*
- (ii) Hospitals and Rehabilitation Centres, Rehabilitation and Training Centres, Old Age Homes and Orphanages run by Private/Charitable trusts which offer totally free treatment/services for all categories of patients/inmates on par with Government hospitals and institutions.*
- (iii) Desalination plant at Kudankulam Nuclear Power Plant and Minjur Desalination plant*

of Chennai Water Desalination Ltd., Water Supply Works by new Tirupur Area Development Corporation as long as they supply drinking water predominantly to local bodies/public.

(iv) Single point supply to Cooperative group housing society and for the residential purpose of the employees as specified in “The Electricity (Removal of difficulties) Eighth Order 2005”.

(v) Actual places of public worship as defined under the Places of Worship (Special Provisions) Act 1991 viz., Temple, Mosque, Gurudwara, Church, Monastery or any other place of Public religious worship of any religious denomination or any section thereof, by whatever name called.

6.1.3.3 This tariff is also applicable to:

- a) Railway traction of Indian/Southern Railways, Metro Railways, MRTS
- b) All the connected loads of CMRL. Loads other than CMRL like ATM, Kiosks, stalls, hotels, etc. which are operated by third parties of private agencies shall be separately metered and charged under applicable LT miscellaneous category and the above consumption shall be deducted from the total energy consumption recorded in the main meter at the CMRL’s point of supply.

6.1.3.4 This tariff is applicable to Lift Irrigation Societies for Agriculture registered under Cooperative Societies Act or under any other Act. (To be fully subsidized by Government. Details attached in Annexure VI)

6.1.3.5 Hospitals accredited by ‘National Accreditation Board for Hospitals and Health care providers’ (NABH) situated in Rural areas (Village / Town Panchayats)

6.1.4 High Tension Tariff II (B): (Private Educational Institutions & its hostels, segregated Medical colleges)

For FY 2022-23

Tariff Category	Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
HT Tariff II B	550	750

For FY 2023-24 to FY 2026-27

The applicable tariff (both fixed and energy charge) for FY 2022-23 shall undergo an inflation based adjustment, as per para 6.1.1.13. The revision will be effective from 01st July of each of the subsequent years of the control period.

6.1.4.1 This tariff is applicable to

- i. All Private educational institutions and hostels run by them.*
- ii. All Private Medical colleges and hostels which are physically & electrically segregated from Private Hospitals, within same premises.*

6.1.5 High Tension Tariff III: (Miscellaneous categories)

For FY 2022-23

Tariff Category	FY 2022- 2023 Commission Determined Tariff	
	Demand charge in Rs./KVA / Month	Energy charge in Paise per kWh (unit)
High Tension Tariff III	550	850

For FY 2023-24 to FY 2026-27

The applicable tariff (both fixed and energy charge) for FY 2022-23 shall undergo an inflation based adjustment, as per para 6.1.1.13. The revision will be effective from 01st July of each of the subsequent years of the control period.

6.1.5.1 This tariff is applicable to Commercial Complexes/Malls/Business premises, Supermarket/Departmental stores, Cinema theatres/Multiplex, Private hospitals, Hotels, Restaurants, Private Guest Houses, Boarding-Lodging Homes, Government/ Private/ Local body offices, Banks, Telephone Exchanges, T.V. Station, All India Radio, Railway Stations, MRTS stations, Transport Corporation bus stations, Private bus stations, LPG bottling plants, Stadiums other than those maintained by Government and Local Bodies, Petrol / Diesel and Oil storage plants, Oil / Petroleum projects, Petrol/Gas bunks, Diagnostic/scan centres, Marriage halls, convention centres, Service Stations / Garages, Tyre vulcanizing centres, Gym / Fitness centres, Race Course, Clubs, Amusement Parks, Centralised preparation unit of food with Sales counter/ selling activity , Yoga / Meditation centres, Ashrams, Mutts, Air Port (other than Aeronautical activities), Private

hospitals and all other categories of consumers and usages not covered under High Tension Tariff I, II(A), II(B), IV and V. 100

6.1.5.2 In respect of Marriage Hall/Convention centre, commercial establishment 5% extra on the energy charges for the entire consumption will be collected as a component of lavish illumination on usage. For the installations where a separate service connection is available for the exclusive purpose of lavish illumination, this 5% extra charges shall not be applicable. The status of usage of lavish illumination shall be assessed and recorded on regular interval.

