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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.4925, 4930, 4933 & 4938 of 2022

TCP Limited,
W.F.H.T.S.C.No.039204390336 (Old No.296),
'Sapthagiri Bhavan',
No.4, (Old No.10) Karpagamabal Nagar,
Mylapore, Chennai - 600 004.
Rep. by its General Manager (Works)
R.Ganesh ... Petitioner in W.P.No.4925 of 2022

R.Uma Maheswari,
WEG No.039204340535 (Old No.790),
No.6, Sneham Gardens,
KPN Colony, 3rd Street, Tiruppur-641 601.
... Petitioner in W.P.No.4930 of 2022

TCP Limited,
W.F.H.T.S.C.No.039204390399 (Old No.332),
'Sapthagiri Bhavan',
No.4, (Old No.10) Karpagamabal Nagar,
Mylapore, Chennai - 600 004.
Rep. by its General Manager (Works)
R.Ganesh ... Petitioner in W.P.No.4933 of 2022

Sri Jaivenkateshwara Boards,
WEG No.079214722543,
S/F.No.346/1F, J.R.Thottam,
Sanyasigundu (P.O.),
Salem-636 015. ... Respondent in W.P.No.4938 of 2022

Vs

1. Tamil Nadu Generation and Distribution Corporation Ltd
TANGEDCO Ltd,
10th Floor, 144, Anna Salai,
Chennai-600 002.
Rep. by its Chairman-cum-Managing Director.

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

... 1 & 2 Respondents in all W.P.'s



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

... 3rd Respondent in W.P.Nos.4925 & 4933 of 2022

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

... 3rd Respondent in W.P.No.4930 of 2022

4. The Director Finance,
TANGEDCO,
144, Anna Salai,
Chennai-600 002.

... 4th Respondent in
W.P.Nos.4925, 4930, 4933 of 2022

... 3rd Respondent in
W.P.No.4938 of 2022

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

5. Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600 008,
Rep. by its Secretary.

... 4th and 5th Respondents in
W.P.No.4938 of 2022

PRAYER in W.P.Nos.4925 & 4933 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the 1st, 2nd and 3rd respondents to allow Utility Change by terminating the existing Energy Purchase Agreement dated 30.06.2008 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.059094600031 of the energy generated in Petitioner's WF HTSC No.039204390336 (Old No.296) (W.P.No.4925 of 2022) and WF HTSC No.039204390399 (Old No.332) (W.P.No.4933 of 2022) 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 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 30.06.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.



PRAYER in W.P.No.4930 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of 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 13.02.2009 for their WEG Nos.039204340535 (Old No.790) and execute fresh 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 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 13.02.2009 as per their respective invoices along with interest at 1% per month for any delay in payments.

PRAYER in W.P.No.4938 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of 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 31.08.2021 for their WEG Nos.079214722543 and execute fresh Energy Wheeling Agreement under own captive consumption in their industry bearing HTSC No.049094240252 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 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 31.08.2021 as per their respective invoices along with interest at 1% per month for any delay in payments.

(For all W.P.'s)

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.Abul Kalam,
Standing Counsel

COMMON ORDER

Mr.Abul Kalam, learned Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter finally. Hence, by consent of both counsel, these writ petitions are disposed finally even at the stage of admission.

2. The prayer of the petitioners is for a mandamus directing the respondents to permit the Utility Change to them by terminating the existing Energy Purchase Agreements and



execute fresh Energy Wheeling Agreement.

3. An identical prayer was made in the case of other similarly placed petitioners and has come to be accepted by this Court in W.P.No.5196 of 2019 etc. batch by a learned single Judge of this Court vide order dated 30.08.2019. The said order is confirmed in W.A.No.4189 of 2019 vide order dated 18.02.2020, which has also been confirmed in SLP Nos.8513 to 8518 of 2020 by order of the Hon'ble Supreme Court dated 24.09.2020. The operative portion of order passed in W.P.No.5196 of 2019 etc. batch reads as follows:

29. Thus, for the reasons stated above, the writ petitions deserve to be allowed with the following directions;

(a) the respondents/TANGEDCO are directed to permit the petitioners to switch over to captive consumption so as to use the same for their own industry;

(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 two months from the date of receipt of a copy of this order.

(c) Consequently, in view of permitting the petitioners 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.

4. The aforesaid orders have also been consistently followed by this Court thereafter. In view of the admitted identity in facts and legal position, the aforesaid orders are taken to be passed in the present matters as well.

5. These Writ Petitions are disposed as above and the mandamus sought for is issued including the specific direction for settlement of dues to the petitioners. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



sl/kbs

To

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1. The Chairman-cum-Managing Director 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 Superintending Engineer,
TANGEDCO, Udumalpet Electricity Distribution Circle,
Udumalpet.
5. The Director Finance,
TANGEDCO, 144, Anna Salai,
Chennai-600 002.
6. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.
7. The Secretary, Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600 008.

+4ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.15239

W.P.Nos.4925, 4930, 4933
& 4938 of 2022

RSI (CO)
CT 01/04/2022