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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.9816, 9820, 9821, 9822 & 9823 of 2022

A.Sundararajan ... Petitioner in W.P.No.9816 of 2022

M/s.Babu Silk and Sarees
Rep. by its Authorized Signatory
Subramani Babu Sah

... Petitioner in W.P.No.9820 of 2022

M/s.Hosiery Yard Corporation
Rep. by its Partner Masilamani

... Petitioner in W.P.No.9821 of 2022

M/s.Jatin Wing Energy P Ltd.
Rep. by its Authorized Signatory
A.Sundararajan

... Petitioner in W.P.No.9822 of 2022

M/s.Babu Silk & Sarees
Rep. by its Authorized Signatory
Mr.Subramani Babu Sah

... Petitioner in W.P.No.9823 of 2022

Vs.

1. Tamil Nadu 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.

...1st and 2nd Respondent in all WPs

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

...3rd Respondent in W.P.No.9816 & 9822 of 2022



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

...3rd Respondent in W.P.No.9820 & 9823 of 2022

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3. The Superintending Engineer, TANGEDCO,
Coimbatore South Electricity Distribution Circle,
Coimbatore.

...3rd Respondent in W.P.No.9821 of 2022

4. Director Finance,
TANGEDCO, 144, Anna Salai,
Chennai - 600 002.

...4th Respondent in all W.P.'s

Prayer: 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 (EPA) dated 31.03.2015 for their WEG Nos. 039234392176 (Old No.895) in W.P.No.9816 of 2022, dated 30.09.2011 for their WEG Nos. 039304392054 (Old No.874) in W.P.No.9820 of 2022, dated 10.04.2008 and 18.06.2008 for their WEG Nos.039214320114 (Old No.729) and 039214320115 (Old No.747) in W.P.No.9821 of 2022, dated 08.03.2018 for their WEG Nos.039224391637 (Old No.785) and 039224391804 (Old No.846) in W.P.No.9822 of 2022 & dated 28.09.2012 for their WEG Nos.079304724189 in W.P.No.9823 of 2022 and execute fresh Energy Wheeling Agreements 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 31.03.2015, 30.09.2011, 10.04.2008 & 18.06.2008, 08.03.2018 & 28.09.2012 as per their respective invoices along with interest at 1% per month for any delay in payments.

(IN ALL W.P.'s)

For Petitioners : Mr.M.Saravanakumar

For Respondents : Mr.Abul Kalam,
Standing Counsel



O R D E R

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 petitioners 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.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ska/kbs

To

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution
Corporation Ltd., (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 Director Finance,
TANGEDCO, 144, Anna Salai,
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4. The Superintending Engineer,
TANGEDCO, Palladam Electricity Distribution Circle,
Palladam.
5. The Superintending Engineer,
TANGEDCO, Tirunelveli Electricity Distribution Circle,
Tirunelveli.
6. The Superintending Engineer, TANGEDCO,
Coimbatore South Electricity Distribution Circle, Coimbatore.

+5ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.27615

W.P. Nos.9816, 9820, 9821, 9822
& 9823 of 2022

NR[co]
NSK/24/05/2022