TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

Thiru M. Chandrasekar … Chairman

and

Thiru K. Venkatasamy … Member (Legal)

M.P. No.20 of 2019

Tamil Nadu Generation and Distribution
Corporation Limited
144, Anna Salai
Chennai – 600 002
Represented by its Chief Financial Controller / Revenue … Petitioner

Thiru. M. Gopinathan
Standing Counsel for TANGEDCO)

Vs.

M/s. NuPower Wind Farms Limited
Kandamanur Village
Theni District
Represented by Mr.V.Muthuswamy
Its Authorised Signatory

…. Respondent
(Thiru R.S.Pandiyaraj
Advocate for the Respondent)

Dates of hearing : 10-01-2020; 28-01-2020; 11-02-2020; 10-03-2020; 04-08-2020; 15-09-2020; 13-10-2020; 01-12-2020; 08-12-2020; 09-02-2021; 16-03-2021; 15-04-2021; 20-04-2021; 26-10-2021; 30-11-2021 and 21-12-2021

Date of Order : 05-04-2022

The M.P.No.20of 2019 came up for final hearing on 21-12-2021. The Commission upon perusing the affidavit filed by the petitioner, counter affidavit filed by the respondentand all other connected records and after hearing both the parties passes the following:-

ORDER

1. Prayer of the Petitioner in M.P No.20 of 2019:-

The prayer of the petitioner in this petition is to confirm that the methodology prescribed in the impugned circular of the TANGEDCO that the generation of electricity and other aspects arising out of it such as Captive Norms verification have to be done based on Energy Wheeling Agreement wise executed to each generating plant or for such unit(s) of a Generating Station identified for captive use.

2. Facts of the Case:-

This petition has been filed to confirm that the methodology prescribed in the impugned circular of the TANGEDCO that the generation of electricity and other aspects arising out of it such as Captive Norms verification have to be done based on Energy Wheeling Agreement wise executed to each generating plant or for such unit(s) of a Generating Station identified for captive use.

3. Contentions of the Petitioner:-

3.1. The present Miscellaneous Petition relates to seeking directions as to how the energy accounting needs to be done in respect of CGPs identified for the captive users for their captive consumption as found enumerated in the Electricity Rules-2005. The Hon'ble High Court of Madras Madurai Bench by an order dated 25.05.2017 in W.P.(MD). No.9320 of 2017 etc, batch, disposed of the writ petition with the following observations:

> *"xxx*
> *“6. The respondents 1 and 2 are directed to process the matter before the 6th respondent, State Electricity Regulatory Commission to get the new accounting procedure approved, by following the due process of law as declared by the binding judgment of the APTEL and accordingly, onfiling of the petition by the respondents, the State Electricity Regulatory Commission is directed to dispose of the matter within a period of twelve weeks, by providing suitable opportunities to the stakeholders"*

3.2. In accordance with the above order, the present Miscellaneous Petition is filed for seeking directions as to how the energy accounting needs to be done in respect of CGPs identified for the Captive users for their captive consumption as found enumerated in the Electricity Rules, 2005.

3.3. In response to certain clarifications sought by the Electricity Distribution Circles regarding the procedure for captive adjustment and maintenance of banking account instructions have been issued vide Circular Memo.No.CE/NCES/ SE/EE/WPP/AEE2/F.Banking instruction/D.903/17, dated. 30/31.03.2017. The content of the said circular is reiterated below:

I. Procedure for WEGs with Group captive consumers and adjustment category:

i. Banking account is to be maintained Energy Wheeling Agreement (EWA-wise), slot-wise at the Wind generating end EDC.

ii. For a Wind generator, there is 2 accounting at generating end EDC. One is current month generation account and other is banking account. This current month generation account and the banking account is common for all the captive consumers under the EWA and no separate account for each consumer.

iii. The wheeling HT Service reading is taken on 26,27,28& 29 of every month. After ascertaining the consumption of the captive users the generator may allot the Wind energy, EWA-wise, according to the requirement of the captive users for that month.

iv. Accordingly, in a month, if the required quantity is allotted to all their group captive consumer(s), from the current month generation, the surplus units available need not be sent to the wheeling end EDC, the same can be kept at the EWA-wise banking account at the generating end itself after deducting the banking charges.

v. The EWA-wise current month generation is to be adjusted first and if there is a shortage then the respective EWA-wise banking units are to be adjusted.

vi. As like current month generation, the EWA-wise banked units are also to be allocated to the consumer(s) according to the request of the generator.

vii. For keeping surplus units into the banking account, for each and every time, the banking charges as applicable with the Tariff orders in force to be deducted.

viii. The SE/ generating end EDC has to pass the bill for the unutilized banked energy at the end of the financial year (31stMarch) and 75% payment has to be made to the generator as per the orders in force.

ix. If Wind generation is from more than one WEG commissioned on different dates and wheeling to group captive consumers, the EWA-wise unutilized surplus banked energy at the end of the financial year is to be paid as per the applicable tariff rate.

x. In the case of Name Transfer of WEG in the middle of the year, as the agreement with the previous owner is terminated, for the EWA-wise unutilized banked energy as on the date of termination of the agreement will be paid at 75% of the relevant purchase rate only to that generator. The above unutilized banked energy can't be transferred to the new owner (or) to his captive consumers (or) to the captive consumers of previous owner who is having some other WEGs in some other EDC (or) to any other third party.

xi. In the case of change in utility, (a) if a new captive consumer(s) is not added as against the terminated consumer(s), the EWA-wise existing banked units can be allotted and adjusted to the existing captive consumers. (b) if a new captive consumer(s) is included under the EWA, only the generation on and from the date of execution of such revised EWA is eligible for wheeling and adjustment to the consumers under the EWA. The banked energy prior to commencement of this new EWA shall not be allotted to the new captive consumers.

xii. As the banking facility is provided for REC wheeling arrangement also. The same procedure has to be followed for REC scheme WEGs, the unutilized surplus banked energy at the end of the financial year is to be paid at the 75% of APPC rate approved by TNERC.

