



W.P.Nos.19124 & 19127 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.19124 & 19127 of 2023
and W.M.P.Nos.18381 & 18382 of 2023

M/s.Caress Beauty Care Products P Ltd
Rep by its Authorised Signatory Mr.G.Natarajan,
S-8, Clariton House, Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai-600 032.

...Petitioner
in W.P.No.19124 of 2023

M/s.Cool Cosmetics Private Limited,
Rep by its Director Mr.G.Natarajan,
S-8, Clariton House,
Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai-600 032.

...Petitioner
in W.P.No.19127 of 2023

Vs.

1. The Chairman,
TANGEDCO,
144, Anna Salai, Chennai-600 002.
2. The Chief Engineer, NCES,
TANGEDCO,
2nd Floor, 144, Anna Salai, Chennai-600 002.



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3. The Director-Finance,
TANGEDCO,
7th Floor, 144, Anna Salai, Chennai-600 002.

4. The Superintending Engineer,
Tirunelveli EDC, Tirunelveli.

...Respondents
(in both petitions)

Prayer in W.P.No.19124 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, or any other appropriate order or Direction particularly in the nature of Writ of Mandamus directing the respondents for the termination of the PPA HTSC Nos.79224722667, 79224722957, 79224722958,79224723349 and to execute the energy wheeling agreement for captive consumption, based on the representation/application for migration to captive consumption vide application/representation dated 24.05.2023, followed by remainder dated 19.06.2023 in consonance with Common Order in W.P.No.5196 of 2019 & batch case dated 30.08.2019 passed by this Hon'ble Court, which was upheld by the Hon'ble Division Bench of this Court and also by the Hon'ble Supreme Court of India by its order dated 24.09.2020 in S.L.P.(Civil) Nos.8513-8518 of 2020 also a with consequential direction directing the respondents 1 to 3 to pay outstanding payment of Rs.3,33,50,172/- to the petitioner towards the wind energy sold by the petitioner to the respondent/TANGEDCO for delay in payments, as agreed in the agreement.



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Prayer in W.P.No.19127 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus or any other appropriate order or Direction particularly in the nature of Writ of Mandamus directing the respondents for the termination of the PPA dated 29.10.2010 in HTSC No.WEG 3379 and to execute the energy wheeling agreement for captive consumption, based on the representation/application for migration to Third party sale vide application/representation dated 24.05.2023, followed by remainder dated 19.06.2023 in consonance with Common Order in W.P.No.5196 of 2019 & batch case dated 30.08.2019 passed by this Hon'ble Court, which was upheld by the Hon'ble Division Bench of this Court and also by the Hon'ble Supreme Court of India by its order dated 24.09.2020 in S.L.P.(Civil) Nos.8513-8518 of 2020 also a with consequential direction directing the 3rd respondent to pay outstanding payment of Rs.1,26,67,529/- to the petitioner towards the wind energy sold by the petitioner to the respondent/TANGEDCO along with interest for delay in payments, as agreed in the agreement.

In both petitions :

For Petitioners : M/s.G.Mani Prabhu

For Respondents : Mr.D.R.Arun Kumar,
Standing Counsel for TANGEDCO



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COMMON ORDER

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The petitioners have filed these writ petitions seeking issuance of

Writ of Mandamus directing the respondents for the termination of the PPA HTSC Nos.79224722667, 79224722957, 79224722958, 79224723349 and PPA dated 29.10.2010 in HTSC No.WEG 3379 respectively and to execute energy wheeling agreement for captive consumption/ third party sale, based on the representation/ application for migration to captive consumption/ third party sale vide application/ representation dated 24.05.2023 and also directing the respondents 1 to 3 to pay the a sum of Rs.3,33,50,172/- and Rs.1,26,67,529/- to the petitioners in respective Writ Petitions towards the wind energy sold by them to the respondent/TANGEDCO along with interest for delay in payments, as agreed in the agreement.

2. The petitioner in W.P.No.19124 of 2023 is having four wind mills, of which, two wind mills are of 250 KW and other two mills are of 600 KW capacity, within the jurisdiction of the fourth respondent and entered into Energy Purchase Agreement on 24.08.2009, 28.09.2009 & 28.09.2010 with the fourth respondent. Since there was default in making



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payment, the petitioner submitted application for migration for captive consumption/third party sale with the 2nd respondent on 24.05.2023 and since the same has not yet been considered, this Writ Petition has been filed.

3. The petitioner in W.P.No.19127 of 2023 is having a wind mill of 600 KW within the jurisdiction of the fourth respondent and entered into Energy Purchase Agreement on 29.09.2010 with the fourth respondent. Since there was default in making payment, the petitioner submitted an application for migration for captive consumption/third party sale with the 2nd respondent on 24.05.2023 and since the same has not yet been considered has filed this writ petition.

4. The learned counsel appearing for the petitioners would submit that though the petitioners made representation for Energy Purchase Agreement before the Chief Engineer NCES, TANGEDCO, Chennai, however he has to send the representation only to the Chief Financial Controller General, Chennai who is the competent authority.



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5. Heard Mr.G.Mani Prabhu, learned counsel appearing for the petitioners and Mr.D.R.Arun Kumar, learned Standing Counsel appearing for the respondents.

6. The issue involved in the present Writ Petition is covered by the earlier order passed by this Court in a batch of Writ Petitions in W.P.Nos.5196, 11725, 8459 and 8463 of 2019 and 6694 and 1275 of 2018 dated 30.08.2019. This order was subsequently confirmed by the First Bench of this Court in W.A.Nos.4189, 4194, 4197, 4201, 4204 and 4205 of 2019 dated 18.02.2020.

7. It was further confirmed by the Hon'ble Supreme Court by order dated 24.09.2020 wherein the Special Leave Petition filed by TANGEDCO was dismissed.



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8. In view of the above, the Writ Petitions are allowed with the following directions:

(a) The respondents / TANGEDCO are directed to permit the petitioner to switch over to captive consumption / group captive consumption, as the case may be, as per the representation made by the petitioner.

(b) The respondents / TANGEDCO are directed to settle the respective dues to the petitioner as per their respective invoices raised by them, along with interest as per Clause 6(b), within a period of four months from the date of receipt of a copy of this order.

9. The Writ Petitions are allowed accordingly. No costs.

Consequently, connected Miscellaneous Petitions are closed.

28.06.2023

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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M.DHANDAPANI, J.

NHS

To

1. The Chairman,
TANGEDCO,
144, Anna Salai, Chennai-600 002.
2. The Chief Engineer, NCES,
TANGEDCO,
2nd Floor, 144, Anna Salai, Chennai-600 002.
3. The Director-Finance,
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