IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2021

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.13607 of 2021
& WMP No.14482 of 2021

VSM Weavess India (P) Ltd.,
HTSC No.0388,
SF No.333 to 336, Padaiveedu Village,
Uppupalayam, Kumarapalayam(Tk),
Namakkal District,
rep. by its Authorized Signatory,
K.Loganathan. ...Petitioner

Versus

1. Tamil Nadu Electricity Regulatory Commission, rep. by its Secretary,
   19-A, Rukmini Lakshmipathy Salai,
   (Marshall's Road),
   Egmore, Chennai - 600 008.

2. The Chairman,
   Tamil Nadu Generation and Distribution Corporation Limited, 144, Anna Salai,
   Chennai - 600 002.

3. Director Finance,
   Tamil Nadu Generation and Distribution Corporation Limited, 144, Anna Salai,
   Chennai - 600 002.

4. The Superintending Engineer,
   TANGEDCO,
   Mettur Electricity Distribution Circle,
   Mettur.

5. The Superintending Engineer,
   TANGEDCO,
   Tirunelveli Electricity Distribution Circle,
   Tirunelveli.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents and their men, agents from collecting current consumption charges, demand charges and any arrears from the petitioner until the respondents makes payment of the outstanding dues of Rs.6,74,363/- (for the year 2019-20) payable to the petitioner or give adjustment in the current consumption charges payable by the petitioner till the entire amount is adjusted.

For Petitioner : Mr.S.P.Parthasarathy
For Respondents: Mr.N.Damodaran

O R D E R

(The case has been heard through video conference)

The present writ petition has been filed by the petitioner seeking to forbear the respondents and their men, agents from collecting current consumption charges, demand charges and any arrears from the petitioner until the respondents make payment of the outstanding dues of Rs.6,74,363/- (for the year 2019-20) payable to the petitioner or give adjustment in the current consumption charges payable by the petitioner till the entire amount is adjusted.

2.The case of the petitioner is that the petitioner is an industry involved in the manufacture of yarn having High Tension Electricity Supply in H.T.Sc.No.0388 coming under the fourth respondent. The petitioner owning windmills at feasible locations and wheeling the wind power to their consumption at their industry coming under the fourth respondent under captive consumption arrangements in accordance with the Energy Wheeling Agreement (EWA) executed between the officers of the second respondent. According to the Tariff orders issued by the first respondent Commission, the petitioner has entered into the aforesaid Agreement where it was agreed that if wind energy is not utilized fully during a month, the balance of it will be treated as sell to board for which the respondent Board will pay the petitioner at 75% of the normal purchase rate fixed by the Commission.

2.1. The petitioner industry have already collected the details of surplus wind energy sold to the respondent after captive consumption for 2019-20 as per fourth respondent's statement, a total banked units of 3,26,964/- unutilized energy as on 31st March every year may be encashed at 75% of the total banked energy i.e., units (245223 units x Rs.2.75/-) Rs.6,74,363/-, accordingly, raised invoices for the encashment of the same at the applicable Tariff value at the appropriate time with the respondents. But both in pursuance of the Tariff order dated 15.05.2006 and also as per the terms of the said

Energy Wheeling Agreement executed between the petitioner and the Officials of the respondent, no payment has been made by the respondents till date.

2.2. Further, the petitioner has already availed term loan from financial organisations, for establishing their wind mills and are paying 15% interest per annum for the same. Since there is a delay in getting the payment from the respondent Corporation the petitioner industry is unable to repay its term loans and therefore, they are facing penal interest charges due to delay in repayment of the installment of their term loan. Hence, the petitioner has come forward before this Court with the present writ petition for the relief stated supra.

3. The learned counsel for the petitioner would submit that in a similar case in W.M.P.No.7381 of 2021 in W.P.No.6828 of 2021 dated 17.03.2021, this Court has passed an interim order by directing the respondents therein to adjust the outstanding due amount for the current consumption charges payable by the petitioner therein and not to disconnect the electricity supply to the petitioner therein, till the entire outstanding due amount is adjusted. He therefore prayed that the similar relief may be granted to the petitioner herein. He also prays this Court to issue appropriate direction to the fifth respondent to consider the petitioner's representation dated 05.01.2021 and to pass appropriate orders.

4. The learned counsel appearing for the respondents would submit that the respondents have complied with the direction passed by this Court vide order dated 17.03.2021. He has also brought to the notice of this Court that in the light of the interim order passed by this Court in W.M.P.No.7381 of 2021 in W.P.No.6828 of 2021 dated 17.03.2021, the respondents would consider the petitioner's representation and adjust the outstanding due amount for the current consumption charges payable to the petitioner subject to the calculation of the outstanding amount.

5. Heard the learned counsel on both sides.

6. In the light of the interim order passed by this Court in W.M.P.No.7381 of 2021 in W.P.No.6828 of 2021 dated 17.03.2021 and also considering the submissions made by the learned counsel on both sides, this Court issues the following directions:

(i) The fifth respondent is directed to consider the petitioner's representation dated 05.01.2021 and adjust the outstanding due amount payable by the TANGEDCO to the petitioner against the current consumption charges payable by the petitioner to the TANGEDCO subject to the calculation of the outstanding due amount as claimed by the petitioner.

(ii) The aforesaid exercise shall be completed by the fifth respondent as expeditiously as possible, within a period of four weeks from the date of receipt of a copy of this order.

(iii) It is also made clear that the respondents shall not take any coercive steps to disconnect the electricity connection to the petitioner until outstanding due amount is adjusted by the respondent Board towards the current consumption charges payable by the petitioner.

7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1. Tamil Nadu Electricity Regulatory
   Commission Rep. by its Secretary,
   19-A, Rukmini Lakshmipathy Salai,
   (Marshall's Road),
   Egmore, Chennai - 600 008.

2. The Chairman,
   Tamil Nadu Generation and Distribution
   Corporation Limited, 144, Anna Salai,
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3. Director Finance,
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5. The Superintending Engineer,
   TANGEDCO,
   Tiruppur Electricity Distribution Circle,
   Tiruppur.

+1 CC to Mr. R.s.Pandiya Raj, Advocate, Sr 31212.

W.P.No.13607 of 2021

PCH(CO)
SP(15/07/2021)