II. Procedure for WEGs with 100% ownership captive generation and adjustment category:

i. With regard to 100% ownership captive generation and adjustment category, it is option of the generator to keep the EWA-wise banking account either at generating end or at wheeling end. The generator has to submit their option to the SE/generating EDC with copy marked to the entire SE/ wheeling end EDC. The option given by the generator can't be modified/ changed in the middle of the year and the SEs are not authorized to do so.

ii. In the case of EWA-wise banking account is maintained at wheeling end EDC, the entire generated energy is to be sent to wheeling end EDC for adjustment. After adjustment in a month, the surplus energy is to be kept at banking account after deducting the banking charges as applicable with the Tariff orders in force. Subsequently, for shortage of consumption the EWA-wise banked energy can be drawn and adjusted. The SE/ wheeling end EDC has to send the unutilized banked energy at the end of the financial year (31stMarch) to the SE/ generation end EDC for making 75% payment to the generator, as per the applicable tariff rate.

iii. Similar to the group captive scheme, if the 100% ownership captive WEG is name transferred to some other party, the EWA-wise unutilized banked energy available on the date of termination of the agreement has to be transferred to SE/ generation end EDC and 75% payment has to be made to that previous owner. The above EWA- wise unutilized banked energy can't be transferred to the new owner (or) to his captive consumers (or) to the captive consumers of previous owner who is having some other WEGs in some other EDC (or) to any other third party.

iv. For REC scheme 100% ownership captive generation also the same procedure (para (i) to (iii) above) has to be followed.

v. It is strictly stated that, the SE/wheeling end EDC, is not authorized to make any payment for the unutilized banked energy.

3.4. In continuation to the above, the Respondent herein M/s.Nu Power wind Farms Limited filed Writ Petition vide W.P. (MD). No.9320 of 2017 wherein that relevant para is extracted as follows:-

> *"xxx*
> *2.I submit that the Petitioner is a Limited Company incorporated under the Companies Act, 2013. The petitioner's Company is engaged in the Generation of electricity through its Wind Energy Generators (WEGs) and it has installed WEGs to a total capacity of 34.25 MWat various locations in the State of Tamil Nadu, wherever the wind feasibility is available. The WEGs installed are all falling within the jurisdiction of 3rd, 4thand 5thRespondents."*

Sl. No.	Make	Qty	Capacity in MW	Village	WF HTSC No.	DOC	Site / District
1	Suzlon	1	1.25	Dhanakkarkulam	584	21-09-03	Radhapuram / Tirunelveli
2	Suzlon	1	1.25	Dhanakkarkulam	585	21-09-03	
3	Suzlon	1	1.25	Dhanakkarkulam	586	21-09-03	
4	NEG Micon	1	0.75	Pattakuruchi	640	02-10-03	Ayakudi/ Tirunelveli
5	NEG Micon	6	4.5	Puliyoor	641	02-10-03	
6	NEG Micon	1	0.75	Puliyoor	642	02-10-03	
7	NEG Micon	3	0.75	KeelaVeeranam	1066	25-01-05	Keelaveeranam/ Tirunelveli
8	TTG	3	0.75	KeelaVeeranam	1067	25-01-05	
9	TTG	3	0.75	KeelaVeeranam	1068	25-01-05	
10	TTG	2	0.5	KeelaVeeranam	1156	16-03-05	
11	TTG	3	0.75	KeelaVeeranam	1157	16-03-05	
12	TTG	3	0.75	KeelaVeeranam	1264	31-03-05	
13	TTG	3	0.75	KeelaVeeranam	1265	31-03-05	
14	Regen	1	1.5	Koduvilarpatti	T-24	30-09-10	Theni
15	Regen	1	1.5	Thadicheri	T-21	30-09-10	
16	Regen	1	1.5	Thappakundu	T-20	30-09-10	
17	Regen	1	1.5	Thappakundu	T-22	30-09-10	
18	Regen	1	1.5	Thadicheri	T-19	30-09-10	
19	Regen	1	1.5	Poomalaikundu	T-25	29-10-10	

20	Regen	1	1.5	Veethampatti	URA-35	10-06-11	Anaikadavu / Tirupur
21	Regen	1	1.5	Veethampatti	URA-36	14-06-11	
22	Regen	1	1.5	Anaikadavu	URA-37	14-06-11	
23	Regen	1	1.5	Anaikadavu	URA-38	14-06-11	
24	Regen	1	1.5	Anaikadavu	URA-39	14-06-11	
25	Regen	1	1.5	Anaikadavu	URA-40	07-07-11	
26	Regen	1	1.5	Vagaitholuvu	URA-42	15-07-11	
	Total	44	34.25 MW				

3.5 The following are the locations and specifications of the WEGs installed by the petitioner.

3.6. The petitioner has installed the above listed WEGs for the purpose of generating electricity and to allow the energy so generated for the captive consumption of the captive users, who are also the shareholders of the Company as per the captive arrangement provided in the Electricity Rules, 2005. Hence, all the above WEGs are falling under the category of Captive Generating Plant (CGP) and the shareholders consuming the energy from the CGP are captive users of the energy generated from the above listed WEGs.

3.7. The petitioner has invested heavily based borrowed funds, for setting up the WEGs with high interest rates. The energy generated from the petitioner's WEGs are being wheeled to the respective captive users' premises and.

accordingly, all the applicable wheeling, transmission charges and other charges relating to the wheeling arrangement including transmission and distribution losses, SOS charges etc., are being paid by the petitioner at the rates as fixed by the 6thRespondent State Commission from time to time, as per the Comprehensive Tariff Orders on Wind Energy issued for this purpose.

3.8. The energy generated from the WEGs of the petitioner, is being consumed by the captive users, based on the Energy Wheeling Agreement signed between the officials of the Respondent (TANGEDCO) and the petitioner. Since, the captive users of the petitioner are taking the equity shares of the petitioner's Company, they are entitled for sharing the aggregate electricity generated from all the WEGs identified for captive purpose by the Company and therefore, the energy accounting is always required to be maintained on the aggregate electricity generated by all the WEGs put together. Hence, the system of energy accounting either by individual WEG Wise or by HTSC No. Wise is not in vogue and is also not possible, as it is not allowed by the law. As, only the Company can have the equity shares and not the individual asset of the Company can have such equity shares, energy accounting should also be done as per the aggregate electricity generated from all the WEGs of the Company put together as one single CGP and not by any individual WEG. Hence, when it is a question of adjustment of energy for the purpose of captive consumption by the captive users, the Electricity Rules 2005, have categorically made it clear that it should be the aggregate electricity generated to be taken for consideration and not the

energy generated by individual power plants or WEOs as the case may be to be considered.

