



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14676 of 2021

and

WMP No.15576 of 2021

ATC Limited, HTSC No.41, 35, Rajaji Nagar,
Hosur 635 126, Tamil Nadu 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.800, Anna Salai, Chennai 600 002.
3. Director (Finance), Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai, Chennai 600 002.
4. The Supertending Engineer
(TANGEDC),
Krishnagiri Electricity Distribution Circle,
Krishnagiri.
5. The Supertending Engineer
(TANGEDC),
Udumalpet Electricity Distribution Circle,
Udumalpet. . . . 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 dues of Rs.71,94,617/- (for the year 2014-2018) payable to the petitioner or give adjustment in the current consumption charges payable by the petitioner till the entire amount is adjusted.



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For petitioner : Mr.A.R.Ramanathan

For respondents: Mr.Abdul Kalam (TNEB
for R1 to R5

ORDER

This writ petition has been filed by the petitioner to forbear 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.71,94,617/- (for the year 2014-2018) 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 owns a Windmill, having capacity of 1500 KW at SF No.18/1A(P), 1B9P) of Kongalnagaram, Madathukulam Taluk in Tirupur District. The generating windmill is in Udumalpet Electricity Distribution Circle, i.e. 5th 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 the year 2014-2015 is 3,91,274 units, for the year 2016-2017 is 8,25,731 units and for the year 2017-2018 is 9,05,301 units. The unutilized energy as on 31st March every year may be encashed at 75% of the purchase tariff rate during normal occasions and at 100% of the purchase tariff rate for the entire banked energy during a period by which restriction and control measures are enforce. Hence, Rs.13,26,419, Rs.28,99,228 and Rs.30,68,970 (Rs.71,94,617/- in total) is payable to the petitioner by the respondent for the years 2014-2015, 2016-2017 and 2017-2018 respectively. 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 made detailed



representation seeking payment of the above amount on 21.12.2020 to the 5th respondent, 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 representation dated 21.12.2020 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 representation dated 21.12.2020 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.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mst

To

1. Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary, 19-A,
Rukmini Lakshmipathy Salai,
(Marshall's Road), Egmore,
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Krishnagiri Electricity Distribution Circle,
Krishnagiri.
5. The Supertending Engineer (TANGEDC),
Udumalpet Electricity Distribution Circle,
Udumalpet.

+1cc to Mr.A.R.Ramanathan, Advocate, S.R.No. 34128

+1cc to Mr.M.A.Kalam, SE(TNEB), Advocate, S.R.No. 34681

W.P.Nos.14676 of 2021 and
WMP No.15576 of 2021

SJ(CO)
GN(18/08/2021)