

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82 (1) of the Electricity Act 2003
Central Act 36 of 2003)

PRESENT:-

Thiru.S.Kabilan ... Chairman
and

Thiru.K.Venugopal Member

DRP NO. 8 OF 2010

M/s. Harshni Textiles Limited
504, Avanashi Road
Peelamedu
Coimbatore – 641 004.

.... Petitioner
(Thiru. N.L. Rajah, Advocate for Petitioner)

Vs.

1. The Tamil Nadu Electricity Board
Rep. by its Chairman
Anna Salai
Chennai – 600 002.

2. The Superintending Engineer
Tamil Nadu Electricity Board
Udumalpet Circle.

... Respondents
(Thiru.H.S. Mohammed Rafi, Advocate for Respondents)

Dates of hearing 11-6-2010, 7-7-2010 & 17-08-2010

Date of order 2-3-2011

The D.R.P.No.8 of 2010 came up for final hearing before the Commission on **17-08-2010**. The Commission upon perusing the above D.R.P.No.8 of 2010 and other connected records and after hearing both sides passes the following :-

ORDER

1. **Prayer in D.R.P. No.8 of 2010:-**

The prayer in D.R.P. No. 8 of 2010 is to clarify whether para 16 of the order of the Commission dated 28-10-2009 in Suo Motu Proceedings 1 of 2009 refers only to those units that have a wheeling agreement in terms of the directions of the Commission or whether it would apply to all units that have wheeling agreements with the TNEB.

2. **Facts of the case:-**

2.1. The Petitioner is a subsidiary company of Lakshmi Electrical Drives Limited (LEDL) and an investee company of Lakshmi Electrical Control Systems Ltd (LECS), (coming under Group I category) as per TNERC Order No.3 dated 15-05-2006.

2.2. The petitioner avails a part of its energy requirements through power purchase agreement executed on 29-9-2004 and 24-3-2005 with M/s. Lakshmi Electrical Drives Ltd., and agreements dated 28-9-2004 and 30-12-2006 with M/s. Lakshmi Electrical Control System Ltd.,

2.3. M/s. Lakshmi Electrical Drives Ltd., and M/s. Lakshmi Electrical Control System Ltd hold 60% and 40% shares respectively of the equity of petitioner company.

2.4. In response to a letter from the Petitioner dated 21-12-2009, the second Respondent replied that for allowing the wind energy quota the Petitioner is requested to execute the revised wheeling agreement as per TNERC Order No. 3 dated 15-05-2006 with an undertaking to have 26%

ownership and to consume 51% aggregate energy generated for captive use as per the working instruction communicated by Member / Generation in circular memo dated 11-12-2007.

3. **Contentions of the Petitioner:-**

- 3.1. By virtue of para 16 of the order dated 28-10-2009 so long as a consumer is a beneficiary of a wheeling agreement with the Tamil Nadu Electricity Board, he will not be liable for the consequences set out in para 16. The Petitioner states that they are still under wheeling agreements with the TNEB and therefore in so far as they are concerned A & E in memo dated 17-11-2008 should not refer to base demand and base energy.
- 3.2. Even if the facility of utilizing of banked units is not given to the Petitioner, it must be extended to the share holding companies of the Petitioner i.e. Lakshmi Electrical Control Systems Limited and M/s. Lakshmi Electrical Drives Limited. If these companies are not able to utilize such extended banked units and the same remains unutilized they should be allowed to be encashed as per the orders of the TNERC from time to time.
- 3.3. As on 28-2-2010 the Petitioner has 11,16,037 banked units. If they are not permitted to utilize the same they will be put to heavy loss and hardship. If not the Petitioner, then atleast M/s. Lakshmi Electrical Control Systems Limited and M/s. Lakshmi Electrical Drives Limited should be permitted to utilize these banked units and if the same remains unutilized they should be allowed to be encashed as per the orders of the TNERC from time to time.

- 3.4. The Petitioner should be allowed to execute new wheeling agreement (EWA) or they should be provided the facilities extended to other companies.