3.9. However, the 2nd Respondent in total contrary to the express provisions made under the Electricity Rules 2005, has issued totally a misleading Circular Memo bearing No. CE/NCES/SE/EE/WPP/AEE2/F.Bankinginstruction/D.903/ 17, dated 30/31.03.2017, where by the entire procedures on the captive arrangement so far followed historically, were fully ordered to be reversed arbitrarily and against the legal provisions and also against the binding orders of the Hon'ble Appellate Tribunal for Electricity, New Delhi.

3.10. Till 31.03.2017, the energy generated through all the WEOs were permitted to be considered as aggregate electricity generated by the COP and pooled together to the account of the COP and accordingly, the allotment to the End Captive Users was provided by the petitioner, on a Month on Month basis, as per the provisions of the Electricity Rules, 2005. The system was perfect and in consonance with the provisions of the Electricity Rules 2005 and also as per the law settled by APTEL in this regard.

3.11. However, after the issuance of the impugned Memo by the 2nd Respondent, the CE/NCES, the practices so far prevailed, were totally reversed to the contrary, by completely deviating the legal provisions enumerated in the Electricity Rules 2005 and also as per the law settled by way of binding judgement of the Hon'ble APTEL, New Delhi. Now the 2nd Respondent, by issuing

the impugned Memo, has directed to account the energy on individual WEGWise/ HTSC No. Wise, instead of "Aggregate Electricity Generated" as enshrined in the Electricity Rules 2005, which procedure is totally contrary to law and the principles settled by the APTEL in this regard.

3.12. It would be useful to extract the relevant portion of the Electricity Rules, 2005 issued by the Central Government in exercise of the powers conferred by Section 176 of the Electricity Act 2003.

> *"3. Requirements of Captive Generating Plant.-*
>
> *(1) No power plant shall qualify as a (captive generating plant' under section 9 read with clause (8) of section 2 of the Act unless-*
>
> *(a) in case of a power plant -*
>
> *(i) not less than twenty six percent of the ownership is held by the captive user(s), and*
>
> *(ii) not less than fifty one percent of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use:*
>
> *Provided that in case of power plant set up by registered cooperative society, the conditions mentioned under paragraphs at (i) and (ii) above shall be satisfied collectively by the members of the co-operative society:*
>
> *Provided further that in case of association of persons, the captive user(s) shall hold not less than twenty six percent of the ownership of the plant in aggregate and such captive user(s) shall consume not less than fifty one percent of the electricity generated, determined on an annual basis, in proportion to their shares in ownership of the power plant within a variation not exceeding ten percent;*
>
> *(b) in case of a generating station owned by a company formed as special purpose vehicle for such generating station, a unit or units of such generating station identified for captive use and not the entire generating*

station satisfy (s) the conditions contained in paragraphs (i) and (ii) of sub-clause (a) above including-

Explanation:-

(1) The electricity required to be consumed by captive users shall be determined with reference to such generating unit or units in aggregate identified for captive use and not with reference to generating station as a whole; and

(2) the equity shares to be held by the captive user(s) in the generating station shall not be less than twenty six per cent of the proportionate of the equity of the company related to the generating unit or units identified as the captive generating plant.

Illlustration:In a generating station with two units of 50 MW each namely Units A and B, one unit of 50 MW namely Unit A may be identified as the Captive Generating Plant. The captive users shall hold not less than thirteen percent of the equity shares in the company (being the twenty six percent proportionate to Unit A of 50 MW) and not less than fifty one percent of the electricity generated in Unit A determined on an annual basis is to be consumed by the captive users.

(2) It shall be the obligation of the captive users to ensure that the consumption by the Captive Users at the percentages mentioned in sub-clauses (a) and (b) of sub- rule (1) above is maintained and in case the minimum percentage of captive use is not complied with in any year, the entire electricity generated shall be treated as if it is a supply of electricity by a generating company.

Explanation.- (1) For the purpose of this rule.-

a. "Annual Basis" shall be determined based on afinancial year;

b. "Captive User" shall mean the end user of the electricity generated in a Captive Generating Plant and the term "Captive Use" shall be construed accordingly;

c. "Ownership" in relation to a generating station or power plant set up by a company or any other body corporate shall mean the equity share capital with voting rights. In other cases ownership shall mean proprietary interest and control over the generating station or power plant;

d. "Special Purpose Vehicle" shall mean a legal entity owning, operating and maintaining a generating station and with no other business or activity to be engaged in by the legal entity".

3.13. From the above extracted portion of the Electricity Rules 2005, it could be seen that for the purpose of verification of captive norms of the CGP, for the captive users, only the aggregate electricity generated alone needs to be taken in to account as per the Explanation 1 provided under Rule 3 (1) (a) (b) to the extent extracted below:-

> "Explanation:-
> (1) The electricity required to be consumed by captive users shall be determined with reference to such generating unit or units in aggregate identified for captive use and not with reference to generating station as a whole; and "

3.14. This position was further strengthened by the Hon'ble APTEL, while passing an order in Appeal No.252 of 2015 dated 08.11.2016. After critically analyzing the various requirements under the above quoted provisions of the Electricity Rules 2005, the Hon'ble APTEL has decided the issue and accordingly, passed a binding judgement. The operative portion of the judgement is extracted as here under:

> *"xxx*
> *h) Hence considering the provision of Rule 3 (1) (b) of Electricity Rules, 2005 which prescribes that a generating station can identify a unit or units of such generating stations for captive use, it is clear that Appellant had identified both the Units i.e. TG-1(15 MW) and TG-2 (65MW) for captive use during FY 2013-14. In view of above for deciding the captive status of the Appellant plant, the aggregated Generation and consumption from both*

the units i.e. TG-1 (15 MW and TG-2 (65 MW) has to be considered as per the provision of Rule 3 (1) (b) of Electricity Rules, 2005.
xxxxx"

3.15. Accordingly, in compliance of the legal provisions as provided in the Electricity Rules 2005 and also as per the binding judgement made by the APTEL, till 31.03.2017, the aggregate electricity generated was pooled and accounted for the petitioner and other similarly placed CGPs. Accordingly, the petitioner was providing allotment from the so pooled aggregate electricity generated for allocation among its captive users and the system was going perfectly well till 31.03.2017.

