

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4834 of 2019

Jay Jay Mills India Pvt.Ltd.,
HTSC No.306
Plot No.K32, 4th Cross Street
SIPCOT Industrial Growth Centre
Perundurai 638 052
rep.by its Authorised Signatory
Mr.C.Manokaran ... Petitioner

-vs-

1. The Chairman
Tamil Nadu Generation and Distribution
Corporation Limited
10th Floor
No.144, Anna Salai
Chennai 600 002
2. The Superintending Engineer
TANGEDCO
Erode Electricity Distribution Circle
No.948, EVN Road
Erode-9
3. The Superintending Engineer
TANGEDCO
Tirunelveli Electricity Distribution Circle
Tirunelveli
4. Tamil Nadu Electricity Regulatory Commission
rep.by its Secretary
19-A, Rukmini Lakshmipathy Salai
(Marshall's Road)
Egmore, Chennai 600 008 ... Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorarified Mandamus,
calling for the records of the second respondent's impugned
demand notices bearing Lr.No.SE/EEDC/ED/DFC/AO/A4/F.HTSC
No.306/D.No.46/2018 dated 26.04.2018 and
Lr.No.SE/EEDC/ED/DFC/AO/A4/F.HTSC No.306/D.No.59/2018 dated

14.05.2018 and quash the same as illegal, arbitrary, against the principles of natural justice and against the specific directions of the TANGEDCO Headquarters in their communications dated 21.05.2013, 19.07.2016 and 30/31.03.2017 and consequently direct the second respondent to give refund/adjustment of Rs.22,41,000/- illegally collected from the petitioner towards alleged bill revision for the period 12/2017 in HTSC No.306 and to give adjustment of the balance unutilised wind energy units of 21,82,337 units in the petitioner's future CC bills in HTSC No.306.

For Petitioner:: Mr.R.S.Pandiyaraj

For Respondents:: Mr.S.K.Raameshuwar
Standing Counsel for R1 to 3

ORDER

This writ petition has been directed against the impugned order dated 14.5.2018 calling upon the petitioner to remit the amount demanded in letter No. SE/EEDC/ED/DFC/AO/A4/F.HTSC No.306/D.No.46/2018 dated 26.04.2018.

2. Learned counsel for the petitioner submitted that the petitioner owns the Wind Mill bearing WEG No.4286 at Tirunelveli District coming under the control of the Superintending Engineer, TANGEDCO, Tirunelveli Electricity Distribution Circle. When the petitioner is producing electricity, in turn, as a captive consumer, they are also consuming electricity, through the grid of the respondent-TANGEDCO. The petitioner is the owner of the Wind Energy Generator bearing WF HTSC No.4286 and as well as a Yarn Dyeing Unit bearing HTSC No.306, wherein the petitioner also is consuming the wind energy generated from the WF HTSC No.4286, as per the Energy Wheeling Agreement dated 29.3.2015 executed between the petitioner and the third respondent and they have also executed a revised Energy Wheeling Agreement dated 9.10.2017 with the third respondent. Now the revised Energy Wheeling Agreement is in force. Therefore, in respect of the consumption at HTSC No.306, the petitioner was having 21,82,337 units as unutilised at their banking account. When the ownership of the Wind Energy Generator is not changed in any manner and it continues to be in the name and style of the petitioner, namey, M/s Jay Jay Mills India Private Limited and the ownership of both the consuming entities is also in the name and style of the petitioner, the balance of the wind energy units available on the date of the execution of the new Energy Wheeling Agreement, namely, on 10.10.2017, either needs to be allowed for adjustment by the existing HTSC No.306 or otherwise transferred for adjustment against the consumption in HTSC No.451. But this has not been done. Without following the

revised Energy Wheeling Agreement, all of a sudden, the impugned order has been passed on 26.4.2018, simply saying that the CC bill is revised duly withdrawing the banking units of WF No.4286 on the basis of a phone call received from the Headquarters, therefore, the request of the petitioner for holding the demand raised for Rs.22,41,000/- is not feasible of compliance.

3. The learned counsel for the petitioner, assailing the impugned order, submitted that when the petitioner was issued with a revised bill, the respondents are bound to disclose on what basis the revised bill for the month of December, 2017 has been prepared. However, no such particulars have been given. Hence, the same is liable to go.

4. A detailed counter affidavit has been filed by the respondents 1 to 3. The learned standing counsel for the respondent-TANGEDCO, on instructions, submitted that although the impugned communication dated 14.5.2018 indicates that over phone received from the headquarters, the respondents have confirmed the bill revision for the month of December 2017, the same will be withdrawn and a new order will be passed on merits.

5. Recording his statement, this writ petition stands allowed directing the second respondent to withdraw the impugned communication and thereafter shall pass a reasoned order on merits. Consequently, W.M.P.No.5490 of 2019 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The Chairman
Tamil Nadu Generation and Distribution
Corporation Limited
10th Floor
No.144, Anna Salai
Chennai 600 002

WEB COPY

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Tamil Nadu Electricity Regulatory Commission
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(Marshall's Road)
Egmore, Chennai 600 008

+1cc to Mr.R.S.Pandiyaraj, Advocate sr.no.21262

W.P.No.4834 of 2019

nr 28/03/2019



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