

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal no. 234, 270, 271 and 276 of 2014

Dated: 15th September, 2015

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

In the matter of:

Appeal no. 234 of 2014

1. Madhya Pradesh Poorv Kshetra
Vidyut Vitaran Company Limited
Block No. 7, Shakti Bhawan
Rampur, Jabalpur – 482 008
Madhya Pradesh ...Appellant(s)
2. Madhya Pradesh Madhya Kshetra
Vidyut Vitaran Company Limited
Bijli Nagar Colony, Nishtha Parisar
Govindpura Bhopal – 462 023
Madhya Pradesh
3. Madhya Pradesh Paschim Kshetra
Vidyut Vitaran Company Limited
GPH Campus Polo Ground
Indore – 452 015
Madhya Pradesh
4. Madhya Pradesh Power Management
Company Limited
(Formerly known as Madhya Pradesh Power
Trading Company Limited)
Shakti Bhawan, Vidyut Nagar
Rampur Jabalpur – 482 008
Madhya Pradesh

Versus

**Madhya Pradesh Electricity Regulatory
Commission
4th and 5th Floor, Metro Plaza
Bittan Market**

...Respondent

Bhopal – 462 016

**Counsel for the Appellant : Mr. M.G. Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Ms. Ranjitha Ramachandran
Ms. Swagatika Sahoo
Mr. Arvind K. Dubay**

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Ms. Mandakini Ghosh and
Ms. Meghana Aggarwal for R-1**

Appeal no. 270 of 2014

1. **Madhya Pradesh Poorv Kshetra
Vidyut Vitaran Company Limited
Block No. 7, Shakti Bhawan
Rampur, Jabalpur – 482 008
Madhya Pradesh** ...Appellant(s)
2. **Madhya Pradesh Madhya Kshetra
Vidyut Vitaran Company Limited
Bijli Nagar Colony, Nishtha Parisar
Govindpura Bhopal – 462 023
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3. **Madhya Pradesh Paschim Kshetra
Vidyut Vitaran Company Limited
GPH Campus Polo Ground
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4. **Madhya Pradesh Power Management
Company Limited
(Formerly known as Madhya Pradesh Power
Trading Company Limited)
Shakti Bhawan, Vidyut Nagar
Rampur Jabalpur – 482 008
Madhya Pradesh**

Versus

**Madhya Pradesh Electricity Regulatory Commission
4th and 5th Floor, Metro Plaza** ...Respondent

**Bittan Market
Bhopal – 462 016**

**Counsel for the Appellant : Mr. M.G. Ramachandran
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Appeal no. 271 of 2014

- 1. Madhya Pradesh Poorv Kshetra ...Appellant(s)
Vidyut Vitaran Company Limited
Block No. 7, Shakti Bhawan
Rampur, Jabalpur – 482 008
Madhya Pradesh**
- 2. Madhya Pradesh Madhya Kshetra
Vidyut Vitaran Company Limited
Bijli Nagar Colony, Nishtha Parisar
Govindpura Bhopal – 462 023
Madhya Pradesh**
- 3. Madhya Pradesh Paschim Kshetra
Vidyut Vitaran Company Limited
GPH Campus Polo Ground
Indore – 452 015
Madhya Pradesh**
- 4. Madhya Pradesh Power Management
Company Limited
(Formerly known as Madhya Pradesh Power
Trading Company Limited)
Shakti Bhawan, Vidyut Nagar
Rampur Jabalpur – 482 008
Madhya Pradesh**

Versus

**Madhya Pradesh Electricity Regulatory
Commission
4th and 5th Floor, Metro Plaza
Bittan Market
Bhopal – 462 016**

...Respondent

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Ms. Mandakini Ghosh and
Ms. Meghana Aggarwal for R-1**

