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INDIAN NURSERYMEN ASSOCIATION

TELANGANA STATE CHAPTER

NO - 6-3-1104, Somajiguda, Raj Bhawan Road, HYDERABAD - 500 082. Tel: 98490-34565.

Date: 06.03.2015

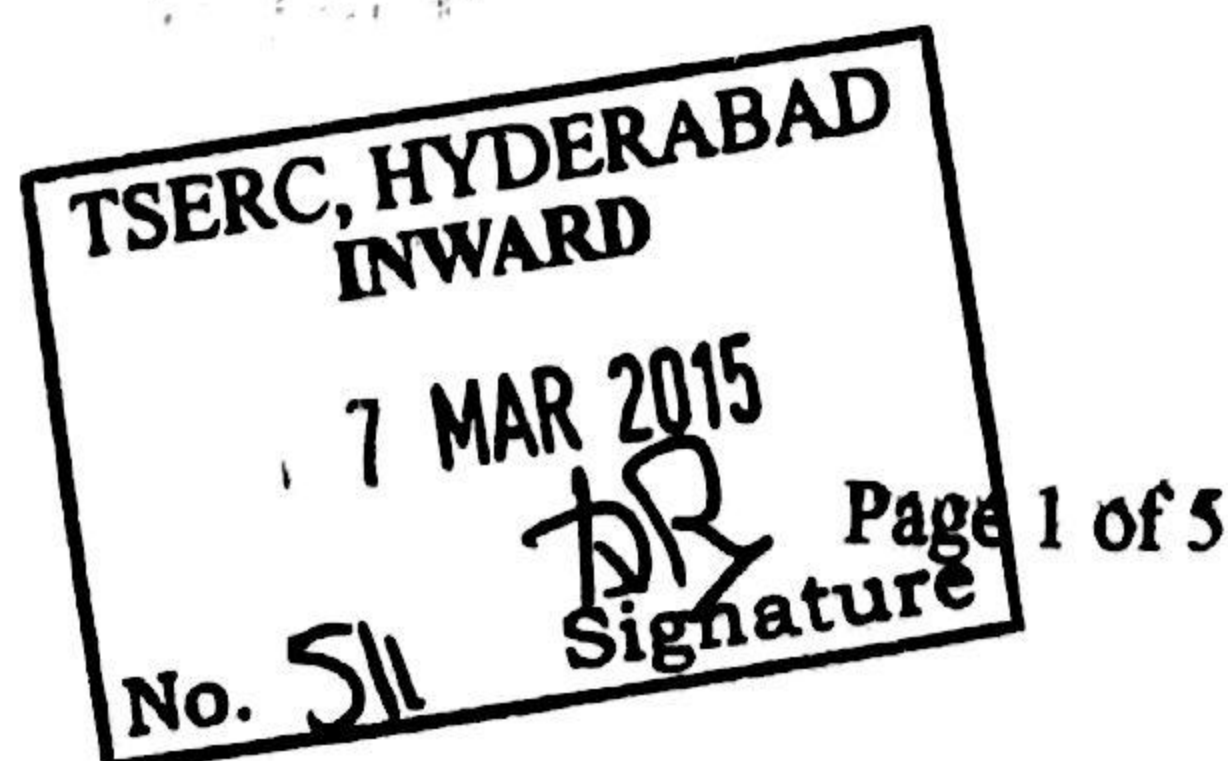
To
The Hon'ble Chairman
T.S.E.R.C
Government of Telangana,
5th Floor, Singareni Bhawan, Red Hills,
HYDERABAD - 500 004.

Respected Sir,

Sub: Objections on Tariff for Nurseries and to clarify that, Nurseries come under Agriculture category and not under commercial as per the claim of the Energy Dept. - Reg.

Ref: Public notice in News paper Eenaadu dated 11.02.2015 inviting for representation through filings for objections / suggestions.

On behalf of the Indian Nurserymen Association, Telanagan State Chapter I am pleased to inform that the Transco and Discoms are unnecessarily creating confusion by misinterpreting the Nursery activity as either Industrial or Commercial, which is leading to harassment of Nurserymen statewide. I hereby clarify that Nursery activity is Agriculture and doesn't come under commercial category as falsely misinterpreted and claimed by the Energy Department, which ultimately declared that Nursery activity is commercial activity. Subsequently misleading the Govt. through this false claim, based on which the Govt. thought that Nurseries come under Commercial category. We have written number of letters to the Electricity Authorities at various levels and also represented to the Hon'ble Chief Minister's of erstwhile united Andhra Pradesh with all possible proof and documents. We have been requesting to retain the Electricity charges under Agriculture Tariff. But it was not so, as all our letters addressed to various officials in the Electricity Dept. including the Hon'ble Chief Minister's at different times has gone unanswered. Hence we approach you based on the following documents in annexure - I.



1. of 2.

