

Record of proceedings dated 07.01.2021

O. P. (SR) No.26 of 2020

M/s. Sri Sai Ram Ice Factory Vs. TSSPDCL & its officers

Petition filed seeking penal action against the TSSPDCL and its officers for the alleged violation of the tariff for 2018-19 as extended to 2020-21 by raising incorrect bills.

Ms. Nishtha, representative of the petitioner and Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The representative for the petitioner stated that the issue is with regard to violation of the general terms and conditions (GTCS) of supply and more particularly clause 12.3.3 of the conditions of supply relating to change of category in the case of LT-III to HT industry. She also explained the reasons and grievance on the issue in detail. The representative of the respondents stated that the consumer has invoked the jurisdiction of the CGRF and having failed to secure an order in its favour, approached the Ombudsman, where the proceedings are pending disposal. This resulted in invoking plural remedies on the same issue and there is likelihood of passing two different and contradictory orders by the two authorities. He sought to explain the provisions of GTCS as also the tariff order of the Commission, as the petitioner is involved in exceeding the contracted load.

The representative of the petitioner emphasized on her submissions earlier while stating that the proceedings before the Ombudsman are not akin to this proceeding as also it has nothing to do with the billing aspect, as the present petition before the Commission is in respect of violation and seeking penal action against the DISCOM under the Act, 2003.

In the circumstances, having heard the representatives of the parties, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. (SR) No. 27 of 2020

M/s. Sri Ambika Steel Industries Vs. TSSPDCL & its officers

Petition filed seeking penal action against the TSSPDCL and its officers for not giving effect to the orders of the Commission in respect of restriction and control measures in proceedings dated 15.09.2012 and consequent withdrawal of minimum charges.

Ms. Nishtha, representative of the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The representative of the petitioner stated that the issue is with regard to levy of penalties during the restriction and control measures for the period from 2012 to 2013 and collection of minimum charges. The representative of the petitioner stated that R & C measures were imposed, as the licensee was unable to supply power. She relied on the decision in the matter of M/s. Raymond Limited Vs. Madhya Pradesh State Electricity Board.

The representative of the respondents while reiterating the contents of the counter affidavit about the applicability of R & C measures stated that the same are not applicable to the consumer in this case, as the service was not live at the relevant time. R & C measures were applicable only to live services. The judgment relied upon by the consumer is not applicable to the present facts and circumstances. Since the consumer was not a live service and as according to GTCS the consumer has to pay a minimum charges, the same are being demanded now in terms of the agreement for the supply. The claim of the consumer that the demand is raised after a lapse of time is neither relevant nor appropriate. Moreover, the demand charges are applicable to the live services in terms of R & C measures, which gave exemption to the tariff order of FY 2021-13. As the consumer was not in live service during the said period, it is bound to pay the demand charges in terms of the tariff order for FY 2012-13.

The representative of the petitioner stated that R & C were infact imposed at the relevant time as the power supply was not made to the consumer and the licensee was not in a position to do so. Now turning round and claiming the demand charges in terms of the tariff order contrary to the exemption granted in the proceedings issued for effecting R & C measures and claiming the arrears belatedly is uncalled for and contrary to law. Thus, the petitioner is seeking action against the licensee under section 142 of the Act, 2003 for violation of the orders of the Commission as also GTCS.

In the circumstances, having heard the representatives of the parties, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. (SR) No. 28 of 2020
&
I. A. (SR) No. 29 of 2020

M/s. L & T Metro Rail (Hyderabad) Limited Vs TSSPDCL & its officers

Petition filed seeking directions to the licensee and its officers to give effect to the order of the Commission fixing the tariff under HT V (B) – HMR tariff.

I. A. filed seeking interim orders directing the respondents not to disconnect the electricity supply to the petitioner pending disposal of the original petition.

Sri. Avinash Desai, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The counsel for the petitioner stated while reiterating the submissions made earlier sought time to file rejoinder in the matter, as the counter affidavit is received only yesterday. The representative of the respondents stated that the counter affidavit has been filed and the same has been sent to the petitioner by mail. Accordingly, the petitioner is allowed to file the rejoinder duly serving a copy of it to the respondents by email or post. The matter stands adjourned.

Call on 18.01.2021 at 11.30 AM.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 22 of 2020

M/s. ACME Dayakara Solar Power Private Limited Vs. TSSPDCL

Petition filed Seeking direction that the payment of entry tax may be treated as change in law and for reimbursement of the amount

Sri. Hemant Sahai, Senior Advocate representing Smt. Jyotsna Khatri, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for respondent have appeared through video conference. The counsel for the petitioner stated that the issue in this petition is with regard to levy and collection of entry tax. The then Hon'ble High Court of Andhra Pradesh had set aside the Entry Tax Act,

2000 on 31.12.2007. Subsequently, the respondents in the year 2014 have floated the RFS for establishing solar power projects in the State of Telangana and the petitioner had been awarded 30 MW. The letter of intent was issued on 23.01.2015 and PPA was signed on 03.03.2015. As on the date of RFS as also the PPA the Entry Tax Act, 2000 was not on the statute book having been struck down by the then Hon'ble High Court. However in the year 2016, the Hon'ble Supreme Court in a batch of appeals had restored the applicability of the Entry Tax Act, 2000 by holding it as a valid enactment.

The period in between the judgment of the Hon'ble High Court and the Supreme Court cannot be considered for application of Entry Tax Act, 2000, as it was not available on the statute book. Pursuant to the decision of the Hon'ble Supreme Court demand has been raised by the Government of Telangana for payment of amount due towards entry tax. The petitioner again approached the Hon'ble High Court for the State of Telangana and obtained orders of stay subject to payment of certain amount. Therefore, payment of entry tax made by the petitioner is required to be compensated / refunded to the petitioner.

The levy of entry tax constitutes a change in law as stated by the petitioner and the petitioner relied on paragraph 7 of the standard bid document as also the provisions in the PPA. According to the petitioner, the standard bid document constituted a valid law as has been held by the Hon'ble Supreme Court in *M/s. Energy Watchdog Vs. CERC and others*. The SBD guidelines have been notified by the Government of India under section 63 of the Act, 2003, which have been followed by the respondent. As the said documents constitute a valid law, the respondent is bound to follow the same.

The counsel for the petitioner sought permission to rely on some documents and judgments, which are not on record now. Therefore, he sought time to file the same and to make available to the respondents for their response. In view of the submissions, the matter is adjourned.

Call on 18.01.2021 at 11.30 AM.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

O. P. No. 26 of 2020

M/s. Arhyama Solar Power Pvt. Ltd. vs TSSPDCL, CGM (Revenue), SAO (Operation Circle), Sanganareddy & SAO (Operation Circle), Medchal.

Petition filed seeking punishment against the respondents No.1 to 4 for non-compliance of the order dated 17.07.2018 in O. P. No. 10 of 2017 passed by the Commission.

Sri. Deepak Chowdary, Advocate representing Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for respondents have appeared through video conference. The counsel for the petitioner stated that the counter affidavit in the matter is yet to be filed. The Commission had already heard the review petition connected to this matter and orders are awaited in the matter as regards to condoning the delay in filing review petition. The representative of the respondents concurred with the submissions of the counsel for the petitioner. Accordingly, the matter is adjourned.

Call on 28.01.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman