



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500004

O. P. No. 27 of 2020

&

I. A. No. 14 of 2020

Dated 19.10.2020

Present

Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Between:

M/s L&T Metro (Hyderabad) Limited,
Uppal Main Road, Nagole,
Hyderabad.

... Petitioner

AND

Southern Power Distribution Company of Telangana Ltd.,
Corporate Office, # 6-1-50, Mint Compound,
Hyderabad – 500 063.

... Respondent.

This petition has come up for hearing on 26.08.2020, 18.09.2020 and 25.09.2020. Sri Avinash Desai, Advocate for the petitioner appeared on virtual hearing on 26.08.2020, 18.09.2020 and 25.09.2020. Sri Mohammad Bande Ali, Law Attaché, TSSPDCL along with Sri K.Sathish Kumar, DE, TSSPDCL for the respondent appeared on virtual hearing on 26.08.2020, 18.09.2020 and 25.09.2020 and having heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

The petitioner has filed a petition under Section 94 read with Section 86 of the Electricity Act 2003 challenging the action of the respondent in not implementing the directions of the Commission providing certain relaxations for mitigating the impact of COVID-19 vide order dated 29.04.2020 in O.P.No.17 of 2020 and order dated 13.05.2020 in R.P.(SR)No.13 of 2020 in O.P.No.17 of 2020 and seeking a direction to the respondent to collect the electricity charges with derated Contracted Maximum Demand [CMD(s)] for the lockdown period with effect from 22.03.2020.

2. The petitioner stated in the petition as below.
 - a. The petitioner is a Special Purpose Vehicle (SPV) incorporated for implementation of the Hyderabad Metro Rail project on Design, Built, Finance, Operate and Transfer (DBFOT) basis. The petitioner has availed various connections from the Respondent, i.e., for 4 receiving substations to provide power supply for the Hyderabad Metro Rail system and for 4 Shopping Malls, which are integral part of the Hyderabad Metro Rail project.
 - b. The Government of Telangana vide G.O.Ms.No.45 dated 22.03.2020 and G.O.Ms.No.46 dated 22.03.2020 had notified lockdown in the entire State of Telangana till 31.03.2020. Vide G.O.Ms.No.57 dated 12.04.2020 and G.O.Ms.No.64 dated 07.05.2020 the lockdown was further extended till 31.05.2020. The State Government thereafter issued G.O.Ms.No.72 dated 31.05.2020 extending the lockdown till 30.06.2020 in containment area and G.O.Ms.No.76 of 2020 dated 07.06.2020 permitting malls to open from 08.06.2020. However, the Metro Rail services operated by the petitioner remained closed.
 - c. The commercial establishments remained closed during the lockdown period which are facing a huge financial crunch. The malls were permitted to open from 08.06.2020, but the Metro Rail services have not yet been permitted to commence in Hyderabad as per the directions of the State Government. As a result, it is very hard for the power intensive industries like the petitioner to maintain their existing CMD which is economically not viable for such industries.
 - d. The Commission, upon representation made by the Federation of the Telangana Chambers of Commerce and Industry, Hyderabad and All India Induction Furnaces Association (South Central Region), keeping in view the situation of power intensive industries and the hardship caused to them if they maintain the existing CMDs, had relaxed the provisions of the General Terms and Conditions of Supply (GTCS) and Schedule-I of Regulation No.5 of 2016 (Licensees Standards of Performance) (SOP Regulations) for the lockdown period vide Suo motu order dated 29.04.2020 in O.P.No.17 of 2020 (herein after being referred to as the Suo motu order).

