

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI
(APPELLATE JURISDICTION)**

REVIEW PETITION No.9 OF 2015
[For review of order dated 28/11/2014]
IN
APPEAL NO.272 OF 2013

Dated: 14th September, 2015

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

In the matter of:-

**Jayshree Chemicals Limited,)
P.O. Jayshree, 761 025,)
Distt. Ganjam, Odisha 760 001.) ... **Appellant****

Versus

1. **Orissa Electricity Regulatory)
Commission, Bidyut Niyamak)
Bhavan, Unit – VII, Bhubaneswar)
– 751 012.)**
2. **Southern Electricity Supply)
Company of Orissa Limited,)
P.O. Courtpetta, Berhampur – 760)
004, Dist. Ganjam (Odisha).) ... **Respondents****

AND

In the matter of:-

**Southern Electricity Supply)
Company of Orissa Limited, P.O.)
Courtpetta, Berhampur – 760 004,) ... **Review Petitioner**
Dist. Ganjam (Odisha).) **(Orig. Respondent No.2)****

Counsel for the Review Petitioner : Mr. Rajkumar Mehta
Mr. Abhishek Upadhyay
Ms. Himanshi Andley

Counsel for the Appellant(s) : Mr. Matrugupta Mishra
Mr. Tabrez Malawat

Counsel for the Respondent(s) : Mr. Prashanto Chandra Sen
Mr. Rutwik Panda
Ms. Anushruti
Ms. Anshu Malik for **R-1**.

ORDER

PER HON'BLE (SMT.) JUSTICE RANJANA P. DESAI - CHAIRPERSON

1. Southern Electricity Supply Company of Orissa Limited has filed this Review Petition praying that order dated 28/11/2014 passed by this Tribunal in Appeal No.272 of 2013 be reviewed.

2. In the Appeal, the Appellant had challenged order dated 20/3/2013 passed by the Odisha Electricity Regulatory Commission ("**State Commission**") determining the annual revenue requirement and tariff for the F.Y. 2013-14 for the distribution licensees. One of the grievances before this

Tribunal was that the State Commission had erroneously withdrawn power factor incentive. Admittedly, the State Commission had withdrawn the incentive for higher power factor but had continued penalty of low power factor. While dealing with this issue, this Tribunal observed as under:-

“7.9 We are not in agreement with the findings of the State Commission. The incentive for power factor is given to the industries to improve the power factor above the benchmark in order to reduce the reactive power drag on the system as high reactive power drag on the system results in lower voltage and higher transmission and distribution losses in the power system of the licensee. Power factor can be improved by installing capacitors. Techno-economically it is ideal to install the capacitors as close to the load as possible. It is ideal if adequate capacitors are installed by the consumers at their premises. Therefore, the consumer has to be encouraged to maintain a higher power factor by providing for incentive/rebate for maintaining power factor above the benchmark and disincentive/penalty if the power is maintained below the benchmark. In the present case the State Commission retained the penalty for low power factor but withdraw the incentive for higher power factor. It is correct that the consumer will try to maintain power factor above the benchmark which is 0.92 to avoid the penalty but if higher power factor is maintained above the benchmark, it will help the system for which consumer needs to be incentivized. The consumer has to install capacitor and incur expenditure in operating and maintaining the capacitor. The

improvement of power factor of the consumer above the benchmark 0.92 benefits the system of the licensees by helping to improve the voltage and reducing losses. The consumer has incurred the expenditure in maintaining power factor above 0.92, therefore, it is to be encouraged and compensated for helping the power system by providing for incentive of higher load factor.

7.8. The Tariff Regulations of Orissa also provide for incentive for high power factor. Therefore, the findings of this Tribunal in Appeal No.192 and 206 of 2012 in Tamil Nadu case will apply squarely in the present case. In view of the above we set aside order of the State Commission for not allowing the incentive for power factor and at the same time imposing the penalty. Therefore, the incentive for high power factor is restored. The Respondent No.2 has to grant the incentive for power factor above 0.92 in the tariff year to be adjusted in the future bills of the Appellant by suitable credits. The Respondent no.2 will be entitled to claim the same expenditure on this account in its ARR for future.

3. While arriving at the above conclusion this Tribunal relied on its judgment in **Tamil Nadu Electricity Consumers' Association v. Tamil Nadu Electricity Board & Anr**¹.

¹2011 ELR (APTEL) 1293.

4. The Review Petitioner has prayed that the findings of this Tribunal reflected in the paragraphs quoted hereinabove be reviewed.

5. We have heard learned counsel for the Review Petitioner, learned counsel for the Appellant and learned counsel for the Respondents. Learned counsel for the Review Petitioner submitted that this Tribunal should not have fixed the benchmark for incentive for power factor. It should have left it to the State Commission as was done in **Tamil Nadu Electricity Consumers' Association**. This Tribunal has granted prayers which were not even made by the Appellant and hence the order dated 28/11/2014 is vitiated by error apparent on the face of the record. Counsel for the State Commission while adopting submissions of the counsel for the Review Petitioner submitted that the State Commission is not aggrieved by the reintroduction of incentive, nor is the State Commission challenging the jurisdiction of this Tribunal. Counsel submitted that fixing a benchmark in this case, however, was an error apparent on the face of the record.

6. We are unable to accept the submission of the counsel for the Review Petitioner and the State Commission that there is any error apparent on the face of the record in this case. The paragraphs which we have quoted hereinabove, to exceptions is taken by the Review Petitioner, indicate that this Tribunal has taken into account the reason why incentive was given to a higher power factor. It is observed that consumer has to be encouraged to maintain a higher power factor by providing for incentive/rebate for maintaining power factor above the benchmark and disincentive/penalty if the power is maintained below the benchmark. While maintaining the penalty this Tribunal has fixed the benchmark for incentive for power factor above 0.92. Merely because in **Tamil Nadu Electricity Consumers' Association** this Tribunal has left it to the State Commission to fix quantum of incentive, it cannot be said that this Tribunal's order dated 28/11/2014 fixing benchmark in this case is vitiated by error apparent on the face of the record. Jurisdiction of the State Commission is not disputed. In our opinion, therefore, the Review Petitioner has

not made out any ground to substantiate its contention that there is any error apparent on the face of the record.

7. In the circumstances, Review Petition is dismissed.

8. Pronounced in the Open Court on this 14th day of September, 2015.

I.J. Kapoor
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]

✓ ~~REPORTABLE~~ / ~~NON-REPORTABLE~~