



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.15283, 15287, 15288, 15291, 15292 & 15293 of 2022

Aalayam Power System P.Ltd.,
WF HTSC No.3972,
4-428 Paruthipalli Main Road,
Suriyagoundampalayam, Mallasamudram (Po)
Tiruchengode(TK) Namakkal - 637 503
repd. by it Director S.V.Nallasivam

... Petitioner in
W.P.No.15283/2022

Sri Sivajothi Spinning Mills (P) Ltd.,
S.F.No.172, Kovai Road, Polavapalayam Post,
Nambiyur - 638 458
Erode by its
Authorized Signatory S.Pramasivam

.. Petitioner in
W.P.No.15287/2022

Aalayam Power System P.Ltd.,
WF HTSC No.079204721857,
4-428 Paruthipalli Main Road,
Suriyagoundampalayam, Mallasamudram (Po)
Tiruchengode(TK) Namakkal - 637 503
repd. by it Director S.V.Nallasivam

... Petitioner in
W.P.No.15288/2022

Somanur Kalpana Cotton (India) P Ltd.,
S.F.No.22/4-A, Kollupalayam Road,
Kaniyur (Po), Unjappalayam,
Coimbatore - 641 668
Repd. by its Directors,
N.Govindaraj

.. Petitioner in
W.P.No.15291/2022

Aalayam Power System P.Ltd.,
WF HTSC No.039204340662 (Old No.1145),
4-428 Paruthipalli Main Road,
Suriyagoundampalayam, Mallasamudram (Po)
Tiruchengode(TK) Namakkal - 637 503
repd. by its Director S.V.Nallasivam

... Petitioner in
W.P.No.15292/2022



Aalayan Power System P.Ltd.,
WF HTSC No.039214340775 (Old No.1372),
4-428 Paruthipalli Main Road,
Suriyagoundampalayam, Mallasamudram (Po)
Tiruchengode(TK) Namakkal - 637 503
repd. by its Director S.V.Nallasivam

... Petitioner in
W.P.No.15293/2022

-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. .. 1st and 2nd respondents
in all the W.Ps.
3. The Superintending Engineer, TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli. .. 3rd respondent in W.P.Nos.15283,
15288, 15291/2022
4. The Superintending Engineer, TANGEDCO,
Palladam Electricity Distribution Circle,
Palladam. .. 3rd respondent in
W.P.No.15287/2022
5. The Superintending Engineer, TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet. ..3rd respondent in W.P.No. 15292 &
15293/2022
6. The Superintending Engineer,
TANGEDCO,
Gobi Electricity Distribution Circle,
Gobi. . ..4th respondent in W.P.No.15287/2022
7. The Superintending Engineer,
TANGEDCO,
Coimbatore South Electricity Distribution Circle,
Coimbatore. .. 4th respondent in W.P.No.15291/2022
8. Director Finance,
Tamil Nadu Generation and Distribution,
Corporation Limited, 144, Anna Salai,



Chennai - 600 002.

...4th respondent in
W.P.Nos.15283,15288, 15292 &
15293/2022, 5th respondent in
W.P.No.15287/2022,W.P.NO.15291/2022

Prayer in W.P.No.15283/2022: 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 22.04.2019 for their WEG Nos. 3972 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the Common Order of the Hon'ble 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 22.04.2019 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.15287/2022: 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 28.02.2022 for their WEG Nos. 039204390426 and execute fresh Energy Wheeling Agreement for their own captive consumption at their HTSC No.049094360084 and 049094360089 as per the Common Order of the Hon'ble 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 28.02.2022 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.15288/2022: 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 07.09.2018 for their WEG Nos. 079204721857 and execute fresh Energy Wheeling Agreement under Group captive scheme as per the Common Order of the Hon'ble 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 07.09.2018 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.15291/2022: 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 all dated 19.03.2022 for their WEG Nos. 079224723584 and execute fresh Energy Wheeling Agreement for their own captive consumption at their HTSC No.039094320657 as per the Common Order of the Hon'ble 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 19.03.2022 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.15292/2022: 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 29/05/2017 for their WEG Nos. 039204340662 (Old.No.1145) and execute fresh Energy Wheeling Agreement under Group captive scheme as per the Common Order of the Hon'ble 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 29.05.2017 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.15293/2022: 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 29.05.2017 for their WEG Nos. 039214340775 (Old No.1372) and execute fresh Energy Wheeling Agreement under Group captive scheme as per the Common Order of the Hon'ble 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 29.05.2017 as per their respective invoices along with interest at 1% per



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month for any delay in payments.

For Petitioners : Mr.R.S.Pandiyaraj

For Respondents : Mr.L.Jai Venkatesh,
Standing Counsel for TANGEDCO

COMMON ORDER

These writ petitions have been filed for a mandamus seeking for a direction to the first, second and third respondents to allow the utility change for the petitioners by terminating their respective existing Energy Purchase Agreements (EPAs) dated 22.04.2019 for their WEG No.3972, dated 28.02.2022 for their WEG No.039204390426, dated 07.09.2018 for their WEG No.079204721857, dated 19.03.2022 for their WEG Nos.079224723584, dated 29.05.2017 for their WEG No.039204340662 (Old No.1145) & dated 29.05.2017 for their WEG No.039214340775 (Old No.1372) and execute fresh Energy Wheeling Agreement under Group Captive / captive consumption scheme as per the Common Order of this Court dated 30.08.2019 passed in W.P.No.5196 of 2019 etc., batch which was upheld by the Hon'ble First Bench of this Court dated 18.02.2020 in W.A.No.4189 of 2019 etc., batch and thereafter by the Hon'ble Supreme Court by its order dated 24.09.2020.

2. Mr.L.Jai Venkatesh, learned Standing Counsel for TANGEDCO accepts notice on behalf of the respondents. By consent of both parties, these writ petitions are taken up for final disposal in the admission stage itself.

3. Heard Mr.R.S.Pandiyaraj, learned counsel for the petitioners and Mr.L.Jai Venkatesh, learned Standing Counsel for the respondents.

4. The petitioners had earlier entered into Energy Purchase Agreements dated 22.04.2019, 28.02.2022, 07.09.2018, 19.03.2022, 29.05.2017 & 29.05.2017 respectively for their WEGs. 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.

5. 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/ third party sale, 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 the 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.

6. Since the petitioners are also similarly placed, the directions issued by this Court earlier shall hold good for these petitioners also.

7. In terms of the above directions extracted supra, these writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vsi



To

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.
3. The Superintending Engineer, TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.
4. The Superintending Engineer, TANGEDCO,
Palladam Electricity Distribution Circle,
Palladam.
5. The Superintending Engineer, TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet.
6. The Superintending Engineer, TANGEDCO,
Gobi Electricity Distribution Circle,
Gobi.
7. The Superintending Engineer,
TANGEDCO,
Coimbatore South Electricity Distribution Circle,
Coimbatore.
8. Director Finance,
Tamil Nadu Generation and Distribution,
Corporation Limited, 144, Anna Salai,
Chennai - 600 002.

+6ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.36985

W.P.Nos.15283, 15287, 15288,
15291, 15292 & 15293 of 2022

SVI (CO)
CT/29/06/2022