



W.P.No.17157 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17157 of 2022

and

W.M.P.No.16456 of 2022

DWC Limited
Sahupuram P.O 628 229
Thoothukudi
Rep by its General Manager,
Mr.M.Thyagamoorthy

... Petitioner

-Vs-

1.PTC India Limited,
2nd Floor, NBCC Tower,
15, Bhikaji Cama place,
New Delhi-110 066

2.The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Represented by its Chairman cum Managing Director,
144, Anna Salai,
Chennai-600 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the 1st respondent PTC to comply with the orders and directions passed by the Tamil Nadu Electricity Regulatory Commission, Chennai and release payment



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amounting to Rs.48,02,128/- towards short payment along with interest at 12% calculated from 01.09.2009 till 20.06.2022 and Rs.3,30,000/- towards refund of EMD along with interest at 12% calculated from 27.05.2010 till 20.06.2022 totally amounting to Rs.1,31,00,214/- (One Crore Thirty One Lakh Two Hundred and Fourteen only) along with pendente lite interest at 12% p.a. Payable thereon.

For Petitioner : Mr.Rahul Balaji
For R1 : Mr.Ravi Kshore
For R2 : Mr.L.Jaivenkatesh,
Standing Counsel

ORDER

This Writ Petition has been filed for a direction directing the first respondent to comply with the order passed by the Tamil Nadu Electricity Regulatory Commission, Chennai.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. A perusal of the order dated 08.02.2022 passed by the



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Tamil Nadu Electricity Regulatory Commission, Chennai in DRP No.2 of 2016 reveals that the petitioner is eligible for payment of Rs.48,02,128/- since the petitioner has not breached the scheduling of 80% of the contracted quantum during the “Scheduling period” as defined under Clause 5 of the PTC's Order dated 03.07.2009. Any revised procedure stated by the PTC in its letter dated 16.11.2009 which amounts to amendment to the agreement, will take effect only from the date of receipt of such communication by the petitioner, and it cannot be given effect to retrospectively. And thus, the claim is to be settled by the first respondent along with the interest at the rate of 12% per annum. The petitioner has not provided documents for recovery of EMD amount of Rs.10,51,594/- but the first respondent has provided a documentary evidence for deduction of Rs.3,30,000/- from the 27.05.2010 invoice. Hence, they directed for refund of Rs.3,30,000/- to the petitioner along with the interest at the rate of 12% per annum. So far the first respondent did not challenge the order passed by the Tamil Nadu Electricity Regulatory Commission. However, the first respondent has not complied with the order passed by the Tamil Nadu Electricity Regulatory Commission. Hence, this writ petition.



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4. In view of the limited prayer sought for in this writ petition, the first respondent is directed to comply with the order passed by the Tamil Nadu Regulatory Commission, Chennai, dated 08.02.2022 within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed.
No costs.

05.04.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
Lpp

To
1.PTC India Limited,
2nd Floor, NBCC Tower,
15, Bhikaji Cama place,
New Delhi-110 066.

2.The Tamil Nadu Generation and Distribution



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Corporation Limited (TANGEDCO),
Represented by its Chairman cum Managing Director,
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G.K.ILANTHIRAIYAN, J.

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