- e. The relevant clauses of GTCS and SOP Regulations which deal with reduction in load are extracted hereunder:

Clause 5.9.4.2 of the General Terms and Conditions of Supply:-

“Deration of CMD or Termination of Agreement in respect of HT Supply:

The consumer may seek reduction of contract maximum demand or termination of HT Agreement after the expiry of the minimum period of the Agreement by giving not less than one month notice in writing expressing his intention to do so. However, if for any reason the consumer chooses to derate the CMD or terminate the Agreement, before the expiry of the minimum one year period of the Agreement, the CMD will be derated or the Agreement will be terminated with effect from the date of expiry of the initial one year period of the Agreement or after expiry of one month notice period whichever is later. The Company can also terminate the HT Agreement, at any time giving one month notice if the consumer violates the terms of the HT Agreement, or the GTCS or the provision of any law touching the Agreement including the Act and rules made thereunder, and AP Electricity Reforms Act, 1998. On termination of the HT Agreement the consumer shall pay all sums due under the agreement as on the date of its termination.”

Clause 7.3 of Schedule I of Regulation No.5 of 2016 (Licensees Standards of Performance) (SOP Regulations)

“Reduction in Load

Upon receipt of a request by a consumer for reduction of contract demand / contract load of such consumer after expiry of minimum period of Agreement entered by the consumer with the Licensee (indicated in GTCS), the Distribution Licensee shall reduce the contract demand/contract load of such consumer before the expiry of the second billing cycle after the receipt of such request; Provided that consumer executes fresh agreement for such revised load before the second billing cycle.”

- f. The Commission by virtue of its Suo motu order dated 29.04.2020 had relaxed the above clauses and granted an opportunity to the consumers to avail deration of CMD by applying to the licensee and permitted the consumers to exercise clause 5.9.4.2 of GTCS to avail deration irrespective of the criteria of completion of the minimum period of agreement as stipulated in GTCS. As per the Suo motu order dated 29.04.2020, the distribution licensees, upon request made by the consumers seeking relaxation, must give effect to the request of such consumer within five days from the date of receipt of the application. Therefore, the requirement stipulated in the SOP regulations to execute a fresh agreement before deration can be availed, was done away with for the entire period of the lockdown.

- g. Pursuant to the order of the Commission, the petitioner vide its letter dated 01.05.2020 requested the respondent to derate the CMD for the following connections:

Name of RSS	Connection Number	Tariff Category	Sanctioned CMD (kVA)	Derated CMD During Lockdown (kVA)
Uppal RSS	HBG2851	HT V(B)	5500	2000
Miyapur RSS	MCL2718	HT V(B)	3500	700
MGBS RSS	HDS787	HT V(B)	5000	700
YUF RSS	BJH2090	HT V(B)	4250	500
L&T Mall Punjagutta (Punjagutta Mall)	MCL2718_1	HT II	4000	500
L&T TOD Panjagutta (Irrummanjil Mall)	HDS787_1	HT II	2000	500
L&T TOD (Moosarambagh Mall)	HDS787_2	HT II	1500	500
L&T Metro Rail (Hyderabad Ltd.) (Hi-Tec City Mall)	BJH2035	HT II	1400	500

- h. Without considering the request made by the petitioner, the respondent issued electricity bills to the petitioner, without derating the CMD for the above said connections. The petitioner once again wrote a letter dated 06.05.2020 to the respondent requesting to accept deration of CMD in accordance with the Suo motu order dated 29.04.2020 and issue revised electricity bills.
- i. As per the Suo motu orders, the respondent shall accept the request made by the petitioner seeking deration, within five days from the date of receipt of the application. The respondent failed to respond to the application of the petitioner dated 01.05.2020.
- j. The Metro Rail services and the Malls were closed during the lockdown without any revenue and the petitioner has been paying salaries to its employees as per the directions of the State Government, which had adverse impact on the financial position of the petitioner.
- k. As the respondent failed to respond to the request, the petitioner paid the electricity charges with derated CMDs and informed the same to the respondent vide its letter dated 08.05.2020 and once again requested the respondent to issue revised electricity bills with derated CMDs.

