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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.07.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos. 14272, 14278, 14281, 14283 and 14289 of 2021
and

WMP.Nos. 15183, 15184, 15185, 15186 and 15187 of 2021

W.P.No.14272 of 2021

M/s.GTN Enterprises Limited,
HTSC No.134, Dharapuram Road,
Indira Nagar, Tungavai Post,
Udumalpet 642 203,
rep. by its President (Operation)
C.D.M.Dinakaran

.. Petitioner

Vs

1. Tamilnadu Generation and Distribution
Corporation Ltd (TANGEDCO)
Represented by its Chairman & Managing Director,
No.144, Anna Salai, Chennai -2.
2. The Chief Engineer,
Non-Conventional Energy Sources,
TANGEDCO,
2nd Floor, No.144, Anna Salai, Chennai -2.
3. The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Ltd
Udumalpet
4. Tamilnadu Electricity Regulatory Commission,
19-A, Rukmani Lakshmipathy Salai,
Egmore, Chennai -600008,
Represented by its Secretary.

.. Respondents

Prayer in W.P.No.14272 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3rd Respondents to give the adjustment of the excessively collected Banking charge of Rs.15,96,783/- (Period from 01.08.2012 to 31.03.2016) based on



the working instructions issued by the 1st Respondent dated 3.10.2017 in the matter of implementation of the order of the State Commission (TNERC) issued in RA. NO 6/2013 dated 31.03.2016.

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PETITIONER:-

W.P.NO.14278 OF 2021

- 1 M/S.SIVA BHARATHI SYNTEX INDIA
PVT LTD SF NO.349/1J KALLIPALAYAM ROAD
KURUBAPALAYAM POST S.S.KULAM(VIA)
COIMBATORE-641 107 REPD ITS DIRECTOR
C.DHAKSHINAMOORTHY

W.P.NO.14281 OF 2021

- 1 PATSPIN INDIA LIMITED HTSC N
O.306 2/147 UDUMALAI-TIRUPUR ROAD
KOTTAMANGALAM POST PONNERI UDUMALPET -642
201 TIRUPPUR DISTRICT REPD.ITS PRESIDENT
(OPERATION SHRI..C.D.M.DINAKARAN

W.P.NO.14283 OF 2021

- 1 SORNALAKSHMI SPINNING MILLS
PVT LTD HTSC NO.104 NO.17 PAVADI STREET
TIRUCHENGODE-637211 NAMAKKAL DISTRICT REPD.
ITS EXECUTIVE DIRECTOR, SENTHIL .K

W.P.NO.14289 OF 2021

- 1 M/S.SHRI DHANALAKSHMI SPINNTEX
PRIVATE LIMITED SF.NO.226/3 I NH -47
AVINASHI ROAD KARUMATHAMPATTI, COIMBATORE-
641 659 REPD.ITS AUTHORIZED PERSON
L.GUNASEKARAN

RESPONDENTS:-

W.P.NO.14278 OF 2021

- 1 TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD (TANGEDCO)
REP BY ITS CHAIRMAN AND MANAGING DIRECTOR NO.
144 ANNA SALAI, CHENNAI-02
- 2 THE CHIEF ENGINEER
NON-CONVENTIONAL ENERGY SOURCES TANGEDCO
2ND FLOOR 144 ANNA SALAI, CHENNAI-600002



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3 THE SUPERINTENDING ENGINEER
COIMBATORE NORTH ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED, COIMBATORE

4 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 19-A RUKUMINI
LAKSHMIPATHY SALAI, EGMORE, CHENNAI-600008
REP BY ITS SECRETARY

W.P.NO.14281 OF 2021

- 1 TAMIL NADU GENERATION AND DI
STRICTION CORPORATION LTD (TANGEDCO) REP
BY ITS CHAIRMAN AND MANAGING DIRECTOR NO.
144 ANNA SALAI, CHENNAI-02
- 2 THE CHIEF ENGINEER
NON-CONVENTIONAL ENERGY SOURCES TANGEDCO
2ND FLOOR 144 ANNA SALAI, CHENNAI-600002
- 3 THE SUPERINTENDING ENGINEER
UDUMALPET ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED, UDUMALPET
- 4 TAMIL NADU ELECTRICITY REGUL
ATORY COMMISSION 19-A RUKUMINI
LAKSHMIPATHY SALAI, EGMORE, CHENNAI-600008
REP BY ITS SECRETARY

