



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.6583, 6586, 6587, 6591, 6592
& 6594 of 2022

TCP Limited

W.F.H.T.S.C.No.079204721481 (Old No.1481)

Sapthagiri Bhavan, No.4 (Old No.10),

Karpagamabal Nagar, Mylapore, Chennai 600004.

Repd. by its General Manager (Works)

R.Ganesh

...Petitioner in W.P.No.6583 of 2022

VETAL TEXTILES AND ELECTRONICS PVT LTD

Plot No.21-24 (Old No.1),

Industrial Estate, Civilaerodrome Post,

Coimbatore 641014

Repd. by its Authorised Signatory Raguram Raja.

...Petitioner in W.P.No.6586 of 2022

TCP LIMITED

W.F.H.T.S.C.No.079204721483 (Old No.1483)

Sapthagiri Bhavan, No.4 (Old No.10),

Karpagamabal Nagar, Mylapore,

Chennai 600004.

Repd. by its General Manager (Works)

R.Ganesh

...Petitioner in W.P.No.6587 of 2022

VETAL TEXTILES AND ELECTRONICS PVT LTD

Plot No.21-24 (Old No.1),

Industrial Estate, Civilaerodrome Post,

Coimbatore 641014

Repd. by its Authorised Signatory Raguram Raja.

...Petitioner in W.P.No.6591 of 2022

TCP LIMITED

W.F.H.T.S.C.No.039224391680 (Old No.988)

Sapthagiri Bhavan, No.4 (Old No.10),

Karpagamabal Nagar, Mylapore, Chennai 600004.

Repd. by its General Manager (Works)

R.Ganesh

...Petitioner in W.P.No.6592 of 2022



M/S.WMI POWER PRIVATE LIMITED

Industry Manor, 3rd Floor,

Appasaheb Marathe Marg

Near Century Bazar,

Prabhadevi, Mumbai 400025

Repd. by its Project Manager Bhavik Sachdeva.

...Petitioner in W.P.No.6594 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.

...1st and 2nd Respondents in all Writ Petitions

3.The Superintending Engineer,

TANGEDCO,

Tirunelveli Electricity Distribution Circle,

Tirunelveli.

...R3 in W.P.Nos.6583, 6587, 6594 of 2022

3.The Superintending Engineer

TANGEDCO, Palladam Electricity Distribution Circle,

Palladam.

...R3 in W.P.Nos.6586, 6591, 6592 of 2022

4.The Director Finance

TANGEDCO, 144, Anna Salai,

Chennai 600002.

...4th Respondent in all Writ Petitions

Prayer in W.P.No.6583 of 2022 : 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 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.079204721481 (Old No.1481) as per the Common Order of the Honourable High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honourable Division Bench dated 18.02.2020 and also by the Honourable 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.

Prayer in W.P.No.6586 of 2022 : Writ Petitions filed under Article 226 of the Constitution of India, directing the 1st, 2nd, and 3rd Respondents to allow Utility Change to the petitioner by terminating the existing Energy Purchase Agreements dated 17.06.2009 for their WF HTSC No.039204390497 (Old No.413), 039204390701 (Old No.469) and 039204391107 (Old No.652) and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of the Honourable High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honourable Division Bench dated 18.02.2020 and also by the Honourable 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 17.06.2009 as per their respective invoices along with interest at 1 percentage per annum per month for any delay in payments.

Prayer in W.P.No.6587 of 2022 : Writ Petitions filed under Article 226 of the Constitution of India, 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.079204721483 (Old No.1483) as per the Common Order of the Honourable High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honourable Division Bench dated 18.02.2020 and also by the Honourable 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 percentage per annum per month for any delay in payments.

Prayer in W.P.No.6591 of 2022 : Writ Petitions filed under Article 226 of the Constitution of India, directing the 1st, 2nd and 3rd Respondents to allow Utility Change to the petitioner by terminating the existing Energy Purchase Agreements all dated 10.09.2011 for their WEG No.039304392020 (Old No.UGA-83) respectively and execute fresh Energy Wheeling Agreement under third party scheme as per the Common Order of the Honourable High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honourable Division Bench dated 18.02.2020 and also by the Honourable 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 10.09.2011 as per



their respective invoices along with interest at 1 percentage per annum per month for any delay in payments.

Prayer in W.P.No.6592 of 2022 : Writ Petition filed under Article 226 of the Constitution of India, directing the 1st, 2nd and 3rd Respondents to allow Utility Change by terminating the existing Energy Purchase Agreements dated 28.05.2010 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.059094600031 of the energy generated in Petitioners WT HTSC No.039224391680 (Old No.988) as per the Common Order of the Honourable High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honourable Division Bench dated 18.02.2020 and also by the Honourable 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 28.05.2010 as per their respective invoices along with interest at 1 percentage per annum per month for any delay in payments.

Prayer in W.P.No.6594 of 2022 : Writ Petition filed under Article 226 of the Constitution of India, directing the 1st, 2nd and 3rd Respondents to allow Utility Change to the petitioner by terminating the existing Energy Purchase Agreements all dated (EPAs) 23.10.2010 for their WEG No.2277 and 2281 respectively and execute fresh Energy Wheeling Agreement under Group Captive scheme as per the Common Order of the Honourable High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honourable Division Bench dated 18.02.2020 and also by the Honourable 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 23.10.2010 as per their respective invoices along with interest at 1 percentage per annum per month for any delay in payments.

(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.



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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.

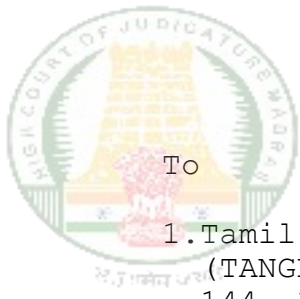
Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

sl/kbs



To

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.

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

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

5. The Director Finance,
TANGEDCO, 144, Anna Salai,
Chennai 600002.

+6ccs to M/s.R.S.Pandiyaraj, Advocate Sr.No.19738

W.P.Nos.6583, 6586, 6587, 6591, 6592
& 6594 of 2022

RGN(CO)
RVM(05/04/2022)