

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.16288, 16291 & 16294 of 2022

Ultramarine & Pigments Ltd.,
No.556, Vanagaram Road,
Ambattur, Chennai - 53,
Authorized Signatory K.Ramanathan

... Petitioner in W.P.No.16288 of 2022

The Ramco Cements Limited,
Auras Corporate Centre, V Floor,
98-A, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
Repd. by its General Manager - Legal,
T.Mathivanan

... Petitioner in W.P.No.16291 of 2022

The Ramco Cements Limited,
(Formerly known as M/s.Madras Cements Ltd.,)
Auras Corporate Centre, V Floor,
98-A, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
Repd. by its General Manager - Legal,
T.Mathivanan

... Petitioner in W.P.No.16294 of 2022

vs.

- 1.Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
Represented by its Chairmen Cum Managing Director.
- 2.The Chief Engineer, NCES,
TANGEDCO, 2nd Floor,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul.

4. Director Finance,

Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai - 600 002.

.. Respondents in all W.Ps.

Prayer in W.P.No.16288 of 2022: Writ petition filed under Article 226 of the Constitution of India for Writ of Mandamus for directing the 1st, 2nd and 3rd respondents to allow the utility change to the petitioner by terminating the existing Energy Purchase Agreements dated 17.06.2010 for their WEG Nos.59214500162 and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.089094121026 at Vellore EDC and HTSC No.019094061096 at Chennai West EDC as per the Common Order of this Court dated 30.08.2019 which was upheld by the Division Bench of this Court dated 18.02.2020 and 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 17.06.2010 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.16291 of 2022: Writ petition filed under Article 226 of the Constitution of India for Writ of Mandamus for directing the 1st, 2nd and 3rd respondents to allow the utility change by terminating the existing Energy Purchase Agreements dated 31.07.2014 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.069094400069 of the energy generated in Petitioner's WF HTSC No.059214500140 (Old No.D140), as per the Common Order of this Court dated 30.08.2019 which was upheld by the Division Bench of this Court dated 18.02.2020 and 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 31.07.2014 as per their respective invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.16294 of 2022: Writ petition filed under Article 226 of the Constitution of India for Writ of Mandamus for directing the 1st, 2nd and 3rd respondents to allow the utility change to the petitioner by terminating the existing Energy Purchase Agreements dated 15.03.2008 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.069094400069 of the energy generated in Petitioner's WF HTSC No.059214500135 (Old No.D135),

059214500136 (Old No.136), 059214500137 (Old No.D137), 059214500138 (Old No.D138) and 059214500139 (Old No.D139), as per the Common Order of this Court dated 30.08.2019 which was upheld by the Division Bench of this Court dated 18.02.2020 and 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 15.03.2008 as per their respective invoices along with interest at 1% per month for any delay in payments.

For Petitioner : Mr.R.S.Pandiyaraj
(in all WPs)

For Respondents : Mr.Abul Kalam,
Standing Counsel
(in all WPs)

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 respective petitioners by terminating their respective existing Energy Purchase Agreements (EPAs) dated 17.06.2010 for their WEG Nos.59214500162 and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.089094121026 at Vellore EDC and HTSC No.019094061096 at Chennai West EDC, dated 31.07.2014 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.069094400069 of the energy generated in Petitioner's WF HTSC No.059214500140 (Old No.D140) & dated 15.03.2008 respectively and execute fresh Energy Wheeling Agreement for their own Captive Consumption at their HTSC No.069094400069 of the energy generated in Petitioner's WF HTSC No.059214500135 (Old No.D135), 059214500136 (Old No.136), 059214500137 (Old No.D137), 059214500138 (Old No.D138) and 059214500139 (Old No.D139), 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.Abul Kalam, learned Standing Counsel 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.Abul Kalam, learned Standing Counsel appearing for the respondents.

4. The petitioners had earlier entered into Energy Purchase Agreements dated 17.06.2010, 31.07.2014 & 15.03.2008 respectively for their WEGs. Under the Energy Purchase Agreements, payments have not been made by the respondents. The petitioners seek for conversion of the Energy Purchase Agreements to an Energy Wheeling Agreement under their own captive consumption / 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) 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-VIII)

// True Copy //

Sub Assistant Registrar

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To

- 1.Tamilnadu Generation and Distribution Corporation Ltd., (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
Represented by its Chairmen Cum Managing Director.
- 2.The Chief Engineer, NCES,
TANGEDCO,
2nd Floor,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul.
- 4.The Director Finance,
Tamil Nadu Generation and Distribution Corporation Limited, 144, Anna Salai,
Chennai - 600 002.

+3cc to Mr.R.S.Pandiyaraj, Advocate SR.No.40412

W.P.Nos.16288, 16291 & 16294 of 2022

GPL(CO)
CB(14/07/2022)