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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.5626, 5628, 5629, 5632, 5633, 5636,
5642, 5658, 5659 & 5660 of 2022

M/S.JAYAKRISHNA FLOUR MILLS (P)LTD

W.F.H.T.S.C. NO.079204740086

(OLD NO.86) NO.5A, RAJAJI ROAD,

SALEM 636 007, TAMIL NADU

REPD. BY ITS MANAGING DIRECTOR R.K.MOHAN

...PETITIONER IN WP NO.5626 OF 2022

VELATHAL SPINNING MILLS PVT. LTD.

HTSC NO.049094220065

PALLIPALAYAM, ERODE 638 006

REP. BY ITS MANAGING DIRECTOR P.SELVARAJ

...PETITIONER IN WP NO.5628 OF 2022

M/S.JAYAKRISHNA FLOUR MILLS (P)LTD

W.F.H.T.S.C.NO.079204740135

(OLD NO.135) NO.5A, RAJAJI ROAD,

SALEM 636 007, TAMIL NADU

REPD. BY ITS MANAGING DIRECTOR R.K.MOHAN

...PETITIONER IN WP NO.5629 OF 2022

VELATHAL SPINNING MILLS PVT. LTD.

HTSC NO.049094220065

PALLIPALAYAM, ERODE 638 006

REP. BY ITS MANAGING DIRECTOR P.SELVARAJ

...PETITIONER IN WP NO.5632 OF 2022

TCP LIMITED

W.F.H.T.S.C. NO.079204721478

(OLD NO. 1478)

SAPTHAGIRI BHAVAN

NO.4 (OLD NO.10)

KARPAGAMABAL NAGAR,

MYLAPORE, CHENNAI- 600 004

REPD. BY ITS GENERAL MANAGER (WORKS) R.GANESH

...PETITIONER IN WP NO.5633 OF 2022



M.P.WIND ENERGY
WEG NO.079214722263
3/141, FOUNDARY ROAD
PLOT NO.3, 2ND FLOOR
DOOR NO.4, THORAIPAKKAM
CHENNAI- 97
REPD. BY ITS PARTNER S.MANJULA.

...PETITIONER IN WP NO.5636 OF 2022

M/S.KAVITHA DYEINGS
WEG NO.039224391596
NO.1/5-261, ANTHIYUR MAIN ROAD
KADAYAMPATTI POST, BHAVANI TALUK
ERODE- 638 312
REPD BY ITS AUTHORIZED SIGNATORY S.PRAMASIV

... PETITIONER IN WP NO.5642 OF 2022

M/S.R.R.ASSOCIATES
NO.7, PLAT MADHAVAN ROAD
MAHALINGAPURAM, NUNGAMBAKKAM,
CHENNAI-600 018.

REP. BY ITS AUTHORIZED SIGNATORY MR.K.SUBRAMANIAN.

... PETITIONER IN WP NO.5658 OF 2022

M/S.SRI AMMAN WIND SYSTEMS PVT LTD
WEG NO.079224723614
NO.85/91, VARADHARAJAPURAM MAIN ROAD,
VANNIYA TEYANAMPET,
CHENNAI-600 018

REP. BY ITS AUTHORIZED SIGNATORY MR.K.SUBRAMANIAN

...PETITIONER IN WP NO.5659 OF 2022

M/S.CLEAN SWITCH INDIA PVT LTD
WEG NO.3119, D-97A, 2ND FLOOR
ROAD NO.18, IDA PHASEL
JEEDIMETIA, HYDERABAD

REP. BY ITS AUTHORIZED SIGNATORY MR.K.SUBRAMANIAN

...PETITIONER IN WP NO.5660 OF 2022

VS

1.TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD.(TANGEDCO)
10TH FLOOR, 144 ANNA SALAI,
CHENNAI 02
REP. BY ITS CHAIRMAN CUM MANAGING DIRECTOR



2.THE CHIEF ENGINEER/NCES
TANGEDCO, 2ND FLOOR,
144, ANNA SALAI, CHENNAI 02

4.DIRECTOR FINANCE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED
144, ANNA SALAI, CHENNAI 600 002.
...FIRST, SECOND AND FOURTH RESPONDENTS IN ALL WPS

3.THE SUPERINTENDING ENGINEER
TANGEDCO,
KANYAKUMARI ELECTRICITY DISTRIBUTION CIRCLE,
NAGERCOIL 629 003
...THIRD RESPONDENT IN W.P.NO.5626,5629 OF 2022

3.THE SUPERINTENDING ENGINEER
TANGEDCO,
PALLADAM ELECTRICITY DISTRIBUTION CIRCLE
PALLADAM.
...THIRD RESPONDENT IN WP NO.5628,5642 OF 2022

3.THE SUPERINTENDING ENGINEER
TANGEDCO,
TIRUNELVELI ELECTRICITY DISTRIBUTION CIRCLE,
TIRUNELVELI
...THIRD RESPONDENT IN W.P.NO.5632, 5633, 5636,
5658, 5659 AND 5660 OF 2022

Prayer in W.P.No.5626 of 2022 : Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents No.1 to 3 to allow Utility Change by terminating the existing Energy Purchase Agreement dated 02.09.2010 respectively and execute fresh 'Energy Wheeling Agreement' for their own Captive Consumption at their HTSC Nos.059094520067 and 059094520125 of the energy generated in Petitioner's WF HTSC No.079204740086 (Old No.86) 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 petitioner till the date of the termination of the EPA dated 02.09.2010 as per their respective invoices along with interest at 1% per month for any delay in payments.



