



TAMIL NADU ELECTRICITY CONSUMERS' ASSOCIATION

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

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TECA:2022-23/014

7 May 2022

CIRCULAR

Respected Members,

Sub: TNERC Order clearly distinguishing what is energy theft and what is energy misuse-Copy of the order sent herewith for the academic interest of all members-Regarding.

Ref: Hon'ble TNERC order in M.P. No. 28 of 2021 dated 05.05.2022

With reference to the above we wish to inform our members that, the Hon'ble TNERC has clearly spelt out, the difference between energy theft as could be seen under Section 135 vis-à-vis the energy misuse as could be seen under Section 126 of the Electricity Act 2003, clearly. The Operative Portion of the order is reproduced below.

“5.17. In all these cases, the energy is prevented from being recorded in the meter either partially or fully, lending the direct meaning to the expression, “theft of energy”, to be dealt under section 135. When energy is fully recorded in the meter and such energy so recorded is used for the purpose other than the purpose authorized, there cannot be dishonest intention to steal the energy simply because the energy is fully recorded and metered. Such cases categorically fall under section 126 and to be dealt accordingly.

5.18. Through the expression “use of electricity for the purpose other than electricity for the purpose other than for which the usage of electricity was authorized” appears both under section 126 and 135 there exists no commonality between them in terms nature of unauthorized use meant by each section. A careful conjoint reading of section 135 and Explanation to section 126 would show that some of the unauthorized usage of electricity (with a dishonest intention to steal electricity with partial or no recording of energy in the meter as explained above) also amount to theft of electricity, because the theft itself amounts to unauthorized electricity. But all other unauthorized usage of electricity (without a dishonest intention to steal electricity, with the consumed energy fully recorded in the meter) fall only under section 126 and cannot constitute the meaning of theft to fall under section 135.

5.19. This commission has rendered several judgments on similar issue viz., Suo-motu proceedings No.3 of 2012 dated 11.7.2013, SMP No.4 of 2013 dated 6.8.2019 and SMP No.4 of 2014 dated 19.1.2015 and given its findings. These may also be complied with, without any deviations.



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5.20. Summarization of entire discussion culminates that the clinching factor that separates the section 126 and 135 with clear demarcation is the consideration whether energy consumed is fully recorded in the meter or not. Once the consumed energy is fully recorded in the meter, there can be no inference of theft of electricity to its meaning and Section 135 has no role to play therein.

5.21. As there is no misuse of tariff, the amount collected towards Compounding charges and the Extra levy charges to be refunded to the petitioner within 30 days' time along with 12% interest.

5.22. The respondent Licensee is directed to communicate this order with due instructions to all levels of the officers and staff concerned (including Anti-Power Theft squad & other squad) for strict adherence. And in future, if any such complaint/petition received, the Commission will not hesitate to initiate action under section 142 of the Electricity Act 2003."

Even though, the above observations were made on a petition filed by a LT supply connected Coir Industry, the concept declared applies to everyone. In the recent times, the Inspections of Anti Power Theft Squad (APTS) is increasingly found in many places and instead of booking cases under Section 126 (Misuse of Electricity), it is reported that many cases are booked under Section 135 (Theft of Electricity). Hence, members can show this order, on any such contingency, when they face with APTS Inspections. This may be a good guideline as how to differentiate misuse of electricity and theft of electricity. An extract of Section 126 and Section 135 is attached herewith.

Please find enclosed a soft copy of the order of the TNERC for the reference of our members.

With Warm Regards

Dr. CB Senthilkumar
Secretary