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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.10868, 10870, 10873 & 10874 of 2022

M/s.Amaravathi Textiles
WEG No.079204721304
9D-5, Ramakrishnapuram,
Karur - 639 001
Repd by its Authorized Signatory
Mr.S.Tamilselvan.

...Petitioner in W.P.No.10868 of 2022.

M/s. APM Wind Energy and Plantation Pvt. Ltd.,
Nagercoil - Tirunelveli Main Road,
Aralvoimozhi - 629 301.
Repd by its Managing Director
Mr.M.Selavakumar.

...Petitioner in W.P.No.10870 of 2022.

M/s.Amaravathi Textiles
WEG No.079204721576
9D-5, Ramakrishnapuram,
Karur - 639 001
Repd by its Authorized Signatory
Mr.S.Tamilselvan

...Petitioner in W.P.No.10873 of 2022.

M/s. Amaravathi Textiles
WEG No.039204390231 (Old No.336)
Karur - 639 001.
Repd by its Authorized Signatory
Mr.S.Tamilselvan.

...Petitioner in W.P.No.10874 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 W.Ps.
3. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli. ... 3rd Respondent in W.P. Nos. 10868, 10870,
10873 of 2022
3. The Superintending Engineer,
TANGEDCO
Palladam Electricity Distribution Circle,
Palladam. ... 3rd Respondent in W.P.No. 10874 of 2022
4. Director Finance
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai - 600 002. ... 4th Respondent in all W.Ps.

Prayer in W.P.No.10868 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 (EPA) dated 28.05.2005 for their WEG Nos. 079204721304 and execute fresh Energy Wheeling Agreement under Group Captive Scheme or Third Party sale as per the common order of the Honorable 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 Petitioner towards the Wind energy sold by the petitioner till the date of the termination of the EPA dated 28.05.2005 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.10870 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 (EPAs) dated 17.09.2008 for their WEG Nos. 2166 and execute fresh Energy Wheeling Agreement under Group Captive Scheme or Third Party sale as per the common order of the Honorable 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 Petitioner towards the Wind energy sold by the petitioner till the date of the termination of the EPA dated



17.09.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.10873 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 (EPA) dated 24.02.2006 for their WEG Nos. 079204721576 and execute fresh Energy Wheeling Agreement under Group Captive Scheme or Third Party sale as per the common order of the Honorable 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 Petitioner towards the Wind energy sold by the petitioner till the date of the termination of the EPA dated 24.02.2006 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.10874 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 (EPA) dated 07.02.2004 for their WEG Nos. 039204390231 (old No. 336) and execute fresh Energy Wheeling Agreement under Group Captive Scheme or Third Party sale as per the common order of the Honorable 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 Petitioner towards the Wind energy sold by the petitioner till the date of the termination of the EPA dated 07.02.2004 as per their respective invoices along with interest at 1% per month for any delay in payments.

For Petitioner : Mr.S.P.Parthasarathy

For Respondents : Mr.C.Jayaprakash for Mr.Abul Kalam

Government Advocate for Standing Counsel

COMMON 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.

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 VI)

//True Copy//

Sub Assistant Registrar

nst/ska



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 Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.
4. The Superintending Engineer,
TANGEDCO
Palladam Electricity Distribution Circle,
Palladam.
5. Director Finance
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai - 600 002.

+4cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.29523

W.P. Nos.10868, 10870, 10873 & 10874 of 2022

NR(CO)
GN(24/05/2022)