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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. Nos. 23686, 23688 & 23690 of 2021

M.A.G & Company
No. 896, Suriyan Nagar,
ABT Main Road
Karuampalayam, Tirupur
Repd. by its Authorised Signatory
S. Pramasivam ..Petitioner in W.P. No.23686 of 2021
E. Selvan ..Petitioner in W.P.No.23688 of 2021
M. Thiagarajan ..Petitioner in W.P.No.23690 of 2021

Versus

1. Tamilnadu Generation and Distribution Corporation Ltd (TANGEDCO)
10th Floor, 144, Anna Salai
Chennai - 600 002
Represented by its Chairman
cum Managing Director
2. The Chief Engineer, NCES
TANGEDCO, 2nd Floor
144, Anna Salai,
Chennai 600 002
3. The Superintending Engineer
TANGEDCO
Palladam Electricity Distribution Circle
Palladam.
4. Tamilnadu Electricity Regulatory Commission
19-A, RukminiLakshmipathySalai
Egmore, Chennai - 600 008
Represented by its Secretary ..Respondents in all the Wps.

Prayer in 23686 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st, 2nd and 3rd respondents to allow the utility charge to the petitioner by terminating the existing Energy Purchase Agreements all dated 23.03.2017 for their WEG No. 039204390426 (old No. 245) and execute fresh Energy Wheeling



Agreement under third party sale scheme as per the common order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Hon'ble Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and make the outstanding payment of Rs.40,06,281/- to the petitioner towards the wind energy sold by the Petitioner for the period from June/2020 to July 2021 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in 23688 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st, 2nd and 3rd respondents to allow the utility charge to the petitioner by terminating the existing Energy Purchase Agreements all dated 16.05.2019 and execute Energy Wheeling Agreement for 3rd party sale in Petitioner's WEG No. WEG No.039224391393 (Old No.815) as per the common order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Hon'ble Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and consequently make payment of Rs. 24,92,064/- toward the wind energy sold from the petitioner's for the period from April/2021 to till date as per their respectively invoices along with interest at 1% per month for any delay in payments.

Prayer in 23690 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st, 2nd and 3rd respondents to allow the utility charge to the petitioner by terminating the existing Energy Purchase Agreements all dated 28.09.2010 for their WEG Nos. 039224391741 (Old No.TPR 4) and execute Energy Wheeling Agreement under third party sale as per the common order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Hon'ble Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and make outstanding payment of Rs. 45,46,215/- to the petitioner towards the wind energy sold by the petitioner for the periof March/2018 to till date as per their respecrtive invoices along with interest at 1% per month for any delay in payments.

For Petitioner : Mr. R.S. Pandiyaraj
in all WPs

For Respondents : Mr. Abdul Kalam
in all WPs



COMMON ORDER

These writ petitions have been filed for the issuance of Writ of Mandamus seeking to direct the 1st, 2nd and 3rd respondents to allow the utility charge to the respective petitioners by terminating the existing Energy Purchase Agreements for their WEG Nos. and execute fresh Energy Wheeling Agreement under third party sale scheme as per the common order dated 30.08.2019 passed by this Court, which was upheld by the Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and make outstanding payments to the petitioners towards the wind energy sold for the respective periods to till date as per their respective invoices till the utility charge is effected along with interest at 1% per month for any delay in payments.

2. The issues involved in these writ petitions are covered by the earlier order passed by this Court in a batch of writ Petitions in W.P. Nos. 5196, 11725, 8459 & 8463 of 2019 and 6694 & 1275 of 2018 dated 30.08.2019 and this order was subsequently confirmed by the First Bench of this Court in W.A. Nos. 4189, 4194, 4197, 4201, 4204 and 4205 of 2019 dated 18.02.2020., which was further affirmed by the Hon'ble Supreme Court by order dated 24.09.2020 wherein the Special Leave Petition filed by TANGEDCO was dismissed. Following the same, yet another writ petition No. 18465 of 2021 for the same relief was disposed of by this Court by an order dated 03.09.2021. The relevant portion of the order dated 03.09.2021 reads as follows:-

4. In view of the above, these writ petitions are allowed with the following directions:

(a) The respondents/TANGEDCO are directed to permit the petitioner to switch over to captive consumption/group captive consumption/third party sale, as the case may be, as per the request made by the petitioners herein.

(b) The respondents/TANGEDCO are directed to settle the dues to the petitioner as per their respective invoices raised by them, along with interest as per clause 6(b), within a period of two months from the date of receipt of a copy of this order.

(c) Consequently, in view of permitting the petitioner to migrate from EPA to EWA, the proceedings dated 20.05.2017 of the first respondent deciding not to concede any request for migration is set aside.



3. In the light of the earlier order passed by this Court, mentioned supra, these writ petitions are disposed of in the same terms. No costs.

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Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The Chairman cum Managing Director
Tamilnadu Generation and Distribution
Corporation Ltd (TANGEDCO)
10th Floor, 144, Anna Salai
Chennai - 600 002
2. The Chief Engineer, NCES
TANGEDCO, 2nd Floor
144, Anna Salai, Chennai 600 002
3. The Superintending Engineer
TANGEDCO
Palladam Electricity Distribution Circle
Palladam.
4. Tamilnadu Electricity Regulatory Commission
19-A, RukminiLakshmipathySalai
Egmore, Chennai - 600 008

+3cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.56585

+1cc to Mr.B.Vijay, Advocate, S.R.No.57775

WP Nos. 23686, 23688 &
23690 of 2021

GPL(CO)
RGA(30/11/2021)