Appeal no. 276 of 2014

- 1. Madhya Pradesh Poorv Kshetra ...Appellant(s)
Vidyut Vitaran Company Limited
Block No. 7, Shakti Bhawan
Rampur, Jabalpur – 482 008
Madhya Pradesh**
- 2. Madhya Pradesh Madhya Kshetra
Vidyut Vitaran Company Limited
Bijli Nagar Colony, Nishtha Parisar
Govindpura Bhopal – 462 023
Madhya Pradesh**
- 3. Madhya Pradesh Paschim Kshetra
Vidyut Vitaran Company Limited
GPH Campus Polo Ground
Indore – 452 015
Madhya Pradesh**
- 4. Madhya Pradesh Power Management
Company Limited
(Formerly known as Madhya Pradesh Power
Trading Company Limited)
Shakti Bhawan, Vidyut Nagar
Rampur Jabalpur – 482 008
Madhya Pradesh**

Versus

**Madhya Pradesh Electricity Regulatory
Commission**
4th and 5th Floor, Metro Plaza
Bittan Market
Bhopal – 462 016

...Respondent

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Counsel for the Respondent : **Mr. Anand K. Ganesan,**
Ms. Mandakini Ghosh and
Ms. Meghana Aggarwal for R-1

JUDGMENT

PER HON'BLE MR. I.J. KAPOOR, TECHNICAL MEMBER

These Appeals have been filed by Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Limited, Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited, Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Limited, the Distribution Licensees and Madhya Pradesh Power Management Company Limited, the trading company against the four impugned orders passed by the Madhya Pradesh Regulatory Commission ("**State Commission**") for the respective tariff periods. Appeal No. 234 of 2014 is filed against impugned order dated 22.07.2014 passed by the State Commission for truing up of Aggregate

Revenue Requirement (“**ARR**”) of the Appellants for the FY 2011-12. Appeal No. 270 of 2014 is filed against impugned order dated 19.06.2014 passed by the State Commission for truing up of the Aggregate Revenue Requirement (“**ARR**”) of the Appellants for the FY 2010-11. Appeal No. 271 of 2014 is filed against impugned order dated 12.06.2014 passed by the State Commission for truing up of the Aggregate Revenue Requirement (“**ARR**”) of the three Distribution Companies, the Appellants herein, for the FY 2009-10. Appeal No. 276 of 2014 is filed against impugned order dated 06.02.2014 passed by the State Commission for truing up of the Aggregate Revenue Requirement (“**ARR**”) of the Appellants for the FY 2008-09.

2. As the issues raised in all the four Appeals are similar, a common judgment is being rendered. We shall be taking up the issues raised by the Appellants, reply of the Respondent and our findings one by one. For brevity we shall be considering the facts of the Appeal no. 234 of 2014. The Appellants have raised the following 10 issues wherein their claims have been disallowed by the State Commission;

- (i) Non consideration of the quantum of Energy Sales to unmetered consumers properly and consequently the non consideration of quantum of power purchases required to be disallowed.
- (ii) Non consideration of the cost of power purchase to be allowed and wrong methodology in deciding on the cost of power purchase to be disallowed qua the quantum of power purchase disallowed.
- (iii) Non consideration of the appropriate O&M expenses.
- (iv) Disallowance in interest on loan.
- (v) Disallowances in the interest on working capital.
- (vi) Disallowances in the Return on Equity.
- (vii) Disallowances in admissible depreciation.
- (viii) Non consideration of Bad and Doubtful expenses provisioning.
- (ix) Non consideration of Miscellaneous Expenses.
- (x) Wrongful consideration of Non Tariff Income.

3. The first and second issues regarding Non consideration of the quantum of Energy Sales to unmetered consumers

properly and consequently the non consideration of quantum of power purchases required to be disallowed and Non consideration of the cost of power purchase to be allowed and wrong methodology in deciding on the cost of power purchase to be disallowed qua the quantum of power purchase disallowed are related and are taken up together.