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It is to inform you that the nurseries presently have been classified as Rural and Urban with different tariff rates. This amounts to discrimination and may not stand good in the court of law. Apart from this the Present Govt. has already declared Poultry farming as part of farming sector, and also the Hon'ble Chief Minister has declared Free Power to Green Houses. Hence it is our request that Nursery activity has to be considered as agriculture activity, as the law of the land cannot differ in different parts of the country and it should not be interpreted differently to the convenience of the demanding authorities.

Even the A.P High court order dated 01.10.2002 says that Nursery is Agriculture activity and hence should be charged under Agriculture has no bearing over any officials. We have gone to the extent of explaining that this would amount to contempt of court to almost all the officials at various levels, but the same is not being taken care. For your information the Nursery activity was in agriculture tariff for all these years, only in the last few years due to subsidy announced and which was not being paid in time by subsequent Govt's, that the tariff of nurseries was claimed by the DISCOMS as commercial. There is ample proof of DISCOMS themselves declaring that Horticulture is Agriculture.

Thanking You

Yours Sincerely



M. Anantha Reddy

President

**Indian Nurserymen Association
TELANGANA STATE CHAPTER.**

Copies to:

1. The Chief General Manager (Projects & RAC), Corporate Office Mint Compound, HYDERABAD.
2. Secretary T.S.E.R.C, Government of Telangana, Singareni Bhawan, Lakdi Ka Pul, HYDERABAD - 500 004.

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ANNEXURE – I

1. G.O. Ms. No. 43 dated 07.02.1996 *clarifying and declaring Floriculture / Horticulture as Agriculture.*
2. Judgment of the Karnataka High Court *in favour of S.I.N Nursery pertaining to Power tariff dated 14.02.1995.*
3. Judgment of the Madras High Court *in favour of Soundarya Nursery pertaining to Income Tax dated 05.08.1998.*
4. Judgment of the Hyderabad High Court *in favour of Plants Land (Nursery) pertaining to Power tariff dated 01.10.2002.*
5. Clarifying that *Nursery income is Agriculture income* through the 12th edition of Jain & Loyalka 2004 – 2005 (How to handle income tax problems).
6. Clarifying that *Agriculture is not merely includes Food & Grains* through the 30th edition of Taxman's Direct Taxes Law & Practice by Dr. Vinod.K.Singhania & Kapil Singhania 2003 – 2004.
7. Exemption for Pan Card *under section 114 C* for Agriculture Income. *Hence Nurseries do not come under Income Tax Assesses.* Ref: What are the features of Pan under the New Series?
8. Income Tax Exemptions as per the article in Economic Times by Indira Rajaraman saying that *under rule 114 C explicitly saying that persons with Agriculture Income need not be issued Pan Card.*
9. Letter of C.P.D.C.L dated 16.05.2003 declaring Category V Agricultural Services for Horticulture. *Also mentions category V (C) as Horticulture in this Memo.*
10. Office of the A.D.E Oper. Vanasthalipuram, A.P.C.P.D.C.L vide Memo No. ADE OP. V.Puram Sanction D. No: 1288. 05.06 dated 25.11. 2005. *This Memo mentions the Sanction of 5 H.P under category V (C) for Horticulture to T. Venkatarayulu in S. No. 95 of Auto Nagar Section of Vanasthalipuram Sub Division.*
11. Letter from C.G.M (Coml.) A.P.C.P.D.C.L, Singareni Bhawan, Red Hills, Hyderabad vide letter No. CGM (Coml.) / DE (C) / (RAC) / F. Objections / D. No. 2078 / 07 dated 23.02.2007. *This says that the definitions would vary under different acts depending on the context; C.P.D.C.L will abide by the decision of APERC, whereas DSICOMS have not obeyed the tariff rates as set by A.P.E.R.C.*
12. Letter No. SE/OP/RRS/SAO/AO /D/No: 403 / 06 dated 22.12.2006. This letter from the S.E (Oper) R.R. South Circle, Mint Compound, HYD addressed to the CGM (Coml.) Singareni Bhawan, Red Hills, HYDERABAD says that *category V (C) is not merged in category V, which is not correct.*
13. Memo from C.P.D.C.L O/b CGM (Coml. & RAC), Red Hills, HYD. No. CGM / Coml. /DE (C) / ADE1 / F.CMD Meeting / D. No. 1795 / 07 dated 05.01.2007. This Memo orders all the S.E's (Oper) of all the Four Zones to categorise the Nurseries in their respective zones under Commercial category and take necessary action. *This is totally false and against the law of the land, as APERC has already fixed tariff for the financial year 2006 – 2007 Up to 31st March 2007. In fact in the presence of APERC*

