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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22100 of 2019

And

W.M.P.No.21359 of 2019

M/s.VVD and Sons Private Limited
Represented by its Executive Director
Mr.D.Kabilan

... Petitioner

Vs.

1.Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO)
Represented by its Chairman and Managing Director,
144, Anna Salai, Chennai - 600 002.

2.The Chief Financial Controller,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tirunelveli EDC,
Tirunelveli - 627 011.

4.The Superintending Engineer,
AO (Revenue Department),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tirunelveli - 627 011.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents to forthwith make the payment of a sum of Rs.3,27,00,202/- (Rupees Three Crores Twenty Seven Lakhs Two Hundred and Two Only) to the petitioner towards interest for delayed payment for the period 2009-10 till 2016-17, in compliance with the order dated 08.07.2016 passed in Civil Appeal No.2937 of 2014 by the Hon'ble Supreme Court of India.



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For Petitioner : Mr.N.L.Rajah
Senior Advocate
for M/s.Arun Anbumani

For Respondents : Mr.Abud Khalam for R1 to R4
Standing Counsel (EB)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the Respondents to forthwith make the payment of a sum of Rs.3,27,00,202/- (Rupees Three Crores Twenty Seven Lakhs Two Hundred and Two Only) to the petitioner towards interest for delayed payment for the period 2009-10 till 2016-17, in compliance with the order dated 08.07.2016 passed in Civil Appeal No.2937 of 2014 by the Hon'ble Supreme Court of India.

2.The petitioner is a Company registered under the Companies Act and is one of the pioneers of green energy in Tamil Nadu. The petitioner has installed eleven Wind Energy Generators (WEG's) at Parameshwarapuram, Sambavar Vadakarai, Kulayaneri, Ayansurandai, Achankuttam, Veppilankulam, Udayathoor and Kurukkalpatti Villages in Tirunelveli District and the WEG's have been assigned HT SC Nos.2512, 2212, 2227, 2123, 2245, 1608, 1690, 2529, 2681, 3059 and 3094 by the respondents.

3.As the payments made/ to be made to the WEG's like the petitioner were all delayed by TNEB (now TANGEDCO) by over several months, TNERC vide its order dated 20.04.2011 passed in M.P.No.36 of 2010 held that TNEB is liable to pay interest @ 1% per month to the WEG's on the delayed payments. The petitioner is a member of M/s.Indian Wind Power Association, an Association that espouses the cause of WEG's and one of the petitioners in the said M.P.No.36 of 2010.

4.The order passed by the TNERC was challenged by TNEB (now TANGEDCO) before the Appellate Tribunal for Electricity and the Tribunal vide its judgment dated 17.04.2012 passed in Appeal No.11 of 2012 dismissed the said Appeal as devoid of merits. Aggrieved over the said judgment passed by the Tribunal, TNEB (now TANGEDCO) filed Civil Appeal No.2937 of 2014 before the Hon'ble Supreme Court of India. The said Civil Appeal was also dismissed on 08.07.2016 by the Hon'ble Supreme Court of India holding "we see no reason to interfere with the award of simple interest at the rate of 10% per annum on the amount outstanding against the appellant - Electricity Board. The appeal is accordingly dismissed."



5. According to the petitioner, TNEB (now TANGEDCO) has to pay a sum of Rs.3,27,00,202/- (Rupees Three Crores Twenty Seven Lakhs Two Hundred and Two Only) to the petitioner towards interest for delayed payment for the period 2009-10 till 2016-17, in compliance with the order dated 08.07.2016 passed in Civil Appeal No.2937 of 2014 by the Hon'ble Supreme Court of India and since the same has not yet been paid, the petitioner has filed this writ petition.

6. The learned Senior Advocate appearing for the petitioner submitted that during the pendency of this writ petition, TNEB (now TANGEDCO) paid a sum of Rs.1,10,20,493/- / portion of the interest amount to the petitioner and the balance amount of Rs.2,16,79,709/- is yet to be paid. Hence, this Court may issue direction to TNEB (now TANGEDCO) to pay the balance amount within a reasonable time frame.

7. Mr. Mahendran, Chief Financial Controller, appeared before this Court today (07.12.2021) and agree that the balance amount of Rs.2,16,79,709/- will be paid to the petitioner within a reasonable time frame, however, without interest for the same.

8. Recording the submission made by the Chief Financial Comptroller, this writ petition is closed. The respondent/ TNEB (now TANGEDCO) is directed to pay the balance amount of Rs.2,16,79,709/- without interest, to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman and Managing Director,
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO)
144, Anna Salai, Chennai - 600 002.

2. The Chief Financial Controller,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
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AO (Revenue Department),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tirunelveli - 627 011.

+1cc to Mr.Arun Anbumani, Advocate SR. No.64623
+1cc to Mr.M.Abul Kalam, Standing Counsel for Tamil Nadu
Electricity Board SR. No.64962

W.P.No.22100 of 2019
And
W.M.P.No.21359 of 2019

GJ (CO)
PR (22/12/2021)