- l. The respondent, challenging the Suo motu order dated 29.04.2020 filed a review petition before the Commission vide R.P.(SR)No.13 of 2020 in O.P.No.17 of 2020. The Commission vide order dated 13.05.2020 had dismissed the review petition, holding it as devoid of merits.
- m. After dismissal of the review petition, the petitioner vide its letter dated 18.05.2020 once again requested the respondent to issue revised electricity bills with derated CMDs for the lockdown period. After submitting the letter dated 18.05.2020, the petitioner received various letters for various connections from the respondent wherein the respondent accorded approval for deration of CMDs stating that :-
- i. *Deration shall be effected within (5) five days i.e., with immediate effect OR from the date of revised agreement whichever is later in terms of TSERC orders vide reference (2nd) cited and also that this relaxation given is applicable only during lockdown period.*
 - ii. *The concerned ADE / Operation shall reset the MD after entering into the revised HT Agreement on required stamp paper and all the readings will be taken before resetting the MD and also collect the revised test report and without changing metering equipment i.e., CTs/PTs.*
 - iii. *The deration of CMD shall be affected from the date of reset of MD and TSSPDCL is not responsible for the delay in entering into revised HT Agreement.”*
- n. In the said letters, the respondent did not respond to the request for issuance of revised electricity bills with derated CMDs for the lockdown period and instead, directed the petitioner to approach the Superintending Engineer for execution of amended agreement with derated CMDs.
- o. The petitioner, after receiving the letters, had written a letter dated 20.05.2020 addressing the respondent requesting that the deration of CMDs should be considered for the lockdown period starting from 22.03.2020 and not from the date of entering into the agreement. In the letter it is further stated that any deration of CMD's with effect from 16.05.2020 or after 16.05.2020 till completion lockdown, technically amounts to no relaxation, as the lockdown was likely to end on 31.05.2020, which is not in line with the orders of the

Commission. A letter was also sent on similar lines to the Commission seeking issuance of necessary directions to the respondent.

- p. The petitioner had addressed another letter dated 20.05.2020 to the respondent seeking to restore the CMDs for the above connections as it was planning for some preparatory activities.
- q. The respondent failed to respond to the petitioner within a period of 5 (five) days from the date of receipt of its request, and instead, insisted that the petitioner should enter into another agreement for deration of CMDs, is unfair, arbitrary and contrary to the Suo motu orders of the Commission in O.P.No.17 of 2020 and the review petition.
- r. The respondent, in its letter dated 16.05.2020, has incorrectly stated that as per the directions of the Commission vide order dated 13.05.2020 in the review petition, the deration shall be effected within five (5) days i.e., with immediate effect or from the date of revised agreement, whichever is later in terms of Commission orders. The Commission, vide its orders dated 29.04.2020 and 13.05.2020, had clearly held that for a consumer who seeks deration of CMDs shall submit an application to the licensee and the licensee shall give effect to the request of the consumer for as long as the lockdown is extended (The Metro Rail services was still under lockdown till 31.07.2020 as per MHA order dated 29.06.2020) within five days from receipt of the application. Although the Malls were permitted to open from 08.06.2020, the number of people visiting the malls was very minimal in view of the pandemic, causing continued revenue loss to the petitioner.
- s. It is stated that the Commission issued the Suo motu order dated 29.04.2020 for deration of CMD's for the entire lockdown period and any extensions thereto. The respondent, by already issuing the electricity bills without considering the request of the petitioner for deration of CMDs and directing the petitioner to enter into an amendment for availing deration of CMDs by letter dated 16.05.2020 so that it can give effect to such derated CMDs from the date of execution of such agreement, is completely incorrect.
- t. The Suo motu order of the Commission made it abundantly clear that the opportunity given to consumers to avail deration of CMDs is for the complete

period of lockdown i.e., starting from 22.03.2020, as the entire purpose of the Commission's orders was to alleviate the hardships being faced by the electricity consumers. However, the actions of the respondent in issuing letter dated 16.05.2020 granting deration of CMDs only after a revised HT agreement is entered into and resetting of MD is done, is not in line with the orders of the Commission and thus the respondent has flagrantly violated the orders of the Commission. The action of the respondent is contrary to Suo motu orders of the Commission in O. P. 17 of 2020 and the review petition which defeats the intention of the Commission to give relaxation to the consumers in view of the COVID-19 pandemic.

