



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.6966, 6969, 6975, 6977 & 6981 of 2022

TCP Limited,
W.F.H.T.S.C.No.039224391632 (Old No.940)
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.6966 of 2022

Velathal Spinning Mills Private Limited,
HTSC.No.049094220065, Pallipalayam,
Erode - 638 006 Rep. By its Managing Director,
P.Selvaraj. ...Petitioner in W.P.No.6969 of 2022

M/s.Jayakrishna Flour Mills (P) Ltd.,
W.F.H.T.S.C.No.079204720353 (Old No.353)
No.5A, Rajaji Road, Salem - 636007,
Tamil Nadu, Rep. By its Managing Director,
R.K.Mohan. ...Petitioner in W.P.No.6975 of 2022

TCP Limited, W.F.H.T.S.C.No.039224391682 (Old No.990)
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.6977 of 2022

Network Clothing Company (P) Ltd.
NCC House, 2/641, Mangalam Post,
Andipalayam Post, Tiruppur - 641 687.
Rep. By its Authorized Signatory
M.Ravi. ...Petitioner in W.P.No.6981 of 2022

Vs

1 Tamil Nadu Generation and Distribution Corporation Ltd
(TANGEDCO), 10th Floor,
144, Anna Salai Chennai 600002
Represented by its Chairman Cum Managing Director.



2 The Chief Engineer / NCES
TANGEDCO 2nd Floor, 144,
Anna Salai, Chennai - 600002. ...Respondents in all W.P.'s

4 The Director Finance, TANGEDCO,
144, Anna Salai, Chennai 600002.
... 4th Respondent in W.P.Nos.6966,
6969,6975 & 6977 of 2022 and 3rd and
5th Respondent in W.P.No.6981 of 2022

3 The Superintending Engineer,
TANGEDCO, Palladam Electricity
Distribution Circle, Palladam.
...Respondent in W.P.Nos.6966 & 6977 of 2022

3 The Superintending Engineer,
TANGEDCO, Tirunelveli Electricity
Distribution Circle, Tirunelveli.
...3rd Respondent in W.P.Nos.6966, 6969, 6975 of 2022
& 4th Respondent in W.P.No.6981 of 2022

COMMON PRAYER:- Writ Petitions 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 Agreements dated 31.03.2010, 22.12.2017, 24.08.2010, 28.05.2010 & 26.07.2008 (for their WEG Nos.2647) respectively and execute fresh Energy Wheeling Agreements for their own Captive Consumption at their HTSC Nos.059094600031, 049094220065, 059094520067 and 059094520125, 059094600031 & 049094260144(at Erode) of the energy generated in Petitioners' WF HTSC Nos.039224391632 (Old No.940), 079234724289 (Old No.4289), 079204720353 (Old No.353), 039224391682 (Old No.990) & 039094380099(at Tiruppur EDC) as per the Common Order of the Hon'ble High 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 Petitioners towards the wind energy sold by the petitioners till the date of the termination of the EPA dated 31.03.2010, 22.12.2017, 24.08.2010, 28.05.2010 & 26.07.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.



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(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.

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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sl/kbs

To

- 1 The Chairman cum Managing Director.
Tamil Nadu Generation and Distribution Corporation Ltd
(TANGEDCO), 10th Floor,
144, Anna Salai Chennai 600002
- 2 The Chief Engineer / NCES
TANGEDCO 2nd Floor, 144,
Anna Salai, Chennai - 600002.
- 3 The Director Finance,
TANGEDCO, 144, Anna Salai,
Chennai 600002.
- 4 The Superintending Engineer,
TANGEDCO, Palladam Electricity
Distribution Circle, Palladam.
- 5 The Superintending Engineer,
TANGEDCO, Tirunelveli Electricity
Distribution Circle, Tirunelveli.

+5 CCs to Mr.R.S.Pandiyaraj, Advocate sr 20174.

W.P.Nos.6966, 6969, 6975, 6977
& 6981 of 2022

BR(CO)
SP(08/04/2022)