3.16. However, all of a sudden, without providing any notice or opportunity to the petitioner and other similarly placed WEG CGP Companies, the 2nd Respondent has unilaterally issued the Memo and thereby instructed all the Generation End Superintending Engineers, to account the energy, only by EWA Wise or WEG Wise or HTSC No. Wise and making the whole system getting collapsed to ruin.

xxxx”

3.17. The definition of the Captive Generating Plant, Company, electrical plant, generating Station is stipulated in Sec.2 of the Electricity, Act 2003 as follows:

(8) "Captive generating plant" means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such cooperative society or association;

(13) "company" means a company formed and registered under the Companies Act, 1956 and includes anybody corporate under a Central, State or Provincial Act;

(22) "electrical plant" means any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include:

(a) an electric line; or

(b) a meter used for ascertaining the quantity of electricity supplied to any premises; or

(c) an electrical equipment, apparatus or appliance under the control of a consumer;

(30) "generating station" or "station" means any station for generating electricity, including any building and plant with step- up transformer, switch yard, switch-gear, cables or other appurtenant equipment, if any used for that purpose and the site thereof, a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station.

3.18. From the above, it is very clear that in a Generating Station, generation of electricity takes place in a location. There can be generation by their Generating Station from one unit or more than one unit. Where more than one unit is available in a generating station, then the company which owns the generation station should identify the units within such Generating Station for Captive use and Electricity Rules, 2005 will apply for such units identified for captive user.

3.19. The respondent Company has Wind Energy Generators in various locations and they have been assigned with separate Wind Energy Generator HT

service connection. Each such Wind Energy Generator HT service connection has executed a separate contract i.e Energy Wheeling Agreement for wheeling under captive category.

3.20. The verification status of a Captive Generating Plant has to be done Energy Wheeling Agreement wise, since, TANGEDCO has executed Energy Wheeling Agreement with each of the wind Captive Generator thereby the Respondent is being permitted to wheel the energy to their captive user(s). Hence, the contention of the respondent that the energy generated through all the Wind Energy Generators have to be considered as aggregate electricity generated by the company and pooled together to the account of the company and accordingly, the allotment to the End Captive Users was provided by the respondent, on a Month on Month basis, as per the provisions of the Electricity Rules, 2005, is not an acceptable one as it is not in line with the Electricity Act, 2003 and Electricity Rules-2005.

4. Contention of the Respondent:-

4.1. In W.P. (MD) No. 9320 of 2017, before the Hon'ble Madurai Bench of Madras High Court and the Hon'ble High Court has issued an order on 25.05.2017, directing the Respondents in the WP to seek a clarification with the Commission and after a long period of 2 ½ years, now the petitioner is filing this present clarification petition, in line with the order of Hon'ble Madurai Bench of Madras High Court dated 25.05.2017 in WP (MD) No. 9320 of 2017. In order to

make the Commission fully understand the matter, as how the matter has emerged, the following inputs are necessary right from the issuance of a communication by the Chief Engineer-NCES in Memo No. CE/NCES/SE/EE/WP P/AEE2/F.Banking instruction /D.930 /17 dated 30/31.03.2017.

4.2. The Respondent is a Limited Company incorporated under the Companies Act 2013. The Respondent's Company is engaged in the Generation of electricity through its Wind Energy Generators (WEGs) and it has installed WEGs to a total capacity of 34.25 MW at various locations in the State of Tamil Nadu, wherever the wind feasibility is available. The WEGs installed are all falling within the jurisdiction of the Superintending Engineers of various Generation Circles.

4.3. The Respondent has installed the above listed WEGs, for the purpose or generating electricity and to allow the energy so generated for the captive consumption of the captive users of the Respondent Company, who are the shareholders of the Company, as per the captive arrangement provided under the Electricity Rules 2005. Hence, all the above WEGs, are falling under the category of Captive Generating Plant (CGP) and the shareholders consuming the energy from the CGP are, captive users of the energy generated from the above listed WEGs.

4.4. The Respondent has invested substantial borrowed funds, for setting up the WEGs with high interest rates. The energy generated from the Respondent's WEGs are being wheeled to the respective captive users' premises and accordingly, all the applicable wheeling, transmission charges and other charges

relating to the wheeling arrangement including transmission and distribution losses, SOS charges etc., are being paid by the Respondent at the rates as fixed by the Commission from time to time, as per the Comprehensive Tariff Orders on Wind Energy issued for this purpose.

4.5. Due to the attempt of the CE NCES to implement the new procedures, the Superintending Engineers of the Generation Circles of TANGEDCO, were not able to work out and send the generation / allocation statements for the month of April 2017 in time for all of the WEGs of the Respondent and accordingly, the generation statements pertaining to all the WEGs were not reaching the captive users in time, who were using the aggregate electricity generated from out of the WEGs of the Respondent for making adjustment against their CC bills. As such statements were not provided to such captive users before the preparation of CC bills for the month of April 2017, which was due on 01.05.2017 (i.e.) within 4 days from the date of reading taken at the Consumption End, the adjustment of the wind energy was not able to be accounted by the captive users and the surplus energy if any consumed by the captive users from the grid was not able to be accounted for billing, after adjusting the captive energy. Normally, at the Consumption End during thoseoccasions in 2017, readings were taken on 27th of the Month and the consumption charges bill would be prepared within 4 days of such meter reading at the Consumption End. This was the practice followed before the introduction of AMR project.

4.6. Violating the order of the Commission as found in Para 7.7.1. to go for Generation End, the Respondent was not able to make allocation to the captive users of the Respondent in time. Due to the non-allocation of the energy for adjustment by the captive users of the Respondent, the captive users were not able to adjust the energy against their consumption and accordingly, every such captive consumer was made liable to pay charges, even though they have their own wind energy for, adjustment. This made them constrained to pay higher bills than the required amount which affected the total relationships between the Respondent and the captive users of the Respondent.

4.7. For having invested in the CGPs of the Respondent, the captive users were not able to get the energy allocation from the Respondent and therefore, most of the captive users were feeling helpless with the new procedure. This problem was found existing in all the areas and throughout the State at that period of time. No CGPs of WEGs were able to get the generation statements in time, because of the cumbersome and unwanted process ordered through the impugned Memo of the CE-NCES and accordingly, the Respondent was not able to allocate energy to its captive users. Consequently, the captive users were not able to adjust the WEG generated units against their consumption for the month of April 2017 and this position was found to move from bad to worse, if the issues were allowed to continue in the future months also.