3. The petitioner sought the following relief:-

“To direct the respondent to derate the CMDs for the connections given to the petitioner as mentioned above for the entire lockdown period (up to 08.06.2020 for Malls and still continuing for Metro Operations up to 31.07.2020 as per MHA order dated 29.06.2020) starting from 22.03.2020 and subsequently issue revised electricity bills to that effect and pass any such other order(s) as the Commission may deem fit in the interest of justice and equity.”

4. The petitioner also filed an interlocutory application seeking issuance of direction to the respondent not to take any coercive steps including disconnection of the electricity connections of the petitioner pending disposal of the original petition.

5. The respondent has filed its counter affidavit to the following effect:

a. The Commission has issued Suo Motu orders in O.P.No.17 of 2020 Dt.29.04.2020 relaxing GTCS conditions and clauses in SOP Regulations regarding deration of the load during a part of the lock down (not for the entire period). On dismissal of the review petition by the commission in R.P.(SR)No.13 of 2020 in O.P.No.17 of 2020 filed by TSSPDCL by order dated 13.05.2020, TSSPDCL has been issuing orders of deration on the application of the consumers in compliance with the Suo motu orders of the Commission.

b. The application filed by the petitioner for deration has been considered and sanction has been accorded vide proceedings in Lr.No.CGM(Comml)/SE(C)/DE(C)/ADE-III/D.No.5128/20, dated 16.05.2020.

c. The order of deration was issued as per the conditions mentioned in the order of the Commission. The order of the Commission has no retrospective effect,

that is from the date of commencement of lockdown, as alleged by the consumer. The order categorically directs that on the application of the consumer, the licensee shall give effect to the request within five (5) days. The order further directs that in case the deration happens in between the billing cycle in terms of the consumer as per the relaxation given above, the distribution licensee shall endeavor to bill the consumer duly giving effect to the deration, that is billing as per the tariff order up to the date of deration and post deration of the load on the basis of the derated load only. The demand charges shall be levied accordingly on proportionate basis. Thus it is clear that the contention of the petitioner that the order shall be given effect retrospectively is untenable.

- d. In the present case the deration orders on the application of the petitioner were issued within 5 days as per the orders of the Commission. The petitioner/consumer did not come forward to enter into an agreement of deration. Hence, the deration could not be effected due to the default of the petitioner.
 - e. The Petitioner is insisting on revision of bills from March-2020 onwards, that is during period of the entire lockdown, without complying with the request of TSSPDCL to execute an agreement of deration. The petitioner/consumer approached TSSPDCL on 20.05.2020 seeking revision of the bills with retrospective effect from March, 2020 to which the petitioner is not entitled to.
 - f. Prior to Suo motu orders of the TSERC, the deration was being implemented based on clause 5.9.4.2 of GTCS. After the Suo Motu orders of the Commission, the deration has been effected in compliance with these orders. There is no mention of the retrospective operation of the Suo motu orders.
 - g. The TSSPDCL has issued deration orders in compliance with the Suo motu orders of the Commission in O.P.No.17 of 2020 dated 29.04.2020 after dismissal of R.P.(SR) No.13 of 2020 in O.P.No.17 of 2020 by orders dated 13.05.2020. The Suo motu orders have been complied with effect from the date of issue of the Commission orders and the request of the petitioner to effect the deration from the starting period of the lockdown (with retrospective effect) is the result of misinterpretation of the order of the Commission.
6. The petitioner has filed rejoinder to the counter affidavit to the following effect:-

