

**COURT-I**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(APPELLATE JURISDICTION)**

**IA NO. 526 OF 2016 IN APPEAL NO. 246 OF 2016  
IA NO. 527 OF 2016 IN APPEAL NO. 247 OF 2016 &  
IA NO. 528 OF 2016 IN APPEAL NO. 248 OF 2016**

**Dated: 7<sup>th</sup> December, 2016**

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson  
Hon'ble Mr. I.J. Kapoor, Technical Member**

**In the matter of:-**

**Southern Power Distribution Co. of Andhra Pradesh Ltd.**

**.... Appellant(s)**

**Vs.**

**Andhra Pradesh Electricity Regulatory Commission & Anr.**

**.... Respondent(s)**

Counsel for the Appellant(s) : Ms. Prerna Singh

Counsel for the Respondent(s) : Mr. K.V. Mohan  
Mr. K.V. Balakrishnan for R-1

Mr. Anand K. Ganesan  
Ms. Swapna Seshadri for R-2

**ORDER**

**IA NOS. 528, 526 & 527 OF 2016**  
***(Appl. for stay)***

In these applications, the Applicant/Appellant has prayed for stay of operation of the Order dated 18.06.2016 passed by the Andhra Pradesh Electricity Regulatory Commission in O.P. No. 8 of 2016, O.P. No. 9 of 2016 and O.P. No.10 of 2016.

**I.A. No. 528 of 2016** in Appeal No. 248 of 2016; **I.A. No. 526 of 2016** in Appeal No. 246 of 2016 and **I.A. No. 527 of 2016** in Appeal No. 247 of 2016 contain similar prayers. Issues involved in all the appeals are same. Since reply has been filed to I.A No. 528 of 2016, by consent of the parties, I.A. No. 528 of 2016 is taken as lead application.

Learned counsel for the Appellant, *inter alia*, submits that by the impugned order there is substantial hike in the tariff and in case the Appellant succeeds in these appeals, it would be difficult for the Appellant to retrieve the money from Respondent No.2. Learned counsel further submits that the Appellant has good case on merits and good chances of success and therefore impugned order be stayed.

On the other hand, learned counsel for Respondent No.2 drew our attention to the following paragraphs of the impugned order:

*".....As mentioned earlier, Commission directs that DISCOM concerned to pay an incentive of Rs.0.50 Ps. Per unit generation of electricity above 45% PLF. The Commission also directs that Electricity duty and Water Royalty charges paid by the Mini Hydel project developers during this period shall be reimbursed.*

*22. There shall be no interest payable as the obligation to pay devolves on the respondent only from the date of this order when the tariff is determined.*

*23. The petitioner shall submit the details of his claim to the respondent towards the difference between the earlier tariff and the tariff now determined by this order for the period from 11<sup>th</sup> year of operation of the generating unit of the petitioner up to 30<sup>th</sup> June 2016. On submission of such claim, within 15 days from the date of this order, the respondent shall cause verification of the same and inform the petitioner its acceptance of the claim or any objection for the same. On finalization of the quantum payable between the parties, the amount so arrived shall be paid in six*

*equal installments by 20<sup>th</sup> of each month commencing from July 2016. In default, the respondents shall be liable to pay interest @ 6% per annum from the date of default, till the date of payment. The petition is ordered accordingly."*

Learned counsel submits that the State Commission has already given substantial time to the Appellant to pay arrears due to Respondent No.2 whereas Respondent No.2 has been out of pocket from the 11<sup>th</sup> year of operation. Counsel further submits that in case the Appellant succeeds, it is open to the Appellant to deduct the amount from the running bills of Respondent No.2.

*Prima facie*, we find substance in the submissions of learned counsel for Respondent No.2. Hence, we are of the opinion that at this stage the impugned order cannot be stayed. Applications are therefore rejected.

### **APPEAL NOS. 246, 247 & 248 OF 2016**

List the Appeals for hearing on **31.01.2017**.

**(I.J. Kapoor)**  
**Technical Member**  
ts/vg

**(Justice Ranjana P. Desai)**  
**Chairperson**