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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.27586, 27590, 27593, 27596, 27599
AND 27601 OF 2021

M/S.ARUL STEELS,
WEG NO. 039224391345, (OLD NO. 1636) N 49-A,
RAMAYA COLONY, 1ST STREET, P.N. ROAD,
TIRUPUR - 641 602, REPD BY ITS AUTHORIZED SIGNATORY,
MR. VENKATACHALAM.

... PETITIONER in WP No.27586 of 2021

M/S. RAJU AND CO,
WEG NO. 079204721274, N. 50-A RAMAYA COLONY,
1ST STREET, P.N. ROAD, TIRUPUR-641 602,
REPD BY ITS AUTHORIZED SIGNATORY,
MR. GOVINDARAJ.

... PETITIONER in WP No.27590 of 2021

LAKSHMI ELECTIRCAL CONTROL SYSTEMS LTD.,
W.F.H.T.S.C NO. 955, S.F.NO. 154 / 2 AND 147,
ARASUR SULUR TALUK, COIMBATORE-641 407,
REPD BY ITS CHIEF FINANCIAL OFFICER,
A.THIAGARAJAN.

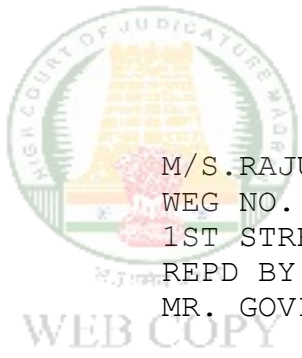
... PETITIONER in WP No.27593 of 2021

M/S. RAJU AND CO,
WEG NO. 079204720473, N 50-A RAMAYA COLONY,
1ST STREET, P.N. ROAD, TIRUPUR-641 602,
REPD BY ITS AUTHORIZED SIGNATORY,
MR. GOVINDARAJ.

... PETITIONER in WP No.27596 of 2021

M/S.ARUL STEELS,
WEG NO. 079224700082 N. 49-A,
RAMAYA COLONY, 1ST STREET, P.N. ROAD,
TIRUPUR-641 602, REPD BY ITS PARTNER,
MR. VENKATACHALAM.

... PETITIONER in WP No.27599 of 2021



M/S.RAJU AND CO,
WEG NO. 079224700081, N. 50-A, RAMAYA COLONY,
1ST STREET, P.N. ROAD, TIRUPUR-641 602,
REPD BY ITS AUTHORIZED SIGNATORY,
MR. GOVINDARAJ.

... PETITIONER in WP No.27601 of 2021

Vs

1. Tamilnadu Generation and Distribution
Corporation Ltd, (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai-600 002,
Representation by its Chairman
Cum Managing Director

2. The Chief Engineer, NCES,
TANGEDCO,
2nd Floor,
144, Anna Salai, Chennai-600 002

...RR1 & 2 in all WPs.

3. The Superintending Engineer,
TANGEDCO,
Palladam electricity Distribution Circle,
Palladam

...R3 in W.P.Nos.27586, 27593 of 2021

4. Tamilnadu Electricity Regulatory Commission
19-A, RukuminiLakshmipathy Salai,
Egmore, Chennai-600 008.
Rep by its Secretary

...R4 in W.P.Nos.27586, 27590, 27593,
27596, 27599 & 27601 of 2021

5. Director Finance
Tamil nadu Generation and Distribution
Corporation Limited,
144 Anna Salai Chennai 02.

...Respondent 5 in W.P.Nos.27586, 27590,
27596, 27599 & 27601 of 2021

6. The Superintending Engineer,
TANGEDCO, Tirunelveli Electricity
Distribution Circle, Tirunelveli.

...R3 in W.P.Nos.27590, 27596 of 2021



7. The Superintending Engineer,
TANGEDCO, Tuticorin Electricity
Distribution Circle, Tuticorin.

...R3 in W.P.Nos.27599, 27601 of 2021

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PRAYER in WP No.27586 of 2021: 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 27.03.2012 for their WEG Nos. 039224391345 (Old No. 1636) and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 27.03.2012 as per their respective invoices along with interest at 1% per month for any delay in payments.