4.8. Hence it was felt that if the impugned Memo issued by the CE-NCES was allowed to continue for enforcement, then that would create severe hardship in the matter of energy accounting for such CGPs of WEGs like those of the Respondent and also for the captive users involved in the CGP arrangement. Considering the difficulties involved in the implementation of the impugned Memo issued by the CE-NCES, the Respondent through its Association namely Indian Wind Power Association (IWPA) has filed objections before the Petitioner TANGEDCO, explaining the need to reverse and withdraw the impugned Circular Memo, through the representations dated 08.05.2017 and 09.05.2017. However, there was no response found from the Petitioner TANGEDCO on the objections filed and the situation was found moving still bad.

4.9. It was found that for the preparation of Current Consumption Charges Bill for April 2017, 1st May was the normal due date. However, the Head Quarters of the Petitioner TANGEDCO, through its Accounts Branch, has extended the time limit for preparing the bills twice, which procedure itself is unlawful and without the approval of the Commission, while the billing procedures have been clearly spelled out in the TN Electricity Supply Code 2004 with due date for preparation of bill and due dates for payment of the bill and other follow up procedures for levying belated payment surcharge etc. However, without minding all the same, in the first spell, it was extended up to 10.05.2017 and thereafter, in the 2nd spell, the time was further extended up to 31.05.2017, vide the communications bearingNo.Lr.NO.CFC/REV/FC/REV/AS.3/F.CGP/D.352/2017dated06.05.2017an

d Lr.No.CFC/REV/FC/REV/AS.3/F.CGP/D.352-1/2017dated09.05.2017 respectively.

4.10. Because of the two extensions provided, raising of the Current Consumption Charges Bills, has not happened and therefore, no bill collection was found getting made for the Petitioner TANGEDCO and their entire fund flow was found fully affected. Since the extension was granted up to 31.05,2017, the due date for payment for the CC bill for April 2017 fell due by 1st week of June 2017, on which time, the due date for the payment of CC bill for May2017 was also falling due. Hence, the captive users were made liable to pay the bill for both the months of April and May 2017, which accumulated due to these delays at TANGEDCO end and there was a great burden experienced on the part of the captive users to meet out such big amounts at one single stretch.

4.11. Therefore, the Respondent felt that when the Impugned Memo of the CE-NCES, is allowed to continue for enforcement, during all the forthcoming months also, such difficulties would continue and multiply, as practically, preparation of generation statements based on EWA Wise/HTSC No. Wise was no way possible at TANGEDCO.

4.12. As per the practice prevailed historically, there was only one statement to be prepared, for each injection voltage, from each Generating End EDC, sent to the Consumer End EDC and hence, the accounting was convenient and was found accurate also for all concerned, including the Respondent, captive users

and also the Petitioner TANGEDCO. Such a procedure also satisfied all the statutory provisions perfectly. But as per the revised instructions as provided by the impugned Circular Memo of the CE-NCES, the data entry and No. of statements are significantly increased manifold.

4.13. As there are 5 slots of reading taken for generation, if there are 50 machines, there would be a total of 50 statements, comprising of 250 sets of data for each slot. If there are 20 consumers, then 5000 sets of data would have to be keyed-in (entered) manually. This, while on the one hand, led to delay, as against one single statement prepared earlier and replaced by 50 statements for each consumer needed to be prepared. At each Consumer End EDC, against one adjustment entry comprising of 5 slots made earlier, then there would be 50 statements of each machine with 5 slots to be entered for adjustment purposes.

4.14. The revised procedure as ordered through the impugned Memo of CE-NCES was therefore found causing inordinate delay at both the Generation Ends and Consumption Ends. For those reasons only, the Petitioner TANGEDCO has extended the bill preparation date, twice during the month of April for the pl occasion up to 10.05.2017 and on the second occasion up to 31.05.2017. This has never happened in the history of TANGEDCO at any time before and this extension was also ordered unilaterally by the TANGEDCO on its own, even without having consulted the matter with the Commission, as such extension of

due dates, goes against the very spirit of the Tamil Nadu Electricity Supply Code 2004.

4.15. Further, going through a cumbersome process of such a large set of data entry and data preparation, the revised procedure left scope for data entry errors and also would affect the interest of the Respondent and other captive users involved in the CGP arrangement and it would have led to lot of litigations in future. The wind season in Tamil Nadu was fast approaching from June 2017 onwards that year, the windmills during such time generate enormous amount of electricity, which leads to higher banking during the active wind season. As such, when the impugned Memo of the CE-NCES which attempted to reverse the entire banking accounting procedure also, the work was found to be increased further manifold, when such banking of energy happens at all individual WEGs. Hence, it became clear that it was practically not possible to cope up with the instructions issued in the impugned Memo issued by the CE-NCES.

4.16. The Petitioner never refers any matter before the Commission, when they intend to issue any revised procedures or instruction, for the purpose of approval or vetting by the Commission, whether such procedure or instruction would be valid under law or not. Even though, the Commission is the authority to decide the electricity related policies and procedures at the State level, the Petitioner is not caring to follow the procedures of a prior referral of the matter with the Commission, wherever any changes happened in the approved systems, in any

matters. The Petitioner is and has been continuing with such unlawful practice of issuing suomoto instructions on its own, without verifying, whether such procedures would be within the ambit of law or not. Such an approach is happening in the recent days more frequently. It seems that the Petitioner has not yet come out of the hangover of Board's Regime to Regulatory Regime till now, even though the Electricity Act 2003 has been enacted in the year 2003 itself.

4.17. The Commission has categorically commented up on the behaviour of the Petitioner in very many matters, whenever it issued such Suo Moto instructions without consulting and getting approval of the Commission.

4.18. The following are the extracts of the order of the TNERC in M.P.No.10 of2012 dated 28.09.2012.

> "Here, it may be seen that the issue of the impugned circulars has raised two issues, namely, a) whether the respondents have the powers to introduce Restriction and Control Measures on their own and b) whether the respondents have powers to levy excess demand and energy charges on their own. A conjoint reading of regulations 15(6) and 38 of the Electricity Act,2003 would make it abundantly clear that powers to introduce load shedding/blackouts on the part of the licensee is meant only for a short period. The occurrence of the expressions "blackouts for short duration "and " operational contingency" would be of significant import. It clearly brings out the position that the power that has been vested with the licensee under Regulation 15(6) is to be exercised only under exigent circumstances and by no stretch of imagination can it be meant to extend to a longer period as has been sought to be done now by the respondents. It can be safely concluded that no prior approval of the Commission is required under regulation 15(6) of the TN Electricity Distribution Code for the measures imposed under such exigent circumstances. On the other hand, the language employed in Regulation 38 is so clear and unambiguous that prior approval of the Commission is mandatory. It is necessary to dissect the said regulation into two parts for the purpose of better appreciation and understanding."