W.P.No.5628 of 2022 : Directing the 1st, 2nd and 3rd respondents to allow Utility Change by terminating the existing Energy Purchase Agreement dated 08.08.2017 respectively and execute fresh Energy wheeling Agreement for their own Captive consumption at their HTSC Nos.049094220065 of the energy generated in Petitioners WF HTSC No.039224391317 (Old No.651) 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 08.08.2017 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further orders as this Court.

W.P.No.5629 of 2022 : Directing the 1st, 2nd and 3rd respondents to allow Utility Change by terminating the existing Energy Purchase Agreement dated 02.09.2010 respectively and execute fresh Energy wheeling Agreement for their own Captive consumption at their HTSC Nos. 059094520067 and 059094520125 of the energy generated in Petitioners WF HTSC No.079204740135 (Old No.135) 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 02.09.2010 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further or orders as this Hon'ble Court.

W.P.5632 of 2022 : Directing the 1st, 2nd and 3rd respondents to allow Utility Change by terminating the existing Energy Purchase Agreement dated 25.05.2017 respectively and execute fresh Energy wheeling Agreement for their own Captive consumption at their HTSC Nos.049094220065 of the energy generated in Petitioners WF HTSC No.079234724314 (Old No.4314) 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 25.05.2017 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further orders as this Court.

W.P.No.5633 of 2022 : Directing the 1st, 2nd and 3rd Respondents to allow Utility change by terminating the existing Energy



Purchase Agreement dated 17.07.2008 respectively and execute fresh Energy Wheeling Agreement for their own captive consumption at their HTSC No.059094600031 of the energy generated in Petitioners WF HTSC NO.079204721478 (Old No.1478) 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 17.07.2008 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further orders as this Court.

W.P.No.5636 of 2022 : Directing the 1st, 2nd and 3rd Respondents to allow Utility change to the petitioner by terminating the existing Energy Purchase Agreements dated 02.09.2021 for their WEG Nos.079214722263 and execute fresh Energy Wheeling Agreement under Third party sale 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 02.09.2021 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further or other orders as this Hon'ble Court.

W.P.No.5642 of 2022 : Directing the 1st, 2nd and 3rd Respondents to allow Utility change by terminating the existing Energy Purchase Agreements dated 12.07.2021 respectively and execute fresh Energy Wheeling Agreement for their own captive consumption at their HTSC No.049094360113 of the energy generated in Petitioners WF HTSC No.039224391596 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 12.07.2021 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further or other orders as this Hon'ble Court.

W.P.No.5658 of 2022 : Directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated (EPAs) dated 16/09/2009, 27/09/2010, 28/09/2010, 23/09/2011 and 28/03/2012 for their WEG Nos.2858, 3333, 3350, 3887 and 4067 and execute



fresh Energy Wheeling Agreement under Group Captive/Third party Scheme as per the Common Order of the Honorable Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honorable Division Bench dated 18.02.2020 and also by the Honorable 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 16/09/2009, 27/09/2010, 28/09/2010, 23/09/2011 and 28/03/2012 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further or orders as this Hon'ble Court.

W.P.No.5659 of 2022 : Directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated dated 13.03.2021 for their WEG Nos.079224723614 and execute fresh Energy Wheeling Agreement under Group Captive/Third party Scheme as per the Common Order of the Honorable Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honorable Division Bench dated 18.02.2020 and also by the Honorable 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 13.03.2021 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further or orders as this Hon'ble Court.

W.P.No.5660 of 2022 : Directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated dated 15.07.2017 for their WEG Nos.3119 and execute fresh Energy Wheeling Agreement under Group Captive/Third party Scheme as per the Common Order of the Honorable Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honorable Division Bench dated 18.02.2020 and also by the Honorable 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 15.07.2017 as per their respective invoices along with interest at 1% per month for any delay in payments and pass such further or orders as this Hon'ble Court.

(In all W.P.'s)

For Petitioner	:	Mr.S.P.Parthasarathy
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 matters finally. Hence, by consent of both counsel, these writ petitions are disposed finally even at the stage of admission.

2. The prayers of the petitioner in all Writ Petitions is for a mandamus directing the respondents to permit the Utility Change to them by terminating the existing Energy Purchase Agreements and executing fresh Energy Wheeling Agreements.

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, operative portion of which 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 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.

5. 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.



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

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

sl/kbs

To

- 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,
Kanyakumari Electricity Distribution Circle,
Nagercoil - 629003.
- 4.The Director Finance,
TANGEDCO,
144, Anna Salai,
Chennai-600 002.
- 5.The Superintending Engineer,
TANGEDCO,
Palladam Electricity Distribution Circle,
Palladam.
- 6.The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

+10ccs to Mr.R.S.Pandiyaraj, Advocate Sr.Nos.17263,17264,17265

W.P.Nos.5626, 5628, 5629, 5632, 5633, 5636,
5642, 5658, 5659 & 5660 of 2022

PA(CO)
RVM(31/03/2022)