It may be seen from the above, that the HT II A is specifically meant for Educational institutions and Hostels & Hospitals under the control of the Central / State Governments / Local bodies including the educational institution and hostels aided by Govt. The petitioner has declared in the petition that it is an unaided educational institution and hence the question of application of Tariff IIA can be ruled out straightaway.

Now coming to HT II B, it may be seen that the said tariff is applicable to

- 1) All private Educational Institutions and Hostels run by them.
- 2) All private Medical Colleges and Hostels which are Physically and electrically separated from private Hospitals within the same premises.

The above classification, namely, HT IIB is a specific one and is primarily meant for private educational institutions and hostels in contradistinction to HT IIA which is meant for educational institution run by Govt. including Govt. aided ones in general. Here again, it is to be noted that the insofar as the private Medical Colleges and Hostels are concerned, there is a further sub-classification *inter se* private educational institutions in term of physical and electrical segregation. It

may be seen that there is a further requirement which has been made in HT IIB of clause II of para 6.1.4.1. of the Tariff Order to the effect that there needs to be a physical and electrical segregation between the education institutions and the hostels on the one hand and the hospitals on the other hand within the same premises.

6.5. Obviously, at the time of tariff determination, it would have weighed on the Commission that unlike the Govt. Medical Institutions, which do not charge fee for its services rendered for its hospital services, the question of similar free service could not be ruled out insofar as the private education institutions and to avoid a largesse being conferred on such private Medical Colleges in terms of tariff in regard to their hospital services, an intelligible distinction has been carved out in the tariff order firstly between the Govt. and private institution and thereafter between the private educational institutions which render hospital services freely and those which do not offer free service and collect charges for the same. In other words, on a conspectus evaluation of the provisions of Tariff orders in regard to tariff IIA & II B, it is pellucid that there was express intention on the part of the Commission not to treat the Govt. educational institutions and private educational institutions alike ostensibly for the reason that the commercial nature of the services cannot be ruled out altogether in regard to private hospitals attached to private education institutions. Such distinction cannot be said to be beyond reasonable bounds of discrimination as the difference in tariff is only to the extent of 50 paise in regard to energy charges with fixed charges remaining the same for

both. A blanket extended concession has been given only to hostels run by both Govt. and Private educational institutions and not to the hospitals presumably for the reason that the hostel services are integral part of educational activity.

6.6. But the moot point that requires consideration is whether the same view can be taken with reference to hospitals? The answer will have to be partly “yes” and partly “No”. for the reason that it has to be in affirmative in regard to hospitals run by Govt. as no Govt. education institution, by any stretch of imagination, would resort to commercialize its hospital component and charge a higher fee. But the answer with reference to private educational institution would have to be partly negative for the reason that there is always a possibility of a private educational institution charging a fee for its hospital services, though a general conclusion cannot be arrived at that all hospitals attached to private educational institution are profit centric.

6.7. Here again, the Tariff Order cannot be said to have totally leaned in favour of the Govt institutions, as the hostels have been treated as an integral part of both Govt and private institution as may be seen from the combined reading of Tariff II A & II B classification and it is only with regard to hospitals that a distinction has been carved out. We find that, such distinction meets the test of reasonable nexus to the object it seeks to achieve, namely, to satisfy the principles of commercial viability of the licensee postulated in Section 61(b) of the Electricity Act 2003 and at the same time to weed out only the profit centric hospitals from the purview of HT II B and group them under HT III.

6.8. To delve further into the rationality of such classification, it must be said that all private educational institutions have not been meted out a discriminatory treatment altogether and a safeguard has been made in such a way that hospitals which have been physically and electricity segregated from the educational and hostels premises have been saved under HT II B and only those who fail the test of segregation are relegated to Tariff III. This is obviously to do justice to the ones who carry out their educational and hospital activities independently and transparently which is ultimately rewarded by retention in HTIIB.

6.9. Situated thus, we find that the plea of the petitioner for classification under Tariff II B even without segregation is absolutely inconceivable. It must be understood that there cannot be an automatic presumption that merely because an institution carries on educational activities and mandated to establish a hospital, under a law or Rule, it has to be treated as an educational institution for all intent and purpose in the determination of tariff. Such omnibus presumption would hit the very foundation of Section 62(3) of the Electricity Act which *inter alia*, provides for reasonable classification on the basis of purpose for which the supply is required. It also follows that a dichotomy is permissible in cases where an entity is engaged in activities carrying different purposes so as to sever one objective from the other to satisfy the spirit and intent of Section 62(3) in terms of purpose of supply read with Article 14 of the Constitution of India. It is because a natural presumption that the hospital service is incidental to educational purpose and such hospital service is not profit-driven is evidently manifest only in the case of Govt.

educational institutions or aided institutions as they are under public scrutiny and subject to audit and legislative gaze. But the same cannot be thought of blindly in regard to a private Medical Institutions which are having an attached hospital and each case has to pass the test of reasonableness and rightly the clause II of para 6.1.4.1. of the Tariff Order No.7 of 2022 dated.09.09.2022 relating to HT IIB classification provides a reasonable test to achieve the objective of Section 61(b) of Electricity Act, 2003.

6.10. The onus is on the part of a private educational institution to establish that all of its activities including hospitals are not driven by profit motive and it is not for the licensee to carry out a roving exercise to satisfy itself as to the objective of an entity. Nowhere, the petitioner has sought to repudiate the allegations of the respondent by means of records that its hospital component is not engaged in charging fee for its service. Only a bald statement has been made denying the allegation which is not sufficient to conclude that the entire activity of the hospital is not-for-profit motive. Even otherwise, the mere fact that the hospital is part of an educational institution will not entitle it to seek the tariff as applicable to an educational institution. It is only for the said reason that we impressed upon the need for segregation of educational and hospital service in our earlier orders to make the tariff classification much easier. A mere declaration by the petitioner that it is an educational institution mandated to function with an attached hospital, in our view, is hardly sufficient to conclude that its entire activity would be covered under educational activities and eligible to Tariff II B. Even in such case, relief, if any, can be granted only to the extent of the educational activities and

hostels facilities and not to the hospital attached. The hospital service has to pass the test of non-profit motive in the case of private educational institutions and there cannot be an automatic presumption as in the case of Govt., and Govt., aided education institutions.

6.11. In the case of M/s.Raja Muthiah which is relied upon by the respondent, the relief was given only to the extent of allowing HT II B to educational activities. The relief was only to mitigate the detriment suffered by the petitioner in terms of charging of entire consumption under HT III by ordering physical segregation, and to extend relief to the petitioner so as to seek tariff II B for its education activities alone. The decision in the said case cannot be relied upon entirely for deciding the present issue though it has same relevance in terms of physical and electrical segregation. Above all, the decision rendered in M/s.Raja Muthiah is subject matter of appeal before APTEL and hence we are not going in to the merits of the same further. The Commission chose to go in for dissecting of the purpose for which the supply was required by the said entity in the said case for the purpose of giving effect to the spirit of Section 62(3) and in line with the same ordered segregation.

6.12. A contention has also been advanced by the petitioner that the decision dated 20.11.2011 of Hon'ble APTEL in Appeal No.110 of 2009 filed by Association of Hospitals against MERC and other connected appeals would be squarely applicable to this case. We have given anxious consideration to the same. It is to be observed that the facts of the said case are different from the case on hand. The Hon'ble APTEL was dealing with

a classification done by MERC through which certain educational institutions were grouped into commercial category *en masse*. It was a case where a residual category was created and all the cases which did not fall under the regular categories were grouped in the residuary category. The Tribunal directed MERC to create a special category. In this case, special category has been created for hospital attached to the private educational institutions and electrical and physical segregation has been stipulated as a requirement to avail HT IIB. Only when such segregation has not been done, the same is relegated to tariff III. The relegation of the petitioner's service connection to Tariff III, as understood by the petitioner, is not residuary category as such. It is only a fall-out of the failure to adhere to the condition attached to a special category HT IIB. In effect both tariff IIA & IIB are special categories and satisfy the ratio laid down by Hon'ble APTEL. It is only when an educational institution having an attached hospital fails the test of segregation, it is relegated to tariff III and it is not as if the entire consumption made by these entities are relegated to tariff III in the first instance itself. Hence, the prayer for classification of HTSC 1095 of the petitioner which is now under HT III to HT II B i.e., tariff for educational institutions has to necessarily fail.

Accordingly this issue is decided.

7. Findings of the Commission on the second issue :-

In view of the foregoing discussion, we conclude that the prayer for treating the consumption from the HTSC No. 1095 for the petitioner's hospital services, which is now under HT III, to the one under HT IIB, by way of conversion is not sustainable. Ultimately

this Commission decides that the petitioner is not entitled to any relief including the relief of declaration.

Accordingly this issue is decided.

In the result, the petition is dismissed. Parties shall bear their respective cost.

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

(Sd.....)
Member

(Sd.....)
Chairman

/True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**