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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14698 of 2021 and
WMP No.15597 of 2021

Muthur Murugan Mills Ltd.,
HTSC No.0153, SF 618, Karegoundem Palayam,
Near Annur Powerhouse, Annur,
Coimbatore 641 697
rep. by its authorized signatory
S.S.Rajkumar

....Petitioner

Vs.

1. Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary, 19-A,
Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore,
Chennai 600008.
2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
No.144, Anna Salai, Chennai 600 002.
3. Director (Finance),
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai, Chennai 600 002.
4. The Superintending Engineer
(TANGEDCO),
Coimbatore North Electricity Distribution Circle,
Coimbatore.
5. The Supertending Engineer
(TANGEDCO),
Palladam Electricity Distribution Circle,
Palladam.

....Respondents

PRAYER: Writ petition filed under Section 226 of the Constitution of India to issue 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 respondent makes payment of the outstanding



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dues of Rs.9,63,891/- (for the year 2019-2021) 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.Abdul Kalam (TNEB
for R1 to R5

ORDER

This writ petition has been filed by the petitioner seeking to issue 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 respondent makes payment of the outstanding dues of Rs.9,63,891/- (for the year 2019-2021) 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 textile products having High Tension Electricity Supply in H.T.Sc.No.0153 coming under the fourth respondent. The petitioner owns a windmill coming under the fifth respondent and producing electricity there from and exporting to the respondents TANGEDCO at the above circle for the purpose of captive consumption of the petitioner.. 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 from April 2019 to March 2020 coming under the fifth respondent total banked units 205145. Unutilized energy as on 31st March every year may be encashed at the rate of 75% of the total banked units (205145 units x 2.75) Rs.4,23,112 and April 2020 to March 2021 total banked units 2,62,196. Hence the petitioner is eligible for 75% of the total banked units (2,62,196 units x Rs.2.75) Rs.5,40,779/- total 2019 to 2021 Rs.9,63,891/-. But they failed to pay the same, 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. The petitioner has raised invoices dated 10.09.2020 and 12.04.2021 for the encashment of the same at the applicable Tariff value at the appropriate time with the respondents. However no payment has been made by the respondents till date. 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 representations dated 10.09.2020 and 12.04.2021 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 counsels 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 representations dated 10.09.2020 and 12.04.2021 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.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore, Chennai 600008.
2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
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3. Director (Finance), Tamil Nadu Generation & Distribution
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Coimbatore North Electricity Distribution Circle,
Coimbatore.
5. The Supertending Engineer
(TANGEDCO), Palladam Electricity Distribution Circle,
Palladam.

+2cc to Mr.M.A.Kalam, Advocate, S.R.No.34677

W.P.Nos.14698 of 2021 and
WMP No.15597 of 2021

UM(CO)
RGA(23/08/2021)