- a. The respondent is bound to comply with the Suo motu order of the Commission in O.P.No.17 of 2020 issued on 29.04.2020 and not from 13.05.2020, the date of dismissal of the review petition (R.P.(SR) No.13 of 2020).
- b. The petitioner made the application for deration on 01.05.2020, 06.05.2020 and 08.05.2020 but the respondent accorded the approval only on 16.05.2020 directing the petitioner to enter into a fresh HT agreement for deration, contrary to the Suo motu orders of the Commission. The respondent's claim that it has been complying with order of the Commission after dismissal of the review petition, is not sustainable since by virtue of the Suo motu order dated 29.04.2020, the consumers were given an opportunity to avail deration and the respondent is bound to follow the said order from the date of such order. The mere filing of the review petition does not entitle the respondent to avoid following the order dated 29.04.2020.
- c. The claim of the respondent that the deration shall be applicable from the day of according approval to the request of the consumer for deration which is within 5 days from the date of application and not for the entire period of lockdown, is baseless and incorrect. The Commission in its order dated 29.04.2020 has categorically held that the provisions of GTCS and SOP are relaxed for the lockdown period and granted an opportunity to the consumers to avail the deration by making an application. However, it is pertinent to note that the petitioner made an application for deration on 01.05.2020, but the respondent wrote back on 16.05.2020 to follow the procedure as below contrary to the Suo motu order dated 29.04.2020:-
 - a. Deration shall be effected within five (5) days i.e., with immediate effect or from the date of revised agreement whichever is later in terms of the Commission orders.
 - b. The concerned ADE/Operation or DE/Operation shall reset the CMD after entering the revised HT Agreement.
 - c. The deration of CMD shall be affected from the date of reset of CMD and TSSPDCL is not responsible for the delay in entering into a revised HT agreement.

- d. The claim of the respondent that it has issued the deration orders within five (5) days as per the orders of the Commission is false. The respondent issued the deration orders on 16.05.2020 and whereas, the application of the petitioner was made on 01.05.2020. The respondent is bound to follow the order of the Commission dated 29.04.2020 and mere filing of the review petition does not prevent the respondent from acting on the application of the petitioner dated 01.05.2020 till 16.05.2020. The order of the Commission dated 29.04.2020 clearly directs the distribution licensee to give effect to the request of the consumer within five (5) days and it does not warrant entering into an agreement and other procedure for deration. The plea of the respondent that the petitioner has not come forward to enter into an agreement and hence, deration could not be effected due to default of the petitioner is baseless.
- e. The actions of the respondent are contrary to the Suo motu orders of the Commission in O.P.No.17 of 2020 and defeat the intention of the Commission to give relaxation to the consumers, in view of the COVID-19 pandemic.
- f. In view of the foregoing facts, circumstances and the grounds pleaded by the petitioner, the Commission may be pleased to allow the present original petition.

7. The Commission heard the arguments of the counsel for the petitioner, the representative of the respondent and perused the material placed on record.

8. *“The counsel for the petitioner, on the issue of maintainability of the petition, contended that the non-implementation of the order of the Commission constitutes violation of the Commission’s order and that the present petition is maintainable since there is an issue of interpretation of the order of the Commission with regard to its implementation. Though it is a consumer dispute, yet it is required to be decided by the Commission only and not the CGRF as provided under the Electricity Act, 2003 (Act, 2003). The counsel has relied on clauses 5, 6, 7 and 8 of section 42 of the Act, 2003 as also the judgments rendered by the Hon’ble ATE in the matter of (1) Paschim Gujarat Vij Co Ltd vs Gokul Agro Resources Ltd and ors- Paras 18, 22 and (2) Power Transmission Corporation vs Utharakhand Electricity Regulatory Commission- Paras 30,35,38,39.*

The counsel for the petitioner contended that the paragraph 8 of the Suo motu order of the Commission in O.P.No.17 of 2020 is relevant for consideration in this case. The Commission while passing the order was clear and emphatic that the deration would be applicable from the date of lockdown and simultaneously relaxed the condition required to be followed under the general terms and conditions of supply as well as the regulation on standards of performance. It is the case of the petitioner that as soon as the Suo motu order was passed by the Commission, the petitioner made an application to the concerned authorities for deration of the demand in respect of its metro activities as well as malls.