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- the Discoms have no powers to fix tariffs. Over this the Tariff manual never says that Nurseries come under Commercial Tariff.*
14. Tariff declared by A.P. Transco for the financial year 2005 - 2006.
 15. Addendum through publication in News paper for the Financial Year 2005 - 2006 mentioning that *Category V (C) is merged with the above categories as applicable, i.e. category V (A) & V (B). This itself is a clear proof that Horticulture comes under Agriculture as self explained by the A.P.E.R.C and Energy Department.*
 16. Power Tariff for the Year 2007 - 2008 in Deccan Chronicle dated 23.03.05. *This is the First Time That the Power Tariff was declared for the Corporate Farmers & I.T. Assessees.*
 17. Letter fro Commissioner of Horticulture Govt. of A.P addressed to the APC & Principal Secretary to Govt. Agri. & Co Operation Department, Govt. of A.P vide letter No: HAD(2)42/06 dated 20.12.2006. *Requesting the Govt. to take up the matter with Energy Department for consideration necessary instructions to APCPDCL for charging power for nurseries on par with other Agriculture.*
 18. News Item in Eenadu dated 01.02.2007. *A.P.E.R.C was informed that Nurseries come under Agriculture as per Courts including Supreme Court.*
 19. Public Notice by APCPDCL DATED 28.12.2007. *Proposing Power Tariff for the year 2008 - 2009 saying no change in Power Tariff for the year 2007 - 2008.*
 20. News Item in Eenadu dated 04.02.2007, *when Nurserymen represented to the Chief Minister in a public meeting at Kakinada on the 3rd of Feb 2007.*
 21. News Item in Deccan Chronicle dated 26.03.2007. *The Chief Minister declared that there will be no enhancement in power tariff for the coming two years, and also promised that free supply would be extended to the farm sector.*
 22. Letter from A.P.E.R.C bearing No. S-75(5)/Secy/DD-CA/2008-06, dated 15.02.2008.
 23. Letter from A.P.C.P.D.C.L bearing No. CGM/CPDCL/HYD/SE(C)/DE (RAC)/F.ARR. Rep./D.No.1801/08 dated 21.02.2008. *This says that (i) Nurseries come under Agriculture and (ii) Not to discriminate Urban Nurseries - as under Purview of A.P.E.R.C*
 24. Letter from Energy Department addressed by the Special Chief Secretary to Govt. bearing. No 6166/PR.II (1)/2007-4 dated 01.02.2008. *This decision by the Govt. is based on the false claim and misleading the Govt. by the Energy Department saying that Nurseries come under Commercial Category. Hence Govt. extended Agriculture Tariff only to rural nurseries. This is misleading the Govt. in its act and promising only rural nurseries under Agriculture tariff. Govt. is not aware that Nurseries were in agriculture all these years, hence the Energy Department has been automatically claiming subsidy on all the Agriculture Connections existed in the state. It is surprising that while claiming subsidy from one side the electricity authorities were pursuing for commercial tariff for Nurseries. This shows their ability and over enthusiasm in taking law in to their hand and causing unnecessary confusion. Over this the Govt. has already declared free power to Farm Sector and it need not go back on its promises by classifying various sub categories in Agriculture and also saying that Farm Houses with Nurseries be charged separately and discriminating Rural & Urban Nurseries. In*

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- fact the Urban Nurseries to an extent of 90% exist only in one region which is being affected and the climate is not conducive in this region as that of other people who are benefiting being in rural areas. Even the Greater Hyderabad will bring in larger area under urban declaration.
25. Further clarification by the Finance Minister during his speech at the time of presenting the Union Budget on the 29th Feb 2008, for the financial year 2008 - 2009, *that plants grown in pots is agriculture and is exempted from Income Tax.*
 26. Report in Economic Times dated 4th March 2008. *The Budget clarifies that the income derived from saplings grown in a Nursery also form part of Agriculture and are thus exempt from Income Tax.*
 27. Letter from Chief General Manager (Coml) APCPDCL to The Lok Adalat bearing No. Lr. No. CGM (Coml)/SE(C)/DE(C)/D.No.32/08 dated 11.04.2008. As per Para 199 to 201 of Tariff order 2007 - 2008, It has been mentioned that the Commission is not in apposition to accede to the request unless Nurseries are specially covered under the Agriculture policy of the Govt. in January 2005 and the Govt. agrees to provide subsidy. *This is not interpreted properly, as the Nurseries were under Agriculture. It is the DISCOMS who mislead the Transco and the Govt. and subsequently the A.P.E.R.C as well by categorising Nurseries under Commercial Tariff. All these years Nurseries were under Agriculture and the subsidy should have been claimed by the DISCOMS for Nurseries under Agriculture Tariff. Instead they assumed and classified Nurseries under Commercial.*
 28. Common Order from Transco Lok Adalat No's 23 & 24 of 2007 and 3, 4 & 5 of 2008.
 29. As per declaration by the Govt. *there is going to be no hike in Power Tariff for the Next Five Years.* Ref: The Hindu dated 28.08.08, Deccan Chronicle dated 29.08.2008 and 01.09.2008.
 30. The Telangana State Hon'ble Chief Minister has declared through News Paper statement of 07.08.2014 in Deccan Chronicle that *Green Houses shall get Free Power for agriculture activities.*
 31. The Telangana State Hon'ble Chief Minister has declared through News Paper statement of 04.08.2014 in The Hindu that *Poultry Farming will be recognised as part of farming Sector.*



M. Anantha Reddy

President
Indian Nurserymen Association
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