

**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
Dr.T.Prabhakara Rao	.... Member
and	
Thiru. K.Venkatasamy	.... Member (Legal)

**D.R.P. No.13 of 2014**

Scientific Mes Technik Pvt. Ltd.  
B-14, Industrial Estate  
Pologround  
Indore – 452 015  
Madhya Pradesh  
India

... Petitioner  
(Thiru Rahul Balaji  
Advocate for the Petitioner)

Vs

1. TANGEDCO  
Rep. by its Chairman & Managing Director  
No. 144, Anna Salai  
Chennai – 02.
2. The Chief Financial Controller (Revenue)  
TANGEDCO  
144, Anna Salai  
Chennai – 600 002.

.... Respondents  
(Thiru M.Gopinathan  
Standing Counsel for the Respondent)

**Dates of hearing :** 29-01-2014; 30-01-2014; 28-04-2014;  
13-08-2019; 17-09-2019; 22-10-2019  
and 12-11-2019

**Date of order : 25-02-2020**

## ORDER

The D.R.P.No.13 of 2014 came up for final hearing before the Commission on 12-11-2019 and the Commission upon perusing the petition and connected records and after hearing the submissions of both sides passes the following:-

### ORDER

#### **1. Prayer in D.R.P. No. 13 of 2014:-**

The prayer of the petitioner in this D.R.P.No.13 of 2014 is to direct the Respondents to forthwith make payment of a sum of -

(a)	interest on delayed payment of	Rs.22,37,454.00
(b)	wrong deduction of interest on IDC charges	Rs.1,85,400.00
(c)	non-payment of invoices	<u>Rs.1,30,346.75</u>
		<u>Rs.25,53,200.75</u>

and payable to the petitioner against delayed payments made by TANGEDCO for power supplied and further direct the respondents to pay interest @ 1% per month for the future period for any delay in settlement of invoices beyond the period of 30 days from the date of invoice.

- (d) direct the respondents to bear the costs of the instant petition including court fees and legal expenses and make payment of the said sum to the petitioner and pass such further or other orders as this Commission may deem fit.

#### **2. Facts of the Case:-**

The petition is filed to pass an order directing the Respondents to forthwith make payment of a sum of Rs.25,53,200.75 being the interest due and payable to

the petitioner against delayed payments made by TANGEDCO for power supplied and direct the Respondents to pay interest @1% per month for any delay in settlement of invoices beyond the period of 30 days.

### 3. Contentions of the Petitioner:-

3.1. The petitioner is having the following Windmills whose date of commissioning, capacity and HT SC Nos. are herein below:-

No.	Location of Jurisdictional Circle	Windmill & TANGEDCO	Capacity of Windmill	HT SC. No.
1	Tirunelveli (Tirunelveli TANGEDCO)	District Circle,	0.6 MW	1857
2	Tuticorin District, Tuticorin TANGEDCO	Circle,	0.6 MW	105

3.2. The power generated by these units is being sold to TANGEDCO under their respective agreements. The petitioner has been raising Invoices from time to time in accordance with the Contracts and Tariff Orders. However for the past few years, the payments that have been received from TANGEDCO are being consistently delayed. Even when payments are made belatedly, they are being made without any interest for such delay. Such non-payment of interest is a denial of a valuable right conferred by specific Tariff Orders and the judgment of the Hon'ble APTEL.

3.3. In Tariff Order No. 1 of 2009 issued by the Commission, there is a specific inclusion of interest payment.

3.4. The TANGEDCO took the position that only for windmills covered by Tariff Order No.1 of 2009, there is a requirement for paying interest. This resulted in the Indian Wind Power Association filing a petition before the Commission which upheld the right of all wind generators irrespective of the date of commissioning to receive interest on delayed payments.

3.5. Therefore all Wind Generators are entitled to interest on delayed payment @1% per month for every month's delay from the due date. Only a 30 days time limit for payment is provided and any delay beyond that will have to be made with interest @1% per month

3.6. In the light of the specific provision contained in Tariff Order No. 1 of 2009 on interest on delayed payments, which is applicable to all WEGs commissioned after 19.09.2008 such as those of the petitioner, and because of the ruling of the Hon'ble APTEL in Appeal 11 of 2012, the petitioner is entitled to interest on delayed payments including those payments which have already been remitted.

3.7. The petitioner has raised invoices for power supplied from its WEGs on a monthly basis as per the terms of the EPA and the petitioner has received payments against invoices for the period upto March 2013. However, these payments have been delayed by as much as one year or more. Despite the substantial delay, TANGEDCO has not made any payment of interest on delayed payments contrary to the order of the Hon'ble APTEL and the provisions of

the Tariff amount of interest on delayed payment due as of June 30<sup>th</sup> as Annexure I, which is a tabulated statement.

