

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 4/3/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition Nos.4991 and 4994 of 2021
and
WMP Nos.5565 and 5569 of 2021

Sree Santhos Garments
rep. By its Partner
Mr.C.Rajiv Kumar

... Petitioner in
both the writ petitions

Vs

1. Tamil Nadu Generation and Distribution Corporation Ltd
rep. By its Chairman-cum-Managing Director
10th Floor, 144 Anna Salai
Chennai 600 002.
2. The Chief Engineer, NCES
TANGEDCO
II Floor
144 Anna Salai
Chennai 600 002.
3. The Superintending Engineer
TANGEDCO
Theni Electricity Distribution Circle
Theni.
4. Tamil Nadu Electricity Regulatory Commission
rep. By its Secretary
19 A Rukumini Lakshmipathy Salai
Egmore
Chennai 600 008.

... Respondents in both
the writ petitions

Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first, second and third respondents to allow the Utility Change by converting the existing Energy Purchase Agreement dated 2/11/2009 and 11/6/2010 to Energy Wheeling Agreement in petitioner's wind mills bearing WF HTSC Nos.T08 and T86 for

captive consumption of the generated units in the petitioner's own spinning mills HTSC No.539 at Tirupur EDC as per the Common Order of the Hon'ble High Court of Judicature at Madras dated 30/8/2019 which was upheld by the Hon'ble Division Bench and also by the Hon'ble Supreme Court of India and consequently, make payment of Rs.77,20,858/- and Rs.80,29,806.50, towards the wind energy and sold from the petitioner's WEG No.T08 for the period from 11/2019 to 1/2021 and 1/2020 to 1/2021, as per their respectively invoices till date, further direct the respondents to pay interest 1% per month for any delay in settlement of invoices beyond the period of 30 days from the date of invoices.

For petitioner ... Mr.S.P.Parthasarathy

For respondents ... Mr.S.K.Rameshwar
Standing Counsel

C O M M O N O R D E R

These writ petitions have been filed to direct the respondents to allow the Utility Change by converting the existing Energy Purchase Agreement, dated 2/11/2009 and 11/6/2010 to Energy Wheeling Agreement in petitioner's wind mills, bearing WF HTSC Nos.T08 and T86, for captive consumption of the generated units in the petitioner's own spinning mills HTSC No.539, at Tirupur EDC, as per the Common Order of the Hon'ble High Court of Judicature at Madras, dated 30/8/2019, which was upheld by the Hon'ble Division Bench and also by the Hon'ble Supreme Court of India and consequently, make payment of Rs.77,20,858/- and Rs.80,29,806.50, towards the wind energy and sold from the petitioner's WEG No.T08, for the period from 11/2019 to 1/2021 and 1/2020 to 1/2021, respectively, as per their invoices till date, further direct the respondents to pay interest 1% per month for any delay in settlement of invoices beyond the period of 30 days from the date of invoices.

2. The petitioner Company is engaged in the manufacture of yarn at Tirupur. The energy generated by the windmills of the petitioner Company was sold to the respondent TANGEDCO by executing an Energy Purchase Agreement dated 2/11/2009. Though the petitioner had supplied wind energy, TANGEDCO delayed the payments and therefore, they have opted to convert the existing EPA to EWA for the purpose of allowing the captive consumption. The same was objected by the Board and therefore, batch of writ petitions filed before this Court in W.P.No.5196 of 2019, etc., and this Court, by an order dated 30/8/2019, allowed those writ petitions on the following directions:-

"29. Thus, for the reasons stated above,
the writ petitions deserve to be allowed with

the following directions:-

(a). the respondents/TANGEDCO are directed to permit the petitioners to switch over to captive consumption so as to use the same for their own industry;

(b). the respondents/TANGEDCO are directed to settle the respective dues to the petitioners as per their respective invoices raised by them, along with interest as per Clause 6 (b), within a period of two months from the date of receipt of a copy of this order.

As against the orders of this Court, writ appeals were also filed and the writ appeals were dismissed and the SLP preferred by the Board also dismissed and the issue has been settled that the petitioners are entitled for migration are utilised the same captive consumption.

3. In the instant cases, the petitioner has sought for migration for captive consumption and the same is pending with the respondents. Therefore, the writ petitions are filed. In view of the earlier orders passed, these writ petitions are also allowed, on the same directions, issued in W.P.No.5186 of 2019, batch. With regard to the consideration for the application for migration, the same may be processed by the TANGEDCO, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mvs.
To

1. The Chairman-cum-Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO)

10th Floor, 144 Anna Salai
Chennai 600 002.

2. The Chief Engineer, NCES,
TANGEDCO,
II Floor,
144 Anna Salai,
Chennai 600 002.

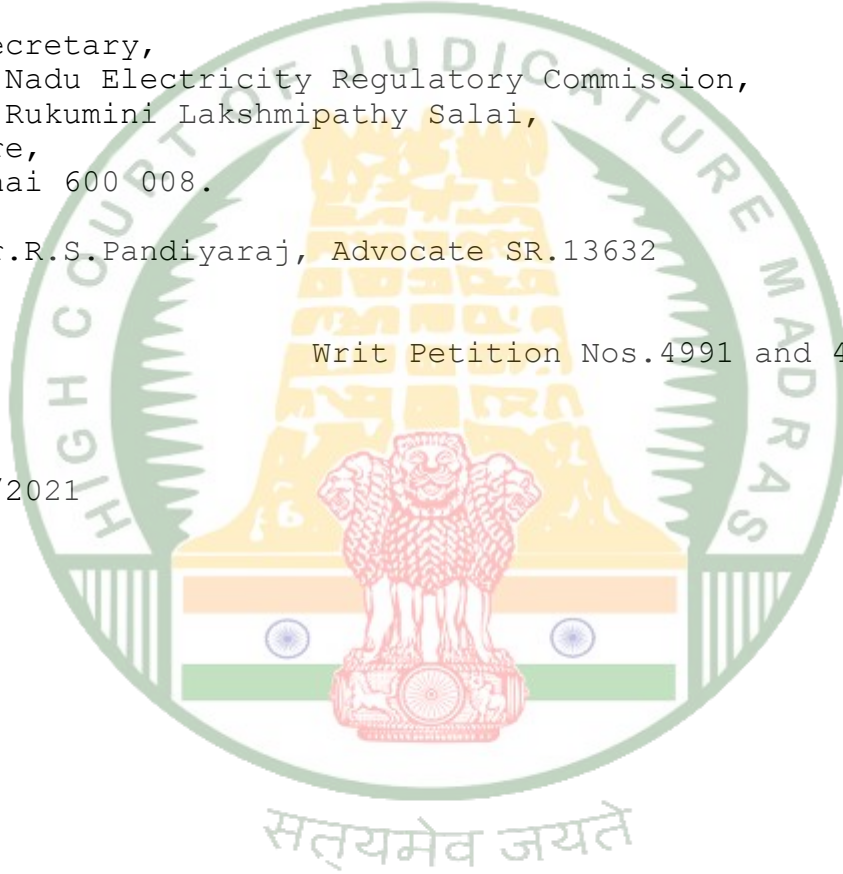
3. The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution Circle,
Theni.

4. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19 A Rukmini Lakshmipathy Salai,
Egmore,
Chennai 600 008.

+2cc to Mr.R.S.Pandiyaraj, Advocate SR.13632

Writ Petition Nos.4991 and 4994 of 2021

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srg 30/03/2021



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