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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.10947 of 2022

Asian Fabricx Pvt.Ltd.
Rep.by Managing Director,
V.Ashok Ram Kumar,
746/1&2 & 751/1&2, Semmadai,
Manmangalam Village,
Karur - 639 006.

...Petitioner

Vs.

1. The Director/Generation,
Tamil Nadu Generation and Distribution Corporation Limited,
144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer, NCES
Tamil Nadu Generation and Distribution Corporation Limited,
2nd Floor, 144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli.
4. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Karur.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to allow the utility change for the Petitioner Company, by terminating the existing Energy Wheeling Agreement dated 28.03.2017 with respect to its WEG HT.SC No.079244724342 at Therkkuilandhaikulam, Kovilpatti Taluk, Tuticorin District and by executing fresh energy wheeling agreement for Group Captive Consumption and consequentially direct the Respondents to pay the outstanding amount payable to the Petitioner Company towards the wind energy sold till the date of termination of Energy Purchase Agreement dated 28.03.2017 as per the invoices raised by the Petitioner Company along with 1% per month for delayed payments.



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For Petitioner : Mr.N.Nathami

For Respondents: Mr.C.Jayaprakash for Mr.Abul Kalam
Government Advocate for
Standing Counsel

ORDER

Mr.C.Jayaprakash, learned Government Advocate accepts notice on behalf of Mr.Abul Kalam, learned Standing Counsel 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 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. This Writ Petition is 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(CCC)

//True Copy//

Sub Assistant Registrar

nst/ska

To

1. The Director/Generation,
Tamil Nadu Generation and Distribution Corporation Limited,
144, Anna Salai, Chennai - 600 002.
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4. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Karur.

+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.28970

W.P. No.10947 of 2022

RSV(CO)
RGA(20/05/2022)