……..
……
"In view of the above, the present Memos which have been issued without the approval of the Commission are not sustainable in law. That apart, it may be further seen that excess demand and energy charges were levied on the consumers after seeking approval of the Commission in M. P. 42 of 2008 at the first instance and it is really incomprehensible as to why the respondents have issued the impugned circulars without the approval of the Commission after having sought the approval of the Commission for imposing R & C Measures and for levy of excess demand and energy charges in M.P. No. 42 of 2008. Hence, the contention of the respondent that it has powers to levy excess demand and energy charges on it own is devoid of merits and we hold that the approval of the Commission is mandatory in the light of the aforesaid discussion. "

4.19. The following are the extracts of the order of the TNERC in M.P.No.10 of 2012 dated 22.09.2014 when the Petitioner TANGEDCO attempted to issue such a Suo Moto instruction,

"we deem it fit and appropriate to set aside the Memos dated 25.2.2012 and 29.2 2012 as the same have been issued in violation of provisions of Electricity Act, 2003 and as well as the orders of the Commission. In the result, the consequential collection of excess demand and energy charges, if any, collected for the period 29-2-2012 to 5-3-2014 shall be refunded. TANGEOCO is directed to ensure that approval of the Commission is obtained beforehand before issue of circulars concerning Restriction and Control Measures. There will be no order as to costs".

4.20. Likewise, in another order, the Commission has observed as follows in DRP No.19 of 2013 dated 19.01.2015:-

"5.6. The Commission has not issued any specific instruction for fixing the priority of adjustment at the user end for the energy generated from WEGs under REC scheme and WEG's under normal captive / third party scheme. The priority imposed by the TANGEDCO vide its letter dated 14-09-2012 for adjustment of energy in this case is arbitrary. Since such decision of the TANGEDCO affects the electricity charges to be paid by the consumers / open access consumers, the TANGEDCQ's letter dated 14-09-2012 is not legally valid as mandated by Section 45 of the Electricity Act 2003. In the

absence of expressed law, the best option for the TANGEDCO should have been approaching the Commission for issue of such orders. This has not been done by the TANGEDCO. Therefore we have no hesitation to declare that the TANGEDCO's letter No.CE/FC/REV/AAO/HT/D.606/2012, dated 14-09-2012 is arbitrary andnot legally valid. " ...

4.21. The Commission while passing an order in SMP NO.1 of 2014, on 31.03.2016 has again reiterated as below.

"7.30 The Commission in the Tariff Order No.1 of 2009 dated 20.03.09 have also come out with an illustration on methodology of adjustment of banked energy clarifying that if the consumption exceeds the generation the energy banked shall be drawn to the required extent. This would also include the energy banked during peak hour and normal generation for adjustment against lower slot consumption. The Commission directs that any clarification required regarding the Commission's order, the Licensee shall request for such clarifications before issuing any contrary circulars I instructions to the field which results in unnecessary litigations and causes inconvenience to the concerned, "

4.22. From all the above observations of the Commission, it could be seen that the Petitioner TANGEDCO, is in the habit of deciding any matter on its own, without minding the fact, whether it has an authority to proceed or not or the matter is within the framework of law. On several times, this was pointed out by the Commission, not to take such Suo Moto decisions and proceed with the consumers arbitrarily. In spite of the same, the Petitioner TANGEDCO has not corrected itself from such omissions till today and is continuing the same fault arbitrarily and every time, the consumers are forced to approach and bother either the Commission or the Hon'ble Court for maintaining the right justice in all such deviated matters and for no fault of them.

4.23. Hence, the Respondent having no other alternative remedies, has approached the Hon'ble Madurai Bench of Madras High Court, by fining a Writ Petition by invoking the extraordinary jurisdiction of the Hon'ble Court underArticle 226 of the Constitution of India, in W.P. (MD) No. 9320 of 2017 and accordingly, after hearing the matter elaborately and with the consent of the Ld. AAG appeared on behalf of the Petitioner TANGEDCO, was pleased to make the following order on 25.05.2017 to the extent extracted below.

> *"The petitioner seeks for a Writ of Cetriorarified Mandamus to call for the records on the files of the 2M Respondent relating to the issuance of the impugned Circular Memo NO.CE/NCES/SE/EE/WPP/AEE2/F.Banking instruction/O.930/17 dated 30/31.03.2017 and quash the same as not maintainable by law as weft as the statutory provisions of Electricity Rules 2005 and the binding judgement of the Hon'ble APTEL, in the matter of energy accounting of the WEGs identified for captive use and consequently direct the Respondents to approach the Tamil Nadu Electricity Regulatory Commission for seeking directions as to how the energy accounting needs to be done in respect of CGPs identified for the captive users for their captive consumption as found enumerated in the Electricity Rules 2005.*
>
> *2. The learned counsel appearing for the petitioner has brought to the notice of this Court the relevant provisions of the Electricity Rules 2005, which regulate the system of accounting of energy generated from thecaptive generating plants. According to the proviso quoted, the Rules are making it obligatory to take only the "Aggregate Electricity Generated" from the captive generating plants identified for the purpose of captive use.*
> *3. The learned counsel appearing for the petitioner has a/so brought to the notice of this Court that the Appellate Tribunal for Electricity has passed a relevant order confirming the above position of the provisions of the Electricity Rules 2005 in the matter of Salasar Steel and Power Ltd v. Chatisgarh State Electricity Regulatory Commission, Appeal No. 252 of 2015, decided or. 08.11.2016 as extracted below:-*
>
> > *"h) Hence considering the provision of Rule 3(l)(b) of Electricity Rules, 2005 which prescribes that a generating station can identify a unit or units of such generating stations for captive use, it is clear that Appellate had identified both the Units i.e. TG-I (15 MW) and*

TG-2 (65 MW) for captive use during FY 2013-14. In view of above for deciding the captive status of the Appellate Plant, the aggregated Generation and consumption from both the units i.e. TG-I (15 MW) and TG-2 (65 MW) has to be considered as per the provision of Rule 3(1)(b) of Electricity Rules 2005. "

4. The learned Additional Advocate General appearing for the respondents informed this Court that the respondents Ire willing to take up the matter before the 6th respondents, State Electricity Regulatory Commission to get the approval over the new wind energy accounting procedure proposed in the impugned, Circular Memo as per the process of law already declared by binding judgement of the APTEL.