The counsel for the petitioner further contended that the lockdown has started from 22.03.2020 and ended in respect of malls on 07.06.2020 and in respect of metro operations on 07.09.2020. The respondent / licensee did not extend the benefit of the order within five days of the application and insisted on signing the agreement and that petitioner has not availed deration and is now only interested in effecting deration for the period of the lockdown. In fact, the petitioner already sought restoration of the demand also in view of the lifting of the lockdown. On instructions, the counsel also reported that the petitioner is inclined to sign the agreement for the period of lockdown for deration of the demand, but insisted that the demand has to be derated from 22.03.2020. He rebutted the contention of the respondent that the order passed by the Commission is prospective in its application and not retrospective.

9. *The representative of the respondent on the other hand contended that the paragraph relied upon by the petitioner cannot be interpreted to give a different meaning. Inasmuch as the respondents only insisted upon compliance of the regulation and condition, as the Commission had only allowed the deration of the demand by relaxing only the condition of waiting for the next billing month. The order of the Commission also is clear about the requirement of the petitioner to duly comply with the provisions in the regulation and conditions of supply, except that the deration of load should be effected immediately within five days while other conditions remained unaltered. Any order passed by the Commission can only be prospective in its application and the same cannot be made retrospectively applicable. The respondent is inclined to give effect to the orders of the Commission from the date when the order in the review petition has been passed by the Commission.”*

10. The first issue to be decided is whether the present petition is maintainable? From the material on record, it is clear that the relaxation ordered by it and extended to the petitioner under the Suo motu orders, cannot be subject matter of a consumer grievance, as the petitioner is not only seeking implementation of the order of the Commission, but it's application retrospectively. The question of application and interpretation of the order as raised in the present case, is not within the forte of the CGRF, as the mandate for CGRF is only to settle the grievances between the licensee and consumer. The judgment relied upon by the petitioner dt. 07-02-2017 of the APTEL rendered in Paschim Gujarat vij Co. Ltd vs. Gokul Agro Resources Ltd and ors (MANU/ET/0009/2017) it was held that except in pure and simple billing disputes, other disputes relating to breach of provisions of the Act, regulations framed by the Commission or orders passed by the Commission, a consumer is entitled to approach the State Commission is found relevant and applicable to the present case. The Hon'ble Supreme Court in the matter of M/s. Maharashtra State Electricity Distribution Company vs. Lloyds Steel Industries Limited reported in 2007 (8) SCC 381 had emphatically made it clear that the CGRF has the exclusive jurisdiction over the consumer complaints like the issue of deration. In the present case, the question of interpretation of the Suo motu orders passed by the commission is involved with the incidental aspect of deration and whether the order is prospective or retrospective, which CGRF cannot decide. It is also relevant to mention here that in U.P. Power Corporation Ltd. & Ors vs. Anis Ahmad (2013 (8) SCC 491) the Hon'ble Supreme Court held that the Electricity Act, 2003 and Consumers Protection Act, 1986 run concurrently in the matter of redressal of grievance while observing that the Consumer Protection Act is concerned with unfair trade practice, deficiency in service etc., None of these allegations are made in this case. Hence, the petition is found maintainable.

11. The next issues that arise for determination are:

- a) regarding the interpretation of the application of the Suo motu order passed by the Commission on 29.04.2020 and
- b) the consequences on the review order dated 13.05.2020.

The important aspect of the Suo motu order is regarding the relaxation of conditions for availing deration of the load under GTCS and also the SOP regulation

in the context of the lockdown imposed by the government. It has to be noted that Suo motu order is dated 29.04.2020 and whereas, the Government had imposed lockdown much prior to the said date on 22.03.2020.

12. Based on the representations made by the industrial associations and others seeking the relief on payment of electricity charges to the licensees and prevailing circumstances like the lockdown in the entire country, the Suo motu orders have been passed relaxing certain specific conditions which have a certain time line, in view of the dire situations which arose during the lockdown period. Therefore, the Commission after finding the normal period of eligibility to apply for deration and the time given to the licensee to apply deration under clause 5.9.4.2 of GTCS as creating oppressive situation, tried to reduce the procedural rigidity and allowed relaxation of the condition for deration in a suitable way to enable the industry and HT consumers to reduce their CMD immediately, without waiting for the time line stipulated in clause 5.9.4.2 of the GTCS and SOP regulation.

