



W.P.No.15971 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.15971 of 2025

and

WMP.Nos.18066, 18069, 18072 & 18075 of 2025

Blow Packaging (India) Pvt.Ltd
Represented by its Director
55-D, SIDCO Industrial Estate
Ambattur, Chennai 600 098.

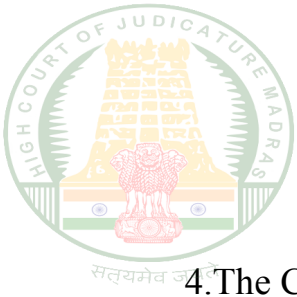
... Petitioner

Vs.

1.Tamil Nadu Power Distribution Corporation Ltd.,
TNPDCCL
Represented by its Chairman and Managing Director
144, Anna Salai
Chennai 600 002.

2.The Superintending Engineer
Tamil Nadu Power Distribution Corporation Ltd.,
Udumalpet Electricity Distribution Circle
Udumalpet 642 126.

3.Tamil Nadu Green Energy Corporation Ltd
TNGECL
Represented by its Manaing Director
NPKRR Maligai, 144, Anna Salai
Chennai 600 002.



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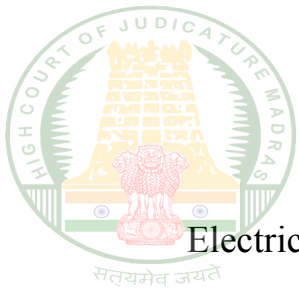
4.The Chief Engineer, NCES
Tamil Nadu Green Energy Corporation Ltd
TNGECL
NPKRR Maligai, 144, Anna Salai
Chennai 600 002.

5.The Superintending Engineer
Tamil Nadu Power Distribution Corporation Ltd.,
TNPDCCL
Kancheepuram Electricity Distribution Circle
Olimohamedpet, Kanchipuram 631 502.

6.The Superintending Engineer
Tamil Nadu Power Distribution Corporation Ltd.,
TNPDCCL
Chennai Electricity Distribution Circle (West)
Thirumangalam, Anna Nagar
Chennai 600 040.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in circular issued by the fourth respondent bearing No.FB TANGEDCO proceedings No.44 dated 01.08.2023 and consequent impugned letter issued by the second respondent bearing ref.No.SE/UEDC/UDT/DFC/AO/Wind/AS/F.M/s.Blow Packaging (India) Private Limited/D.No.12/2025 dated 02.01.2025 in denying the petitioner change in utility to captive consumption and quash the same as illegal, arbitrary, contrary to the scheme of open access under the



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Electricity Act, 2003, and the regulations issued thereunder as well as being issued without authority of law, and to consequently direct the respondents to effect change in utility of the petitioner's generator bearing HTSC.No.039224340916 to captive consumption at the petitioner's factory and also direct the respondents to release payments towards the outstanding dues of Rs.3,32,08,923.08 along with interest at the rate of 12% p.a., amounting to total outstanding dues of Rs.4,03,23,187.28 as of 31.03.2025 due and payable to the petitioner for energy generated by the petitioner's WEG bearing HTSC.No.039224340916 or to adjust the said dues in full against the petitioner's current consumption bills in its HTSC.No.099094101115, 019094061647 & 099094100548.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.D.R.Arunkumar
(TNPDCCL)

ORDER

This Writ Petition is filed calling for the records in circular issued by the fourth respondent bearing No.FB TANGEDCO proceedings



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No.44 dated 01.08.2023 and consequent impugned letter issued by the second respondent bearing ref.No.SE/UEDC/UDT/DFC/AO/Wind/AS/F.M/s.Blow Packaging (India) Private Limited/D.No.12/2025 dated 02.01.2025 in denying the petitioner change in utility to captive consumption and quash the same as illegal, arbitrary, contrary to the scheme of open access under the Electricity Act, 2003, and the regulations issued thereunder as well as being issued without authority of law, and to consequently direct the respondents to effect change in utility of the petitioner's generator bearing HTSC.No.039224340916 to captive consumption at the petitioner's factory and also direct the respondents to release payments towards the outstanding dues of Rs.3,32,08,923.08 along with interest at the rate of 12% p.a., amounting to total outstanding dues of Rs.4,03,23,187.28 as of 31.03.2025 due and payable to the petitioner for energy generated by the petitioner's WEG bearing HTSC.No.039224340916 or to adjust the said dues in full against the petitioner's current consumption bills in its HTSC.No.099094101115, 019094061647 & 099094100548.



