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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.7893, 7896, 7899 & 7902 of 2022

Karur Textile Park Limited
WG HTSC No.2661,
D.No.9 D-5, Ramakrishnapuram,
Karur - 639 003
repd. by its Chairman M.Nachimuthu

... Petitioner in WP.7893/2022

Karur Textile Park Limited
WG HTSC No.2797,
D.No.9 D-5, Ramakrishnapuram,
Karur - 639 003
repd. by its Chairman M.Nachimuthu

... Petitioner in WP.7896/2022

Karur Textile Park Limited
WG HTSC No.2813,
D.No.9 D-5, Ramakrishnapuram,
Karur - 639 003
repd. by its Chairman M.Nachimuthu

... Petitioner in WP.7899/2022

Karur Textile Park Limited
WG HTSC No.2689,
D.No.9 D-5, Ramakrishnapuram,
Karur - 639 003
repd. By its Chairman M.Nachimuthu

... Petitioner in WP.7902/2022

Vs.

1. Tamilnadu Generation and Distribution Corporation Ltd. (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
Represented by its Chairman
Cum Managing Director.
2. The Chief Engineer/NCES,
TANGEDCO, 2nd Floor,
144, Anna Salai, Chennai - 600 002.



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

4. Director Finance
Tamilnadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.

... Respondents in all WPs

Prayer in WP.No.7893 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated 18.09.2008 for their WEG Nos.2661 and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of the 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 18.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in WP.No.7896 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated 07.10.2009 for their WEG Nos.2797 and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of the 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 07.10.2009 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in WP.No.7899 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated 07.10.2009 for their WEG Nos.2813 and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of the 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 07.10.2009 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in WP.No.7902 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreements dated 27.09.2008 for their WEG Nos.2689 and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of the 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 27.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

(In all WPs)

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 matter finally. Hence, by consent expressed by both learned 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, 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



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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 matter 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 IX)

//True Copy//

Sub Assistant Registrar

vs/ska

To

1. The Chairman
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
Represented by its Chairman
Cum Managing Director.
2. The Chief Engineer/NCES,
TANGEDCO, 2nd Floor,
144, Anna Salai, Chennai - 600 002.



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

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4. Director Finance
Tamilnadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai - 600 002.

+4ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.22944

W.P.Nos.7893, 7896, 7899 & 7902 of 2022

SR-II(CO)
CT 11/04/2022