13. In the Suo motu order, the Commission had specified the criteria for availing the benefit of deration by the consumers in the following words: -

- “i) A consumer, if it so desires to avail deration of the contracted load may apply to the licensee and is permitted to exercise clause 5.9.4.2 of GTCS irrespective of the criteria of completion of minimum period of the agreement as stipulated in GTCS.*
- ii) The distribution licensee shall upon such request by the consumers, give effect to the request of the consumer, who has exercised clause 5.9.4.2 of GTCS, within five (5) days on receipt of the application from such consumer.*
- iii) The above relaxations shall be applicable only during the lockdown period.*
- iv) The above relaxations shall not be applicable for the period after lifting the lockdown and the conditions in the GTCS and SOP would continue to be applicable normally as before.*
- v) The consumers are at liberty to seek restoration of the load post lifting of the lockdown.*
- vi) In case the deration of the load happens in between the billing cycle in terms of the request of the consumer as per the relaxation given above, the distribution licensee shall endeavor to bill the consumer duly giving effect to the deration, that is billing as per the tariff order up to the date of deration and post deration of the load on the basis of the de-rated load only. The demand charges shall be levied accordingly on proportionate basis.”*

14. From the criteria specified, it is absolutely clear that the consumer, on application should avail the deration within five (5) days from the date of application, which the licensee shall give effect to such relaxation with reference to the agreement being entered into within such 5 days' timeline and not in the next billing cycle as contemplated in the normal circumstances. Further the relaxation is applicable only for the lockdown period and not otherwise. This relaxation can be availed by any consumer, without waiting for the expiry of the statutory period of agreement as prescribed in clause 5.9.4.2 of GTCS.

15. In the present case, the petitioner sought deration of the load after passing of the Suo motu order. It is also noticed from the record as well as on the claim of the petitioner that the licensee did not effect the deration within the time stipulated by the Commission in the Suo motu order alleging that the petitioner did not enter into an agreement as required in the order passed by the Commission. It is clear that the Suo motu order did not rescind the requirement of entering into an agreement on deration of the load. On this aspect the petitioner contended that the DISCOM still insisted on entering into a fresh agreement for effecting deration of the load. The Suo motu order was intended to give quick relief to the HT consumers' vis-à-vis the notice period and time line for deration under GTCS and SOP regulation, immediately within five days of such application. The requirement of entering into an agreement is a sine-qua-non for granting deration. In the present case, there is no such compliance as seen from the record.

16. The excuse for non-implementation of the Suo motu orders given by the licensee in time is that it has filed a review petition to review the Suo motu orders and only when the review petition has been dismissed, the Suo motu orders have been implemented. This excuse advanced is specious, has no substance and totally untenable. If there was urgency, the licensee ought to have pressed for the stay of the Suo motu orders, which it did not. Merely because a review petition is filed, the licensee is not empowered to ignore the binding order and water down its effect.

17. The petitioner has contended that the word 'lockdown' is understood referring to the day when the lockdown was imposed until it is lifted, thereby attributing retrospective application of the Suo motu order. The Suo motu orders dt. 29.04.2020 applies only prospectively.

18. At this juncture, it may not be appropriate to interfere in the matter.

19. For the foregoing reasons, observations and discussion, the petition is dismissed without any costs. As the main petition is disposed of, the interlocutory application is closed.

This order is corrected and signed on this the 19th day of October, 2020.

Sd/-
(BANDARU KRISHNAIAH)
MEMBER

Sd/-
(M.D.MANO HAR RAJU)
MEMBER

Sd/-
(T.SRIRANGA RAO)
CHAIRMAN

//CERTIFIED COPY//