4. According to the Appellants, the State Commission had not considered the actual quantum of supply to unmetered agricultural consumers in excess of normative hours of supply considered at the time of determination of revenue requirements in the initial tariff order on estimate basis. The normative hours of supply considered in the order determining the said initial tariff order deciding the revenue requirements was 6 hours to unmetered agricultural consumers, whereas the Appellants had in actual supply more hours of supply considering the needs of the agricultural consumers.
5. Prior to above truing up orders which are challenged in this Appeal, the State Commission had passed truing up orders for the earlier order 2006-07 wherein the State Commission disallowed the claims of the Appellants for supply of electricity to unmetered

consumers in excess of 6 hours on the basis that the applicable Regulations allowed the consideration of supply restricted to 6 hours only.

6. The above decision of the State Commission on restricting consideration to 6 hours of supply was set aside by this Tribunal in Appeal no. 145 of 2009 by order dated 19.05.2010.
7. By subsequent order dated 04.03.2011 in the Review Petition No. 10 of 2010 in Appeal No. 145 of 2009, the Tribunal held that on the quantum of supply of electricity to unmetered consumers, it is necessary for the State Commission to apply prudence check to assess the additional energy supply made to unmetered agriculture consumers based on additional hours of actual supply made after scrutinizing the records of the Distribution Licensee and the State Load Despatch Centre (**“SLDC”**) or any other method that it may like to adopt.
8. In regard to FY 2007-08 the State Commission had again disallowed the supply of electricity to unmetered consumers in excess of 6 hours of supply in similar reasoning as in the truing up of financials of 2006-07. In the Appeal filed against the State Commission truing up order for 2007-08, the Tribunal following its

decision for FY 2006-07 by order dated 04.11.2011 in Appeal no. 150 of 2010 again held that it is necessary for the State Commission to apply prudence check to assess the additional energy supply made to unmetered agriculture consumers based on the additional hours of actual supply made after scrutinizing records of the Distribution Licensee and SLDC or any other method that it may like to adopt.

9. Thereafter by order dated 22.09.2012 the State Commission decided the truing up of financials for FY 2006-07. The Appellants were aggrieved by the order dated 22.09.2012 of the State Commission in regard to implementation of the directions of the Tribunal in the earlier orders dated 19.05.2010 and 04.03.2011 and filed Appeal no. 258 of 2012. By order dated 29.05.2014, the Tribunal decided the Appeal no. 258 of 2012 filed by the Appellants while dealing with Power Purchase Cost relating to FY 2006-07, clarified the earlier decision dated 19.05.2010 as under:-

“There may be periods when the generating units of long term sources go under planned or force outages causing shortage. There may be periods when demand is high and water availability at the hydro stations with which the distribution licensee has entered into long term agreement is low causing reduction in power availability even if all the units are available. Under such conditions power may have to be procured by the distribution licensee from short term sources to meet the demand of the consumers

satisfactorily. Therefore, the State Commission should have also considered the power purchase cost from short term power procured by the distribution licensee and determined the average power purchase cost both from long term and short term sources. Accordingly, this issue is decided in favour of the Appellants.”

10. The position which has emerged from the four earlier judgments given by the Tribunal (a) dated 19.5.2010 in Appeal no. 145 of 2009, (b) dated 04.03.2011 in Review Petition no. 10 of 2010 filed in Appeal No. 145 of 2009 (c) dated 04.11.2011 in Appeal no. 150 of 2010 and (d) dated 29.05.2014 in Appeal no. 258 of 2012 are summarized as under:-
- (i) The hours of supply to unmetered agriculture consumers cannot be restricted to 6 hours of supply and actual hours of supply should be considered.
 - (ii) The State Commission should apply prudence check to assess the additional energy supply made to unmetered agriculture consumers based on additional hours of actual supply made after scrutinizing records of the Distribution Licensees and the State Load Despatch Centre or any other method that it may like to adopt.
 - (iii) The State Commission should consider the cost of Power Purchase to be adjusted upon deciding the quantum of power

disallowed with reference to average cost of power procurement for short term sources as directed by the Tribunal in order dated 29.05.2014 in Appeal no. 258 of 2012.