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2. When the matter came up for admission, Mr.Rahul Balaji, the

learned counsel for the petitioner would submit that this issue has already been considered by this Court in WP No.13729 of 2025. Additionally he would submit that in this case, the amount that is due is yet to be ascertained and verified. The said position is also not denied by the learned counsel are taking notice on behalf the respondents.

3. The earlier Writ Petition was considered by this Court and the following order was passed and it is essential to extract para 8 to 10 of the said order which reads as follows:

“8. It can be seen that identical board proceedings have been set aside by this Court by the order dated 30.08.2019 and the said order stood confirmed upto the Hon'ble Supreme Court of India. The only argument that s made is that the board has revisited based on the late payment surcharge charges. That again was again the subject matter of Division Bench of this Court of which I am also one of the member (Mr.Justice D.BhARATHA ChaKRAVARTHY) and by an order dated 03.01.2023 it was held as follows and it is essential to extract paragraph Nos.2 & 5 which reads as under:



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“2.Mr.P.S.Raman, learned Senior Counsel appearing for the petitioners/appellants submitted that the impugned orders of the learned Single Judge passed in the writ petitions are patently unsustainable, in view of the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (for short “the said Rules”) notified by the Ministry of Power. Rules 3 and 5 of the said Rules enable the petitioners/appellants to make the payment of arrears to the respondent along with late payment surcharge from the date of default. The said Rules are retrospective in nature and applicable for all the cases irrespective of the dates of default, therefore, the impugned orders of the learned Single Judge are liable to go.

5. Learned counsel appearing for the respondent heavily opposed the prayer to condone the delay and submitted that the delay of 237, 252 and 258 days in filing the writ appeals against the orders dated 7.3.2022, 25.03.2022 and 28.03.2022 passed in W.P.Nos.4933, 6977 and 6938 of 2022 has not been sufficiently explained by the petitioners/appellants. Secondly, the learned Single Judge, in the impugned orders, has followed the similar order dated 30.08.2019 passed in W.P.No.5196 of 2019 etc., which was affirmed by a Division Bench of this Court in its judgment dated 18.02.2020 in W.A.No.4189 of 2019, which has also been confirmed by the Apex Court vide order dated 24.09.2020 in S.L.P.Nos.8513-8518 of 2020. Therefore, there is no bonafide in filing the petitions to condone the delay and there is no merit in the writ appeals. Thus, a prayer has been made to dismiss the delay condonation petitions as well as the writ appeals.”



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9. On the above findings, again the orders impugned were set aside and taking note of the earlier round of litigation which ultimately was dismissed by the Hon'ble Supreme Court of India in SPL.Nos.8513-8518 of 2020. In view thereof, the contention that is made on behalf of the learned counsel for the respondents are unsustainable. Since the matter has already been decided in the previous round, once again similar orders cannot be repeatedly passed by the respondent Board.

10. Therefore, this Writ Petition is allowed on the following terms:

(i) The impugned orders dated 01.08.2023 and 28.02.2024 shall stand quashed and consequently the respondents 3 to 5 are directed to convert the Energy Purchase Agreement (EPA) in respect of petitioner's WEG No.039214340843 as one of Energy Wheeling Agreement (EWA) and permit the petitioner to consume the power for its own purposes.

(ii) With reference to the arrears, in view of the statements that is made in Paragraph No.9 that the TNPDCCL is taking steps to clear the outstanding dues along with interest, it shall be done within a period of eight (8) weeks from the date of receipt of web copy of the order.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.



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4. In view thereof, this Writ Petition is also allowed on the same

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terms, however the arrears can be ascertained and determined by the respondents in the manner known to law and the amount shall be released 12 weeks thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.04.2025

Neutral Citation : No
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To

1.Tamil Nadu Power Distribution Corporation Ltd.,
TNPDCCL
Represented by its Chairman and Managing Director
144, Anna Salai
Chennai 600 002.

2.The Superintending Engineer
Tamil Nadu Power Distribution Corporation Ltd.,
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Tamil Nadu Green Energy Corporation Ltd
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D.BHARATHA CHAKRAVARTHY, J.
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