

TAMIL NADU ELECTRICITY CONSUMERS' ASSOCIATION

Formerly (TamilNadu Electricity Consumers Association)

Regd. No. 181-8524/1998 – **CIN.No.** U37102TZ1998GAP008524

1st Floor, SIEMA Building, 8/4, Race Course, Coimbatore - 641 018

Phone: (0422) 4351400 E-mail: teca@tecaonline.in Web: www.tecaonline.in

TECA: 2015/2016/SD/040

17th March 2016

CIRCULAR

To

ALL MEMBERS,

Sub: BPSC charges for delayed payment of E-Tax

Dear Sir,

You may be aware that your Association has been putting in sustained efforts against the levy of electricity tax which adds to the cost of power. TECA along with some individual members have filed writ petition before Supreme Court and obtained interim stay order. However Supreme Court on 15.05.2007 allowed the levy of e-tax on monthly Bills except E-tax on Maximum demand and self generation.

During that time many consumers have not paid E-tax amount based on the interim stay order. After the Supreme Court Judgement, TNEB demanded E-tax for the unpaid period. Consumers were permitted to remit this amount in installments. Subsequently TNEB demanded Belated Payment Surcharge (BPSC) on this delayed payment of e-tax.

Few members have contested this levy of BPSC in High Court on the following grounds.

The Government of Tamil Nadu levied Electricity Tax on the consumption of Electricity as per Tamil Nadu (Electricity of Consumption) Act, 1964. This tax is payable to Government through TNEB and therefore, it is not a charge to TNEB for the supply of electricity. On this ground only no BPSC is applicable for delayed payment of E-Tax component. This position is as per Regulation No.5 (4)(xi) of the TN Electricity Supply Code 2004.

Hon'ble High court passed an order in W.A. (MD) No. 1590 of 2011 dtd 22.12.2011 stating

"as per Clause 20.01 of the Terms and Conditions of the Electricity Code, the licensee is entitled to collect the belated amount on the amount due and payable to the licensee viz, the consumption charges. As the Electricity tax is not the amount due and payable to the Appellant/Respondent herein, it has no right to collect the surcharge on the belated payment of electricity and hence the claim of the Appellant/Respondent and hence the claim of the Appellant/Respondent for a sum

of Rs._____ being the belated payment of surcharge for the non-payment of Electricity Tax in time is unsustainable in law".

Against this order, TNEB filed a SLP at Supreme Court in SLP (Civil) No.12282 of 2014 and the same was dismissed on 01.03.2016.

We are enclosing herewith the order passed by Supreme court for your reference.

Hence, those members who have paid BPSC on the arrears of E-Tax during the year 2007 or so, can claim back the same by making a representation to their concerned SE's as per the specimen attached.

With Warm Regards,

K. Ilango
Secretary