W.P.NO.14283 OF 2021

- 1 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD (TANGEDCO) REP
BY ITS CHAIRMAN AND MANAGING DIRECTOR NO.
144 ANNA SALAI, CHENNAI-02
- 2 THE CHIEF ENGINEER
NON-CONVENTIONAL ENERGY SOURCES TANGEDCO
2ND FLOOR 144 ANNA SALAI, CHENNAI-600002
- 3 THE SUPERINTENDING ENGINEER
NAMAKKAL ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED, NAMAKKAL



- 4 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 19-A RUKUMINI
LAKSHMIPATHY SALAI, EGMORE, CHENNAI-600008
REP BY ITS SECRETARY

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W.P.NO.14289 OF 2021

- 1 TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD (TANGEDCO) REP
BY ITS CHAIRMAN AND MANAGING DIRECTOR NO.
144 ANNA SALAI, CHENNAI-02
- 2 THE CHIEF ENGINEER
NON-CONVENTIONAL ENERGY SOURCES TANGEDCO
2ND FLOOR 144 ANNA SALAI, CHENNAI-600002
- 3 THE SUPERINTENDING ENGINEER
COIMBATORE SOUTH ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMTIED, COIMBATORE
- 4 TAMIL NADU ELECTRICITY REGUL
ATORY COMMISSION 19-A RUKUMINI
LAKSHMIPATHY SALAI, EGMORE, CHENNAI-600008
REP BY ITS SECRETARY

PRAYER:-

W.P.NO.14278 OF 2021

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3 Respondents to give the adjustment of the excessively collected banking charge of Rs.3,84,670/- (Period from 01.08.2012 to 31.03.2016) based on the working instructions issued by the 1st respondent dated 3.10.2017 in the matter of implementation of the order of the State commission (TNERC) issued in RA No.6 of 2013 dated 31.03.2016

W.P.No.14281 of 2021

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3 Respondents to give the adjustment of the excessively collected banking charge of Rs.24,11,592/- (Period from 01.08.2012 to 31.03.2016) based on the working instructions issued by the 1st respondent dated 03.10.2017 in the matter of implementation of the order of the State commission (TNERC)



issued in RA No.6 of 2013 dated 31.03.2016

W.P.No.14283 of 2021

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Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3 Respondents to give the adjustment of the excessively collected banking charge of Rs.1,56,595/- (Period from 01.08.2012 to 31.03.2016) based on the working instructions issued by the 1st respondent dated 3.10.2017 in the matter of implementation of the order of the State commission (TNERC) issued in RA No.6 of 2013 dated 31.03.2016

W.P.NO.14289 OF 2021

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3 Respondents to give the adjustment of the excessively collected banking charge of Rs.21,37,690/- (Period from 01.08.2012 to 31.03.2016) based on the working instructions issued by the 1st respondent dated 03.10.2017 in the matter of implementation of the order of the State commission (TNERC) issued in RA No.6 of 2013 dated 31.03.2016

In all writ petitions

For Petitioner	:	M/S. S.P.Parthasarathy
For Respondents	:	Mr. Jai Venkatesh (TNEB for R1 and R2
	:	Mr. Abdul Kalam (TNEB) for R3

COMMON ORDER

The petitioners are owning windmills and they have entered into an Energy Wheeling Agreement with the respondent Board and they are entitled for adjustment of the energy so generated from the windmills for their captive consumption at this Spinning Mills as fixed by the Tamil Nadu Electricity Regulatory Commission. Since the issue involved in these writ petitions are identical, they are disposed of by this common order.

