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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 25612, 25614 & 25616 of 2021

M/s.Sri Balaji & Co.
Adm.off No.405 Maker Chamber V,
4th Floor Nariman Point, Mumbai-400 021.
Repd by its Authorized Signatory,
R.Venkatachalam

... Petitioner in W.P.No.25612 of 2021

The Metal Powder Company Ltd,
Maravankulam Village, Thirumangalam, Madurai,
Repd by its Chief Executive Officer,
A.Kasirajan

... Petitioner in W.P.No.25614 of 2021

M/s.Shree Siddhivinayaka Cotton Corporation,
Adm.off No.405 Maker Chamber V,
4th Floor Nariman Point, Mumbai-400 021.
Repd by its Authorized Signatory,
R.Venkatachalam

... Petitioner in W.P.No.25616 of 2021

Vs.

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.

... 1 & 2nd RespondentS in all WPs

3. The Superintending Engineer,
TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet.

... 3rd Respondent in WP No.25612/2021



4. The Superintending Engineer,
TANGEDCO,
Coimbatore South Electricity Distribution Circle,
Coimbatore.

... 3rd Respondent in WP No.25614/2021

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5. The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution Circle,
Theni.

... 3rd Respondent in WP No.25616/2021

6. Tamilnadu Electricity Regulatory Commission,
19-A, Rukumini Lakshmipathy Salai,
Egmore, Chennai - 600 008.
Represented by its Secretary.

... 4th Respondent in all W.Ps

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated 27.03.2010 for their WEG Nos 039224340904 (Old No.1768) and execute fresh Energy Wheeling Agreement under Group Captive 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 outstanding payment of Rs.95,14,195/- to the Petitioner towards the wind energy sold by the petitioner for the period from September 2020 to August 2021 as per their respective invoices along with interest at 1% per month for any delay in payments.

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow Utility Change by terminating the existing Energy Purchase Agreements dated 27.03.2010 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption of the energy generated in Petitioner's WF HTSC No.039224320147 (Old No.897) 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.40,27,710/- towards the wind energy sold from the Petitioner's WEG for the period from July/2020 to September 2021 date as per their respective invoices along with interest at 1% per month for any delay in payments.



Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated 27.03.2010 for their WEG Nos.059334760256 (Old No.T71 and execute fresh Energy Wheeling Agreement under Group Captive 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 outstanding payment of Rs.1,72,85,525/- to the Petitioner towards the wind energy sold by the petitioner for the period from July/2020 to September/2021 as per their respective invoices along with interest at 1% per month for any delay in payments.

For Petitioners : Mr.R.S.Pandiyaraj
in all W.Ps

For Respondents : Mr.Abul Khalam
Standing Counsel in all W.Ps

O R D E R

The petitioners have filed these writ petitions seeking issuance of Writ of Mandamus to direct the Respondents to allow the Utility Change to the Petitioners by terminating the existing Energy Purchase Agreements dated 27.03.2010 for their WEG Nos.039224340904, 039224340904 & 059334760256 respectively and to execute fresh Energy Wheeling Agreement under Group Captive scheme and also to make outstanding payment to the Petitioners towards the wind energy sold by the petitioners for the respective periods as per their respective invoices along with interest at 1% per month for any delay in payments.

2. Heard Mr.R.S.Pandiyaraj, learned Counsel appearing for the petitioners and Mr.M.Abul Khalam, learned Standing Counsel appearing on behalf of the respondents.

3. The issue involved that has been raised in these present Writ Petitions is 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. 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.

4. It was further confirmed by the Hon'ble Supreme Court by order dated 24.09.2020 in the Special Leave Petition filed by TANGEDCO was dismissed.



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5. In view of the above, this Writ Petition is allowed with the following directions:

(a) The respondents/TANGEDCO are directed to permit to petitioners 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.

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

6. Consequently, in view of permitting the petitioners to migrate from EPA to EWA, these Writ Petitions are allowed accordingly. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

SKT

To

1. The Chairman & Managing Director
TANGEDCO,
10th floor,
No.144, Anna Salai,
Chennai-600 002, Tamil Nadu.
2. The Chief Engineer, NCES,
TANGEDCO,
2nd Floor, 144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet.
4. The Superintending Engineer,
TANGEDCO,
Coimbatore South Electricity Distribution Circle,
Coimbatore.



5. The Superintending Engineer,
TANGEDCO,
Theni Electricity Distribution Circle,
Theni.

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6. The Secretary,
Tamilnadu Electricity Regulatory Commission,
19-A, Rukumini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

+3ccs to Mr.R.S.Pandiyaraj, Advocate SR. No.63664

W.P.Nos. 25612, 25614 & 25616 of 2021

CA (CO)
NSK 03/01/2022