4. Contentions of the Respondent Board in Counter Affidavit filed by them:-

- 4.1. The Petitioner M/s. Harshini Textiles Limited is a HT consumer bearing HTSC No.199 of Udumalpet circle and availing wind energy wheeling adjustment provision against the wind energy generated from WFHTSC No.299, 386 of M/s. Lakshmi Electrical Drives Ltd., and WFHSTS No.307 of M/s. Lakshmi Electrical Control Systems Ltd at SE/CEDC/South/Coimbatore and WFHTSC No.1353 of M/s. Lakshmi Electrical Control Systems Ltd., at SE/UEDC/Udumalpet.
- 4.2. The agreement in respect of WFHT SC No.299 dated 29-9-2004; 386 dated 24-3-2005 of M/s. Lakshmi Electrical Drives Ltd., and WFHT SC No.307 dated 28-9-2004 and 1353 dated 30-12-2006 of M/s. Lakshmi Electrical Control System Ltd., were executed under Power Purchase Agreement with a provision of wheeling facility to HT SC No.199 of Udumalpet EDC.
- 4.3. The petitioner is a subsidiary company and investee company of the above wind energy generators who have installed wind mill units prior to 15-05-2006 and are coming under Group I category as per TNERC Order No.3 dated 15-05-2006; so far they have not executed any Energy Wheeling Agreement.

4.4. In spite of the letter of TNEB dated 29-12-2009, the Petitioner has not produced proof of 26% of the ownership of the Captive Generator; Further, he has not established that at least 51% of the aggregate electricity generated in the above WEGs on annual basis is consumed for captive use. Therefore, the benefits under TNERC Order No.3 dated 15-05-2006 are not available to the Petitioner.

5. **Findings of the Commission:-**

5.1. The issue for consideration in para 16 of the order of the Commission in suo motu proceedings 1 of 2009 was that a captive consumer who opts out of wheeling agreement shall be treated at par with an ordinary consumer.

5.2. In the instant case, the petitioner, M/s. Harshini Textiles is not a captive consumer in terms of the Electricity Rules, 2005. M/s. Lakshmi Electrical Drives Ltd. and M/s. Lakshmi Electrical Control Systems Ltd. own wind mills and supply wind energy to M/s. Harshini Textiles through wheeling by means of three agreements executed prior to the enforcement of Electricity Rules, 2005. Since these agreements were executed prior to the enforcement of Electricity Rules, 2005, M/s. Harshini Textiles enjoyed the status of a captive consumer. Subsequently, M/s. Lakshmi Electrical Control Systems Ltd. executed a wheeling agreement in December 2006 in favour of M/s. Harshini Textiles in violation of the Electricity Rules, 2005. They did not

satisfy the norms of 26% equity and 51% consumption. The petitioner, M/s. Harshini Textiles will not be treated as a captive consumer in regard to the fourth agreement executed in December 2006 for the purpose of the order of the Commission in Suo Motu proceedings 1 of 2009.

5.3. Thus, while M/s. Harshini Textiles would be deemed to enjoy the benefits of a captive consumer with wheeling benefits in respect of three agreements signed prior to the enforcement of Electricity Rules, 2005, he would be deprived of the status of a captive consumer in respect of the December 2006 agreement.

5.4. As regards the petitioner's plea on lapsing of banked units and encashment of the banked units of the generators M/s. Lakshmi Electrical Drives Ltd. and M/s. Lakshmi Electrical Control Systems Ltd., it is clarified that the generators would be governed by their respective agreement with the TNEB.

6. Directions:-

In view of the findings in para 5.1 to 5.4 above the Commission directs the following clarifications -

6.1. While M/s. Harshini Textiles would be deemed to enjoy the benefits of a captive consumer with wheeling benefits in respect of three agreements signed prior to the enforcement of Electricity Rules, 2005, it

would be deprived of the status of a captive consumer in respect of the December 2006 agreement.

6.2. As regards the petitioner's plea on lapsing of banked units and encashment of the banked units of the generators M/s. Lakshmi Electrical Drives Ltd. and M/s. Lakshmi Control Systems Ltd., the generators would be governed by their respective agreement with the TNEB.

7. **Appeal:-**

An appeal against this order lies to the Appellate Tribunal for Electricity as per section 111 of the Electricity Act, 2003 within a period of forty five days.

(Sd.....)
(K.Venugopal)
Member

(Sd.....)
(S.Kabilan)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity Regulatory Commission