PRAYER in WP No.27590 of 2021: 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 30.09.2016 for their WEG Nos. 079204721274 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 30.09.2016 as per their respective invoices along with interest at 1% per month for any delay in payments.

PRAYER in WP No.27593 of 2021: 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 31.03.2010 respectively and execute fresh Energy Wheeling Agreement or their own Captive consumption of the energy generated in petitioners WF HTSC No. 955 as per the common order of the Honble High court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division



Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of Rs.50,72,972/- towards the wind energy sold from the petitioners WEG 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.

PRAYER in WP No.27596 of 2021: 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 13.03.2017 for their WEG Nos. 079204720473 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 13.03.2017 as per their respective invoices along with interest at 1% per month for any delay in payments.

PRAYER in WP No.27599 of 2021: 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 30.09.2008 for their WEG Nos. 079224700082 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 30.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

PRAYER in WP No.27601 of 2021: 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 30.09.2008 for their WEG Nos.079224700081 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble



High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 30.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

For petitioners : Mr.R.S.Pandiyaraj

For Respondents : Mr.Abul kalam
Standing Counsel

COMMON ORDER

W.P.No.27586 of 2021 has been filed this Writ petition seeking issuance of 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 27.03.2012 for their WEG Nos. 039224391345 (Old No. 1636) and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 27.03.2012 as per their respective invoices along with interest at 1% per month for any delay in payments.

2. W.P.No.27590 of 2021 has been filed this Writ petition seeking issuance of 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 30.09.2016 for their WEG Nos. 079204721274 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 30.09.2016 as per their respective invoices along with interest at 1% per month for any delay in payments.



3. W.P.No.27593 of 2021 has been filed this Writ petition seeking issuance of 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 31.03.2010 respectively and execute fresh Energy Wheeling Agreement or their own Captive consumption of the energy generated in petitioners WF HTSC No. 955 as per the common order of the Honble High court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of Rs 50 72 972/- towards the wind energy sold from the ptitioners WEG for the period from July / 2020 to September 2021 as per their respectively invoices along with interest at 1% per month for any delay in payments.

4. W.P.No.27596 of 2021 has been filed this Writ petition seeking issuance of 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 13.03.2017 for their WEG Nos. 079204720473 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 13.03.2017 as per their respective invoices along with interest at 1% per month for any delay in payments.

5. W.P.No.27599 of 2021 has been filed this Writ petition seeking issuance of 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 30.09.2008 for their WEG Nos. 079224700082 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 30.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

6. W.P.No.27601 of 2021 has been filed this Writ petition seeking issuance of 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 30.09.2008 for their WEG Nos.079224700081 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the common order of the Honble High Court of judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench dated 18.02.2020 and also by the Honble Supreme court of India dated 24.09.2020 and make payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 30.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

7. Heard Mr.R.S.Pandiyaraj, learned Counsel appearing for the petitioner and Mr.M.Abdul Kalam, learned Standing Counsel appearing on behalf of the respondents.

8. The issue involved that has been raised in the present Writ Petition 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.

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

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

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

(b) The respondents/TANGEDCO are directed to settle the respective dues to the petitioner 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.

11. 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.



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12. The Writ Petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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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. The Secretary,
Tamilnadu Electricity Regulatory Commission
19-A, RukuminiLakshmipathy Salai,
Egmore, Chennai-600 008.
5. The Director Finance
Tamil nadu Generation and Distribution
Corporation Limited, 144 Anna Salai Chennai 02.
6. The Superintending Engineer,
TANGEDCO, Tirunelveli Electricity
Distribution Circle, Tiruunelveli.
7. The Superintending Engineer,
TANGEDCO, Tuticorin Electricity
Distribution Circle, Tuticorin.

+6ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.69248

W.P.Nos.27586, 27590, 27593,
27596, 27599 and 27601 of 2021

NMI (CO)
RLP(11/01/2022)