11. The grievance of the Appellants in these Appeals as submitted during the hearing and in the written submissions filed in regard to first and second issues are:
 - (a) The methodology adopted by the State Commission in the impugned orders to determine the quantum of power purchase to be allowed in regard to unmetered agricultural consumers and consequently, the cost of power purchase to be adjusted for the quantum of power purchases disallowed by the State Commission, are contrary to the order passed and the principles laid down by the Tribunal in earlier judgments.
 - (b) The State Commission ought to have adopted an appropriate methodology for determination of the cost of power purchases to be adjusted for the quantum of power disallowed by the State Commission in the respective Financial Years.

- (c) The State Commission is required to determine the cost of power purchases to be adjusted (disallowed) in the revenue requirements of the Appellants for quantum of power purchases disallowed by applying the basic principles that only such cost and expenses on average basis, which the Appellants could have avoided if the quantum of power purchase disallowed had not been purchased.
- (d) The capacity charges and other related commitment charges payable to the generating companies for long term or medium term contracted capacity are payable irrespective of the actual drawl of electricity, as well as the transmission and related charges payable to STU/CTU based on the transmission capacity, the charges payable to the SLDC, reimbursements of taxes, duties and other levies to the generating companies and transmission companies etc. All such costs and expenses ought not to be disallowed as they cannot be avoided by reducing the power purchases.
- (e) The variable charge (energy charge) though could have been saved on such purchases can only be disallowed for adjustment in the revenue requirements of Appellants. The

fixed cost/expenses may be thought in the nature of “commitment charges” which are necessary for the licensees to enable it to discharge its primary function, that is, to supply power to its consumers. If such charges are not allowed, the same would amount to penalizing the Appellants and depriving them of their legitimate costs and expenses required to discharge their primary function.

- (f) The State Commission did not adopt a pragmatic approach in the determination of the quantum of agricultural unmetered consumption. The State Commission proceeded under the assumption that the Appellants can undertake various installations and achieve an ideal system for maintenance and metering arrangement at 11 kV level, ignoring the practical realities and the records maintained by the SLDC providing the requisite data for estimating such unmetered consumption in reasonable manner.
- (g) In the absence of any authentic inherent data in regard to sale to unmetered consumers, the State Commission ought to have taken into consideration the records of SLDC which is an independent statutory authority. The SLDC maintains

the supply hours on the feeders and accordingly, the SLDC records showing the supply hours and the quantum of power supply made during the supply hours, are best available information. The State Commission has proceeded to penalize the Appellants for non maintenance of various datas and directed installation of equipment facilitating metering of these consumers without considering the practical realities.

- (h) The State Commission did not consider that the power cost adjustment to be done with reference to the truing up of financials of the respective year is required to be with reference to loss level prevalent in the said year. The State Commission while considering the cost of power purchase should take into account that some of the Power Purchase Cost relating to the tariff year, as paid by the Appellant in the subsequent tariff year on account of the late receipt of the bills or supplementary bills being raised by the generating companies and other sellers either wholly or partly.
- (i) Thus, expenditure of the power purchase cost related to the previous year should be adjusted for the purpose of quantum of the power purchase disallowed with the applicable loss

level of the previous year being factored instead of the loss level of the year during which the power purchase cost is paid and considered by the State Commission.

- (j) The State Commission has wrongly disallowed the power purchase cost paid by the Appellants and accounted for in the balance sheets of the Appellants under the head “Prior Period Expenses” without considering that such payment is towards the power purchase. The categorization of such cost under the “Prior Period Expenses” is for the accounting purpose and does not change the character of the expenditure incurred.
- (k) The quantum of energy purchase at the Distribution periphery required by the respective Appellant - Distribution Licensees should be equal to the total energy sale by the Appellants to its retail consumers plus the approved distribution loss level of the respective Appellant. The cost of such energy at Distribution Periphery, namely, the sale plus distribution loss level ought to be allowed to the respective Appellants. For this purpose, the average per unit rate of variable charge (energy charge) should be determined based on the net

actual energy input at Distribution Periphery for sale to retail consumers only, which is a real authentic item and may never change even after the closure of the Financial Year, rather than power purchased at Ex-Bus, which may be revised by way of reconciliation of regional/State energy accounts even after the closure of the Financial Year for which true up has already been carried out. This would also take into account the sale and purchase of electricity between the Appellants Distribution Companies including the Unscheduled Interchange within the State and also banking of power to other State. The Appellants ought not to be deprived of the cost of such power purchase.

- (I) Accordingly, the methodology to be adopted should be based on the quantum of power scheduled at Ex-Bus generating stations because the Ex-Bus scheduled energy may be revised after the closure of Financial Year. Further, the Appellants could not have any material control over the losses occurring outside their periphery i.e. MP Transco and Power Grid losses, because they are external to its periphery

and involve a complex interconnected grid with numerous points, directions and routes for entry and exist of power.

- (m) As per the approach adopted by the State Commission for estimating the power purchase quantum, only the energy sales to consumers have been considered and the quantum of energy sale to the entities other than consumers and Unscheduled Interchange at Distribution Periphery have not been factored for the purpose of estimating energy requirement at Distribution Periphery. Therefore, the per unit rate of variable charge (energy charge) of power purchase including the quantum of power purchase to be disallowed should be worked out in the manner mentioned above i.e. at Distribution Licensee periphery.
- (n) The Appellants will suffer serious financial loss if they are denied the cost of power purchase for effecting supplies to the agricultural consumers for additional hours to meet the exigencies of situation. The denial of power purchase cost or considering the quantum of power purchase made to meet the additional hours of power supply required by the agricultural consumers only on the ground that prior approval

of the State Commission was not taken is otherwise harsh, unjust and act as a severe punishment on the Distribution Licensee, even assuming that there has been some procedural infirmities in the actions of the Distribution Licensees.

12. On behalf of the State Commission, it was submitted that despite opportunity given during number of years, the Appellants have not undertaken either the metering of the individual consumers or even the Distribution Transformer metering at the 11 kV lines. The Appellants have not furnished proper documents and information satisfactory to the State Commission to enable the State Commission to consider the supply in excess of 6 hours of supply. The failure is on the part of the Appellants. It was stated that the records of SLDC cannot be taken to decide on the quantum of supply in absence of the Distribution Transformer metering at the 11 kV lines as there is no certainty that the supply is to unmetered agricultural consumers or is on account of commercial losses. On the aspect of the cost of power purchase disallowance, it was submitted that the quantum of disallowance could be related to short term purchases and the same had been considered. It was

also stated by the Learned Counsel that on instruction taken, the State Commission is not averse if the Appellants still furnish the details and supporting documents.

13. We have considered the matter. The two distinct aspects (a) the quantum of power purchase to be considered and (b) the cost of power purchase to be adjusted for the quantum disallowed are the subject matters of the Appeals. On the first aspect, the State Commission is right in its stand that the Appellants ought to have atleast installed Distribution Transformer level metering. The Appellants cannot continue to claim that they have not been able to do so even after so many years of reorganization of the Electricity Board. In the absence of efforts on the part of the Appellants to install Distribution Transformer level metering, the entire quantum of hours of supply of electricity cannot be considered. At the same time it may not be appropriate to disallow the entire quantum. The extra hours of supply to agriculture cannot as such be disputed. It cannot be said that there was no extra hours of supply. In the earlier orders of the Tribunal, the extra hours of supply was recognized and direction was given to consider the same subject to prudence check. In view of the above some balance needs to be

made. However, it should be for the Appellants to satisfy the State Commission on the quantum of extra hours of supply based on circumstances, as the Appellants have not taken steps to undertake metering. Considering that the State Commission is not averse to giving an opportunity to the Appellants on the above matters, the Appellants should take corrective actions to place the materials before the State Commission for the FY 2008-09 to 2011-12 i.e the subject matter of the above Appeals, for their reconsideration.