2. Heard the learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents.

3. The learned counsel for the petitioners relied upon by



the final orders passed by this Court in similar matter in W.P.No.3987 of 2021, dated 30.03.2021 and agreed to pass orders on the same line. The relevant paragraphs of the said order is extracted below:

"4. This Court by an order, dated 5/4/2017, directed the respondents 1 to 3 therein to implement the order of the State Commission (TNERC) in R.A.No.6 of 2013, dated 31/3/2016, within a period of eight weeks, from the date of receipt of a copy of the order, dated 5/4/2017. Thereafter, the second respondent has issued a circular in Memo No.CFC/REV/DFC/REV/AS.3/D.No.384/17 dated 3/10/2017, by referring the orders of this Court and passed an order as follows:-

"While revising the CC bills from 1/8/2012 to 31/3/2016 in respect of the wind energy captive user, if any refund of banking charges and other charges arising, the same may be allowed for adjustment in the ensuing CC bill (s) in 10 instalments. Similarly, if any collection of CC charges is arising, the same shall be collected separately by issuing separate demand with 15 days notice and if not paid, the same may be included in the ensuing CC bill after giving appropriate notice to the respective consumers. Instalments if any requested can be acted up on suitably without exceeding three monthly instalments."

5. Though the circular has been issued on 3/10/2017, the same has not been implemented by the first respondent and therefore, the petitioner has made several representations and thereafter, approached this Court for a writ of mandamus, directing the second and third respondents to give adjustment of the excessively collected banking charge of Rs.25,44,093/- which is for the period from 1/8/2012 to 31/3/2016 based on the working instructions issued by the first respondent dated 3/10/2017.

....

8. 12 (2) of the Tamil Nadu Electricity Supply Code, reads as follows:-

"Where it is found that the consumer has been over charged, the excess amount paid in such cases will be adjusted against future current consumption charges. If, even after such adjustment against future current consumption



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charges for two assessment periods, there is still a balance to be refunded, the refund will be made by cheque."

9. It appears that the respondents have charged excess amount and failed to adjust the same in future current consumption charges, despite the orders of APTEL and the order of this Court made in W.P.No.3979 of 2017 and the Circular issued in No.CFC/REV/DFC/REV/AS.3/ D.No.384/17 dated 3/10/2017. Therefore, this writ petition is allowed, with a direction to the respondents, to refund the excess amount due to the petitioner, as per Clause 12 (2) of the Tamil Nadu Electricity Supply Code, 20014, within a period of four weeks, from the date of receipt of a copy of this order."

4. The learned counsel appearing for the petitioners fairly submitted before this Court that the entire excess amount payable to the petitioners can be adjusted in the ensuing CC Bills.

5. The learned standing counsel appearing for the respondent board, on instructions, has also agreed to adjust the excess amount with future CC Bills after the same is approved by the respondent board.

6. In view of the statement made by the learned counsel appearing for the parties, this Court is inclined to direct the respondent board to adjust the excess amount payable to the petitioners in the future Consumption Charges Bills, based on the working instructions issued by the first respondent dated 03.10.2017.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS)

// True Copy//

Sub Assistant Registrar

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To

1. The Chairman & Managing Director,
Tamilnadu Generation and Distribution
Corporation Ltd (TANGEDCO)
No.144, Anna Salai, Chennai -2.
2. The Chief Engineer,
Non-Conventional Energy Sources,
TANGEDCO,
2nd Floor, No.144, Anna Salai, Chennai -2.
3. The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Ltd
Udumalpet.
4. The Secretary,
Tamilnadu Electricity Regulatory Commission,
19-A, Rukmani Lakshmipathy Salai,
Egmore, Chennai -600008,
5. The Superintending Engineer,
Coimbatore North Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Limited,
Coimbatore.
6. The Superintending Engineer,
Namakkal Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Limited,
Namakkal.
7. The Superintending Engineer,
Coimbatore South Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Limited,
Coimbatore.

+5ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.33171

W.P.Nos. 14272, 14278, 14281, 14283
and 14289 of 2021

PM(CO)
SU(05/08/2021)