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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-01-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.17443 of 2016

And

WMP Nos.14910 to 14912 of 2016

M/s.Sri Marudhamalai Andavar Spinning Mills,
Perur Road,
Telungupalayam Post,
Coimbatore - 641 039.
Rep.by its authorised Signatory

..Petitioner

vs.

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai - 600 002.
 2. Chief Financial Controller/Revenue,
Tamil Nadu Generation and Distribution
Corporation Limited,
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.
 3. The Superintending Engineer,
Coimbatore Electricity Distribution Circle,
TNEB/Metro,
Tatabad - 641 012.
 4. The Superintending Engineer,
UEDC/TANGEDCO,
Udumalpet.
 5. The Superintending Engineer,
Tirunelveli Electricity Distribution Circle/TANGEDCO,
Tirunelveli.
- ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the



third respondent in Lr.
No.SE/CEDC/M/DEC/AO/REV/AAO/F/T/AS/D4T0/2016 dated 22.04.2016
issued by the third respondent and all proceedings consequent or
pursuant thereto, and quash the same as being arbitrary, illegal
and consequently direct the respondents to adjust the amounts
due and payable to the petitioner by the respondents towards
unutilised banked units for the year against such Additional
Current Consumption Deposit for the year 2016-2017 and refund
the balance sums along with interest at the rate of 12% per
annum from the due date of payment.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.M.Abdul Kalam,
Standing Counsel for TANGEDCO.

O R D E R

This Writ Petition has been filed praying to issue a Writ of Mandamus, to forbear the respondents and their men, agents from collecting current consumption charges, demand charges and any arrears from the petitioner until the respondents make payment of the outstanding dues of Rs.12,13,111/- (for the year of 2015-2016) payable to the petitioner or give adjustment in the current consumption charges payable by the petitioner till the entire amount is adjusted.

2. The Petitioner, in this writ petition, is the owner of the Wind Mill, which is generating the electricity and selling it to the Respondent Board and for the purpose of captive consumption for their spinning mills and the excess amount of energy generated was transmitted to the TANGEDCO and in turn the Electricity Board used to utilize the excess electricity.

3. The grievance of the petitioner is that though they have transmitted excess electricity to the TANGEDCO over a period of 5 years, they have not made any payment. The petitioner has made a request to make adjustment in some cases where the Electricity Board has raised bills against the petitioner. In the event of less amount of electricity was generated by the petitioner's Wind Mill, the electricity was supplied by the TANGDECO.

4.Now it is the contention of the learned counsel appearing for the petitioner that the amount due to the petitioner may be adjusted by the Electricity Department against the outstanding dues payable by the petitioner to the TANGEDCO, which request was not acceded to. Therefore, the petitioner is constrained to move the present writ petition.



5. It is brought to the knowledge of this Court that pursuant to the interim orders passed by this Court in similar Writ Petitions, the respondent TANGEDCO have adjusted the said amount towards the dues payable by the petitioner. Therefore, the learned counsel for the petitioner submits that no further orders are necessary and the matter has become infructuous.

6. Though this matter has become infructuous, this Court like to state certain things, that whenever excess electricity is generated by the petitioner, the same has to be transmitted to the EB Department in such cases, the Board has to necessarily for such excess electricity transmitted make payment in time failing which, the same shall be treated as a commercial dealing and they are liable to pay interest at 12% p.a. for the period where the outstanding due is more than 60 days, unless both the parties agreed otherwise. Further the TANGEDCO shall adjust the amount due and payable to the petitioner against the arrears of EB charges payable to the respondent. Hereinafter, the TANGEDCO shall follow this order in letter and spirit in future without driving the parties to approach this Court, any more.

7. With the above, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Svn

To

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5. The Superintending Engineer,
Tirunelveli Electricity Distribution Circle/TANGEDCO,
Tirunelveli.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.5873

WP 17443 of 2016

AJS (CO)
RGA(15/02/2022)