5. In view of the consent submitted by the learned, additional Advocate General appearing for the respondents, the impugned Circular Memo issued by the 2nd respondent, in the matter of specifying new procedures for energy accounting for WEGs is kept in abeyance.

6. The respondents 1 and 2 are directed to process the matter before the 6th respondent, State Electricity Regulatory Commission to get the new accounting procedure approved, by following the due process of law as declared by the binding judgement of the APTEL and accordingly, on filing of the petition by the respondents, the State Electricity Regulatory Commission is directed to dispose of the matter within a period of twelve weeks, by providing suitable opportunities to the stakeholders.

7. With the above observations, the writ petition is disposed of. NQ costs. Consequent/y. connected miscellaneous petitions are closed".

4.24. From the above, extracted provision of the order of the Hon'ble Madurai Bench of Madras High Court in WP (MD) No. 9320 of 2017, there was a clear order to the following effect.

(i) The order was passed by the Hon'ble Court on 25.05.2017, with the consent of the Ld. AAG appeared on behalf of the TANGEDCO.

(ii) The Learned Additional Advocate General appeared for the respondent TANGEDCO has informed this Court that the respondent TANGEDCO is willing to take up the matter before the 6th respondent. the State Electricity Regulatory Commission, to get the approval over the new wind energy accounting procedure proposed in the impugned Circular Memo as per the process of law already declared by binding judgement of the APTEL.

iii. In view of the consent submitted by the Learned Additional Advocate General appeared for the respondent TANGEDCO, the impugned Circular Memo issued by the CE NCES, in the matter of specifying new procedures for energy accounting for WEGs is kept in abeyance.

iv. The respondent TANGEDCO is directed to process the matter before the 6th respondent, State Electricity Regulatory Commission, to get the new accounting procedure approved, by following the due process of law, as declared by the binding judgement of the APTEL and accordingly, on filing of the petition by the respondents, the State Electricity Regulatory Commission, is directed to dispose of the matter within a period of twelve weeks, by providing suitable opportunities to the stakeholders.

4.25. Based on the order of the Hon'ble Madurai Bench of Madras High Court dated 25.05.2017, the Respondent TANGEDCO has now filed the instant petition in M.P. No. 20 of 2019, after a long gap of more than 2 1/2 years (i.e.) on 20.11.2019. It shows that how serious the petitioner is in dealing with theCourt orders and the same seriousness is also seen in the current matter to file the present petition, after such a long gap of 2 1/2 years, from the date of order of the Hon'ble High Court on 25.05.2017.

4.26. Besides to the same, only the following entities are shown as the 1st and 2nd Respondents, in the WP (MD) No. 9320 of 2017, in the proceedings before the Hon'ble Madurai Bench of Madras High Court, namely (i) Chairman & Managing Director of TANGEDCO and (ii) The Chief Engineer-Commercial. The Order passed by the Hon'ble High Court on 25.05.2017 also binds the 1st and 2nd Respondents on whom the Hon'ble Madurai Bench of Madras High Court has provided the directions to approach the Commission. However, in the instant M.P.

No. 20 of 2019, the Chief Financial Controller-Revenue, who is not at all a Respondent in the WP (MD) No. 9320 of 2017, is filing the present petition. Therefore, it is surprising that as how the cause of action arises to the Chief Financial Controller-Revenue in the present matter, is a question to be explained by the petitioner alone for the satisfaction of the Commission.

4.27. The present petition in M.P. No. 20 of 2019, is under adjudication before the Commission and in the meanwhile, on the matter of verification of the CGP status, the Commission has already passed a detailed order in R.A. NO.7 of 2019 dated 28.01.2020 prescribing various guidelines as to how the CGP verification process should go. Inter-alia, the said order at Para No. 7.7.1 makes it clear as below:-

> *"7.7 Accounting of aggregate generation and consumption*
>
> *7.7.1 Verification of criteria of consumption shall be based on the aggregate energy generated from generating unit(s) in a generating station identified for captive use before the commencement of captive wheeling to be determined on annual basis i.e gross energy generated less auxiliary consumption. In the case of wind energy, if the CGP having multiple generating units have separate Energy Wheeling Agreements, aggregate energy of all generating units of the CGP shall be considered irrespective of separate wheeling agreements, provided the captive users of each EWA are the same holding same proportion of ownership. The quantum of auxiliary consumption shall be the metered auxiliary consumption or the normative auxiliary consumption whichever is less. The captive consumption (the captive user) may be within the premises where the CGP is located or at a different location. In the absence of measured data on auxiliary consumption, until metering as prescribed in para 7.9.1 of this procedure is completed, the normative auxiliary consumption specified in the Regulations of the Commission may be considered for the purpose of CGP verification status."*

4.28. Therefore, the Respondent submits that the matter covered by the Writ Petition in WP (MD) No. 9320 of 2017 and also the matter covered by the present M.P. No. 20 of 2019 filed by the CFC-Revenue, has already been covered by the above paragraph, in the order pronounced by the Commission in Para 7.7.1as extracted above. Therefore, the stand attempted to be taken by the Petitioner TANGEDCO, to go with the verification of CGP status based on EWA wise is no more valid because of the specific order issued by the Commission in R.A. No.7 of 2019 dated 28.01.2020, more specifically under Para 7.7.1.

> *"In the case of wind energy, if the CGP having multiple generating units have separate Energy Wheeling Agreements, aggregate energy of all generating units of the CGP shall be considered irrespective of separate wheeling agreements, provided the captive users of each EWA arethe same holding same proportion of ownership".*

4.29. Therefore, the Respondent submits that the law has already been settled fully and finally, by the Commission through its order in R.A. No.7 of 2019 dated 28.01.2020 and accordingly, the verification of the CGP status can go only, in an aggregate manner, if the CGP is having multiple generation units, even though such units have multiple energy wheeling agreements (EWAs) and accordingly, the aggregate energy generated by all the generating units of the CGP, shall be pooled together and after aggregating it, it needs to be considered for the purpose of CGP verification, irrespective of the fact whether such WEGs have separate energy wheeling agreements (EWA) in respect of the individual WEGs of the same CGP. Having the matter fully clarified to the extent as explained

above already as per the above Para 7.7.1. in the order in R.A. No. 7 of 2019 dated 28.01.2020, the instant petition filed by the Petitioner CFC-Revenue, has become totally infructuous on its own as of now.