3.8. In respect of its Wind mill established in March 2009 IDC charges were levied as per Hon'ble APTEL's Order dated 08/01/10 in Appeal No. 93 of 2009. TNEB had deducted interest @ 12% on such charges for which there is no provision in Law or in the Order. A writ was therefore filed before the Hon'ble High Court and the Order was passed on 25.03.2011 in Writ Petition No. 24878 of 2010 to dispose of all above matters as per law. However despite repeated reminders, there is no response. The petitioner is entitled to the adjustments and is setting forth herein below the final statement of dues as of date

(1) Interest	a) Tutucorin	Rs. 1260753.00	
	b) Tirunelveli	Rs. 976701.00	Rs.2237454.00
(2) Wrong deduction of interest on IDC Charges			Rs. 185400.00
(3) Non payment of invoices			Rs. 130346.75
	Total		Rs. 2553200.75

3.9. TANGEDCO is due and liable to pay to the petitioner a sum of (1) Rs.2237454.00 towards interest (2) 185400.00 towards wrong deduction of interest on IDC charges 3) Rs.130346.75 towards non receipt of payment on some invoices.

3.10. The substantial delays in making payments by the respondent have caused severe difficulties for the petitioner in meeting the financial obligations towards banks and financial institutions.

3.11. Failure of TANGEDCO to make payments promptly as per terms of the energy purchase agreements has adversely affected the petitioner's financial position and strained its finances.

3.12. The Respondents have been making ad-hoc payments from time to time which are substantially delayed and even while making such admittedly belated payment, they have failed to pay interest on such delayed payments.

3.13. The petitioner is paying a substantial court fee of Rs.25,533.00 to file the instant petition for recovery of interest of delayed payments despite being entitled to the same as per the terms of the EPA, order of APTEL in Appeal No.11 of 2012 and Tariff Order No.1 of 2009 issued by this Commission.

#### **4. Findings of the Commission:-**

4.1. The petitioner in this petition is to direct the respondent to forthwith make payment of a sum of Rs.22,37,454/- being interest on delayed payments and also an amount of Rs.1,85,400/- being wrong deduction of interest of IDC charges and an amount of Rs.1,30,346.75 being non-payment of invoices totalling Rs.25,53,200.75 and payable to the petitioner for power supply and further directed

the respondents to pay interest @ 1% per month for any delay in settlement of invoices beyond the period of 30 days from the date of invoice in future.

4.2. The petitioner has also prayed to direct the respondent to bear the cost of instant petition including court fees and legal expenses and make payment of the said sum to the petitioner. During the hearing on 12-11-2019, Selvi Tanushree Arvind, Junior to Thiru Rahul Balaji, Advocate appeared for the petitioner and filed an affidavit for acceptance of 6% interest.

4.3. In the said affidavit, the petitioner has stated as follows:-

*“The TANGEDCO has made an offer for settlement by agreeing to pay 6% interest on the payments made belatedly towards invoices for supply of electricity as a one time measure citing their desire to amicably resolve the dispute and also the financial position they find themselves in. The petitioner has suffered enormous loss due to the non-payment of the interest fixed under Tariff Orders since it pays substantial sums towards interest to banks and financial institutions due to the delay in payments of the Invoice dues. Upon advice of its lawyer to accept an amicable settlement and after consideration of such offer and the stand of TANGEDCO that it is currently in a financial difficulty, the petitioner is willing to accept 6% interest on the following terms:-*

*a. The payment of 6% interest shall be paid by TANGEDCO on all payments made belatedly till date.*

- b. *Such payment shall be made within 60 days of filing of this affidavit before the Hon'ble TNERC.*
- c. *The Hon'ble TNERC may record such payment only on the basis of the present affidavit and this shall not be treated as a precedent for further belated payments, in respect of which interest at the rate provided for in the Tariff Orders, i.e., at 1%p.m. shall be paid.*
- d. *The court fee paid by the petitioner may be directed to be paid by TANGEDCO, in addition to such interest as payment towards costs of this DRP.*
- e. *In the event the full payments due are not settled and paid within 60 days, the entire sums due towards interest become automatically due and payment in that regard shall be paid by TANGEDCO.”*

4.4. As the parties have reached a settlement out of court, the respondent shall make payment as agreed to the petitioner within a period of 60 days from the date of this order. Accordingly, the petition is disposed of.

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

(Sd.....)  
**(Dr.T.Prabhakara Rao)**  
Member

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

/True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission