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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.15944 OF 2022

AND

W.M.P.NO.15250 OF 2022

Spike Power Protection
Systems & Technologies,
Rep. by its Proprietor,
:KURINCHI", No.66, New Avadi Road,
Kilpauk, Chennai - 600 101.

... Petitioner

-Vs-

1. The Tamil Nadu Generation and
Distribution Corporation Limited,
Represented by its Chairman cum
Managing Director,
144, Anna Salai,
Chennai - 600 002.
 2. The Chief Finance Controller/Revenue,
TANGEDCO,
2nd Floor, Eastern Wing,
144, Anna Salai,
Chennai - 600 002.
 3. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Maharaja Nagar,
Tirunelveli - 627 011.
 4. The Superintending Engineer,
TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet
- ... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution
of India to issue a Writ of Mandamus directing the to allow the



Petitioner Company to give effect to the Petitioner's termination letter dated 13.11.2021 and terminate the current arrangement of sale of electricity generated to the TANGEDCO and allow the petitioner's to effect "Change in Utililty" i.e., to move from the category to Sale To Board to the category of Sale of Power to Captive Consumption/Third Party' in terms of its right of open access to utilise the electricity generated and also release all dues pending for power supplied to the respondents from the petitioner's generating unit bearing HTSC No.3152 April 2020 to August 2021 and HTSC No.1090 July 2020 to November 2021, together with the mandated interest on delayed payment.

For Petitioner : Ms.Dhanu Sree
For Mr.R.Parthasarathy

or Respondents : Mr.L.Jai Venkatesh
Standing Counsel
For TANGEDCO

ORDER

The writ petition has been filed for a mandamus seeking for a direction to allow the Petitioner Company to give effect to the Petitioner's termination letter dated 13.11.2021 and terminate the current arrangement of sale of electricity generated to the TANGEDCO and allow the petitioner to effect "Change in Utililty" i.e., to move from the category to Sale To Board to the category of Sale of Power to Captive Consumption/Third Party' in terms of its right of open access to utilise the electricity generated and also release all dues pending for power supplied to the respondents from the petitioner's generating unit bearing HTSC No.3152 April 2020 to August 2021 and HTSC No.1090 July 2020 to November 2021, together with the mandated interest on delayed payment.

2. Mr.L.Jai Venkatesh, learned Standing Counsel for TANGEDCO accepts notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal in the admission stage itself.

4. Heard Ms.Dhanu Sree, learned counsel for the petitioner and Mr.L.Jai Venkatesh, learned Standing Counsel for the respondents.

5. The petitioner had earlier entered into Energy Purchase Agreement dated 29.03.2010 for their WEG's. Under the Energy Purchase Agreement, payments have not been made by the



respondents. The petitioner seeks for conversion of the Energy Purchase Agreements to an Energy Wheeling Agreement under the group captive consumption/captive consumption scheme. In similar circumstances, in respect of other companies who had also entered into Energy Purchase Agreements and payments were defaulted, writ petitions were filed and they were allowed for converting Energy Purchase Agreement into Energy Wheeling Agreement under the Group Captive Scheme. The following are the writ petitions in which similar orders were passed as the one sought for by the petitioner in this writ petition:

(a) the order dated 26.10.2021 passed in W.P.No.22695 of 2021 (Orange Valley Windmills Pvt. Ltd., vs. Tamil Nadu Generation and Distribution Corporation Ltd and three others)

(b) Order dated 20.01.2022 passed in W.P.Nos.519, 523 & 524 of 2022 (Pioneer NF Forging India Pvt., Ltd., vs. Tamil Nadu Generation and Distribution Corporation Ltd and others)

(c) Order dated 30.08.2019 passed in batch of writ petitions, namely W.P.No.5196 of 2018 etc batch.

6. In all the aforementioned writ petitions, almost identical directions were issued by the respondents which are as follows:

(a) The respondent/TANGEDCO is directed to permit the petitioners to switch over to group consumption/captive consumption scheme, as the case may be, as per the request made by the petitioners;

(b) the respondent/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 that order;

(c) Consequently, in view of permitting the petitioners to migrate from EPA to EWA, the proceedings issued by the 1st respondent deciding not to concede any request for migration is set aside.

7. Since the petitioner is also similarly placed, the directions issued by this Court earlier shall hold good for this petitioner also.



8. In terms of the above directions extracted supra, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Chairman cum Managing Director,
The Tamil Nadu Generation and
Distribution Corporation Limited,
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Chennai - 600 002.
2. The Chief Finance Controller/Revenue,
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Tirunelveli - 627 011.
4. The Superintending Engineer,
TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.40328

W.P.No.15944 of 2022

RSI (CO)
PBS/07/07/2022