4.30. However, even after the issuance of the order by the Commission to the extent as narrated above, while issuing a reply to another Consumer Association, namely Tamil Nadu Spinning Mills Association (TASMA), the CFC- Revenue has adopted totally a different stand that the CFC-Revenue would make the CGP verification, only on EWA wise and not on an aggregate manner, which stand is blatantly violating the order of the Commission as found in Para 7.7.1. to go for verification by taking into the aggregate energy generated by all the WEGs of the CGP, in spite of the fact that there could be multiple EWAs involved for each WEG owned by the CGP.

4.31. An extract of the stand of CFC-Revenue, as communicated in her letter No.CFC/Rev/FC/Rev/FC/R-1/AO/JA/F.CGP /D.No.435/ 2020 dated 29.07.2020 to Tamil Nadu Spinning Mills Association (TASMA), is reproduced below for the instant understanding of the Commission.

> *"12 (iii) The TNERC has pronounced its order in RA. No. 07 of 2020 dated 28.01.2020 allowing the TANGEDCO to proceed with theverification activity of captive generators. In as much as the Energy Wheeling Agreement (EWA) executed in respect of each Wind Energy Generator (WEG) between the Superintending Engineer & the Generating Company which owns wind Energy generating plant, and notices calling for documents for verification of CGP status have been issued to independent Wind Energy Generator by the respective Superintending Engineer/ Generating EOC, the documents for verification of CGP status for the respective Financial year(s) may be submitted by the generator concerned*

to Generating End EDCs. There is neither need for nominating any Verifying Authority nor there is any such prescription in the TNERC's order to this effect. "

4.32. Therefore, it is made clear that the petitioner CFC-Revenue is strongly violating the order of the Commission, as found in Para 7.7.1. of the order in R.A. No.7 of 2019 dated 28.01.2020 and is attempting to call for documents for CGPverification, only on WEG wise or EWA wise and not on an aggregate manner of the entire group of WEGs a CGP owns. The Respondent, as stated in Para 3 of this counter has tabled down a list of WEGs owned by him, which shows that the WEGs are at multiple locations falling under the Jurisdiction of various Generation End EDCs. If the CGP verification is not done in a consolidated manner, by taking in to aggregate generation of all the WEGs owned by the CGP, even though they are located at various Generation End EDCs, the CGP verification work cannot be rightly done, when the documents are scrutinized only at the each of the single Generation End officials alone separately. Then such a process would go totally against the spirit of the order under Para 7.7.1. and it will not be in aggregate, as ordered by the Commission besides to it going against the very spirit of the electricity Rules 2005 and also against the binding judgements of the Hon'ble APTEL.

4.33. The Petitioner Chief Financial Controller-Revenue would always be found to assume any power on her own and would give instructions based on such assumptions and accordingly, would try to enforce the same, without totally minding, whether such instructions are within the frameworks of law andwhether

such instructions are going in line with the binding judgements of the Hon'ble APTEL or even with the orders of the Commission. This has been the approach and practice taken by her, during all these years, which resulted in to plethora of litigations after litigations and only the Hon’ble Courts, the Commission and the Hon'ble APTEL, have come to the rescue of the consumers / generators on each occasion, to correct the matter, as per the provisions contained in law. Enormous time and money is wasted -n such litigations. Even the present CGP Verification matter, because of her wrong approach only has wasted almost 4 years of time to get in to a finality after 4 years of fight at various Forums.

4.34. If the CE-NCES has attempted to approach the Commission, before the issuance of its communication in No. CE/NCES/SE/EE/WPP/AEE2/F. Banking instruction /D.930/17 dated 30/31.03.2017, all these challenges would not have been brought up for adjudication at the Hon'ble High Court. Only on the failures of the authorities in TANGEDCO of approaching the Commission in advance and their action of issuing Suo Moto instructions, the consumers / generators are suffering a lot in the recent years and therefore, such lapses have to be taken notice of for avoiding any more recurrences in future at least.

4.35. While the matter of verification of CGP status was ordered to go in a particular fashion, by taking in to the aggregate generation of all WEGs put together and owned by a CGP, trying to go for verification on individual EWA wise is a fundamental flaw, which again the CFC-Revenue is attempting to go with.

This may lead to further rounds and rounds of litigations, unless the Commission issues the necessary instructions and orders.

4.36. Therefore, the Respondent submits that the petition filed by the CFC-Revenue in M. P. No. 20 of 2019, seeking a clarification, as how the CGP verification should go, either on individual EWA wise or on an aggregate manner, was already answered by the Commission in Para 7.7.1. of the order in R.A. No.7 of 2019 dated 28.01.2020 and therefore the petition filed by the CFC-Revenue has become totally infructuous and accordingly on the reason, the petition in M.P. No. 20 of 2019 may be ordered to be dismissed with exemplary costs.

5. Written Submission filed on behalf of the Respondent:-

5.1. The Respondent has reiterated almost all the averments in the counter affidavit. In addition to the same, the following additional averments have been made in the Written Submission.

5.2. For want of generation statements from the Superintending Engineers of the Generation End, the Respondent was not able to make allocation to the captive users of the Respondent in time. Due to the non-allocation of the energy for adjustment by the captive users of the Respondent, the captive users were not able to adjust the energy against the consumption and accordingly, every such captive consumer was made liable to pay charges, even though they have their

own wind energy for adjustment. This made them constrained to pay higher bills than the required amount which affected the total relationships between the Respondent and the captive users of the Respondent.

5.3. The petition filed by the CFC-Revenue in M.P. No. 20 of 2019, seeking a clarification, as how the CGP verification should go, either on individual EWA wise or on an aggregate manner, was already answered by the Commission in Para 7.7.1 of the order in R.A. No. 7 of 2019 dated 28-01-2020 and was again confirmed by the Commission by its Common Order dated 07-12-2021 in M.P. No. 24 of 2020 and others and therefore the petition filed by the CFC-Revenue has become totally infructuous and accordingly on that reason, the petition in M.P. No. 20 of 2019 may accordingly on that reason, the petition in M.P.No.20 of 2019 may be dismissed with exemplary costs.

ORDER

In view of the fact that the issues raised by the Petitioner in the present petition has already been answered by the Commission in Para 9.9.7in its Common Order dated 07-12-2021 in M.P. No. 24 of 2020, the present petition has become infructuous and accordingly dismissed.

(Sd.....)
(K.Venkatasamy)
Member (Legal)

(Sd.....)
(M.Chandrasekar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission