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W.P.Nos.17382 and 17383 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.17382 and 17383 of 2018

And

W.M.P.Nos.20639 to 20644 of 2018

M/s.Best Corporation Pvt. Ltd.,
Repd. By its Authorized Signatory
P.Muthu Krishnan ... Petitioner in W.P.17382/2018

M/s.Hindustan Spinners "B" Unit,
Repd. By its Authorized Signatory
C.Chinnappan ... Petitioner in W.P.17383/2018

Vs.

1.Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
10th Floor, 144, Anna Salai,
Chennai – 600 002.
Represented by its
Chairman and Managing Director

2.The Chief Engineer/NCES
2nd Floor, Eastern Wing,
144, Anna Salai,
Chennai – 600 002.

3.The Superintending Engineer,
Dindigul Electricity Distribution Circle,
TANGEDCO,
Dindigul.

4.Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmini Lakshmipathy Salai,
Egmore, Chennai – 600 008. ... Respondents in both W.Ps.



W.P.Nos.17382 and 17383 of 2018

Prayer in W.P.No.17382 of 2018:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent bearing Lr.No.CE/NCES/SE/SOLAR/EE/SCB/AEE3/F.Policy issue PLF/D.540/17 dated 14.06.2017 and the consequent letter issued by the second respondent to the petitioner dated 27.11.2017 bearing Lr.No.CE/NCES/SE/Solar/EE/SCB/DFC/F.CUF/D1090/17 and the third respondent's letter dated 02.07.2018 bearing Lr.No.SE/DGL/DFC/AO/REV/F.SOLAR/D.NO.295/18 and quash the same as being arbitrary, illegal, violative of the principles of natural justice besides being violative of the provisions of the Electricity Act, 2003 and the orders of the Tamil Nadu Electricity Regulatory Commission and consequently direct the respondents to give payment of Rs.43,29,181/- for 689360 units generated by the petitioner in March/2017 and Rs.19,51,322 for 310720 units generated by the petitioner in March/2018.

Prayer in W.P.No.17383 of 2018:

Petition filed under Article 226 of the Constitution of India to issue



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a Writ of Certiorarified Mandamus calling for the records of the second

respondent bearing Lr.No.CE/NCES/SE/SOLAR/EE/SCB/AEE3/F.Policy issue PLF/D.540/17 dated 14.06.2017 and the consequent letter issued by the second respondent to the petitioner dated 27.11.2017 bearing Lr.No.CE/NCES/SE/Solar/EE/SCB/DFC/F.CUF/D1093/17 and the third respondent's letter dated 02.07.2018 bearing Lr.No.SE/DGL/DFC/AO/REV/F.SOLAR/D.NO.295/18 and quash the same as being arbitrary, illegal, violative of the principles of natural justice besides being violative of the provisions of the Electricity Act, 2003 and the orders of the Tamil Nadu Electricity Regulatory Commission and consequently direct the respondents to give payment of Rs.20,05,632/- for 319368 units, generated by the petitioner in March/2017 and Rs.30,80,265/- for 490488 units generated in the month of March/2018.

For Petitioners : Mr.R.S.Pandiyaraj
For Respondents : Mr.Arun Kumar

COMMON ORDER

The petitioners have filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus calling for the records of



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the second respondent dated 14.06.2017 and the consequential orders and to quash the same and to direct the respondents to pay the amount for the units generated by the petitioners during March, 2017 and March, 2018.

2.The learned counsel appearing for the petitioner submitted that the very same Circular dated 14.06.2017 was challenged before the Tamil Nadu Electricity Regulatory Commission [hereinafter referred to as 'TNERC'] and the TNERC upheld the Circular against which appeal was preferred in Appeal No.119 of 2021 before the Appellate Tribunal for Electricity at New Delhi [hereinafter referred to as 'APTEL'] and the APTEL set aside the order passed by the TNERC, against which, the Electricity Board preferred appeal in Civil Appeal No.1271 of 2023 before the Hon'ble Apex Court and the Hon'ble Apex Court vide order dated 03.03.2023 confirmed the Judgment passed by APTEL. In support of his contentions, the learned counsel relied upon the Judgment dated 28.11.2022 passed by APTEL in Appeal Nos.119 of 2021 etc., batch.

3.The learned counsel appearing for the respondents submitted that appropriate orders will be passed as per the Judgment passed by



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4. Heard the arguments advanced on either side and perused the materials available on record.

5. The issue involved in these writ petitions has already been settled by APTEL and confirmed by Hon'ble Apex Court. It is useful to extract hereunder the relevant portion of the Judgment dated 28.11.2022 passed by APTEL in Appeal Nos.119 of 2021 etc., batch:

"8. The Petitions in which the Impugned Order has been passed, are filed by the Appellants before the State Commission being aggrieved by the issuance of Circular bearing No.CE / NCES / SE/SOLAR / EE/SCB / AEEE3 /F.Policy issue – PLF/D.540/17 dated 14.06.2017 (in brief "Circular dated 14.06.2017") issued by the TANGEDCO and consequent actions, including short-payments taken thereafter inter alia praying for a direction to set aside the Circular dated 14.06.2017 and the action taken consequently by TANGEDCO.

84. We are inclined to adopt the above



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mechanism prescribed by MoP for the generators covered in the present Appeals. Accordingly, TANGEDCO is directed to make compensation to the SPGs at the rate of 75% of the PPA/EPA tariff for excess power consumed, i.e. over and above 19% of CUF in addition to the tariff payment as per the corresponding Tariff Order for the power procured up to 19% of CUF from the SPGs covered by these captioned Appeals.

85. The TANGEDCO is directed to make payments including the payment at the rate of the relevant Tariff Order/ EPAs for energy procured from the solar projects of the Appellants up to CUF of 19% and additional payment for the excess energy procured from or supplied by the Appellants at the rate of 75% of the tariff as applicable under the provisions of the EPAs and in accordance with the conclusions made in the following paragraphs in a time bound manner, however, within six months of this judgment.”

6.In view of the above, these writ petitions stand disposed of



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with direction to the respondents to settle the claim of the petitioners as per the Judgment dated 28.11.2022 passed by APTEL in Appeal Nos.119 of 2021 etc., batch, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

14.03.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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