14. On the cost of power purchase to be adjusted for the disallowed quantum, the decision of the Tribunal dated 29.05.2014 in Appeal no. 258 of 2012 is specific viz it should be on average cost. We notice that the order dated 29.05.2014 of the Tribunal was after the order dated 06.02.2014 of the State Commission relating to true up of financials of 2008-09 and the orders for the subsequent 3 years were passed by the State Commission after the order dated 29.05.2014. The State Commission proceeded on the basis of only considering the short term power purchase cost which is higher and is not consistent with the average cost principle approved by the Tribunal. The methodology should also be that the cost which

the Appellants would have in any event incurred such as fixed charges ought not to be disallowed. On the aspect of consideration of cost of power purchase, the State Commission should reconsider in light of the order dated 29.05.2014 of the Tribunal.

15. Since the issue of quantum of extra hours of supply quantum to unmetered agriculture consumers is being remanded to the State Commission, the cost of power purchase issue in terms of the order dated 29.05.2014 of the Tribunal should also be reconsidered by the State Commission.

16. **The third issue is Operation and Maintenance (O&M) Expenses.**

16.1 The Appellants have sought relaxation in the O&M expenses on grounds of actual higher cost incurred, taking over of the Rural Electricity Cooperatives subsequent to the Tariff Regulation notified, the actual inflation rate being higher than what was envisaged in the Regulations. It was also submitted by the Appellants that the State Commission did not apply the provisions of the Regulations 32.5 which read as under:

“The amount of arrears on account of 6th Pay Commission for the period upto 31.08.2008 actually paid by the Distribution

Licensees shall be compared with amount towards this included in the O&M charges at the time of true up and variation, if any, shall be trued up.”

16.2 It was stated that the State Commission has not allowed the appropriate additional O&M expenses required for meeting the terminal benefits of the employees. The Appellants as statutorily constituted successor entities have the obligation to meet all such terminal benefits including aspects such as leave encashment, free electricity to retired employees, compassionate finance assistance etc. It was further stated that the State Commission has considered only the pension and gratuity payment and has not provided for meeting other legitimate liabilities towards the terminal benefits of the employees. On behalf of the State Commission it was maintained that O&M as applicable under the Tariff Regulations have been allowed.

16.3 We have considered the matter and observed that the State Commission had considered the Operation and Maintenance expenses as applicable under the prevailing Tariff Regulations.

17. The fourth issue is disallowance of Interest on loan.

17.1 The Appellants have contended that the State Commission had rejected the servicing of such loans on net fixed assets on the ground that in the absence of information related to mapping of loans with specific assets, it is not possible to identify the portion of loan with the fixed assets completed and the portion of loan related to capital work in progress. In such circumstances as the assets have been put into use and the benefit of the same are accruing to the consumers, the assets in reality do not have the character of work in progress and the assets should be treated as part of the capital block for the purpose of tariff. It was further stated by the Appellants that the State Commission has not considered the final opening balance sheet of Appellants notified by the State Government in exercise of the powers under Section 131 of the Electricity Act 2003 in regard to the assets and liabilities of the Appellants. On behalf of the State Commission, it was maintained that interest on loan as per the details furnished by the Appellants have been considered.

17.2 We have considered the matter and found that there are no further grounds necessitating any reconsideration.

18. The fifth issue is Disallowance of Interest on working capital.

18.1 The Appellants stated that the State Commission had not allowed the interest on working capital on the ground of negative balance. The State Commission ought not to have disallowed the interest on working capital only on the ground that as per the normative consideration, the working capital requirement in the case of Appellant works out to negative. Considering the facts and circumstances of the case, the State Commission ought to have deviated from the normative calculation of working capital requirement and allowed the interest on working capital based on the actual subject to appropriate prudence check.

18.2 We have considered the matter. The working capital requirement has been determined by the State Commission on norms specified. If as per the above it works out negative, the same cannot be allowed.

19. The sixth and seventh issues are Return on Equity and Depreciation.

19.1 The Appellants stated that the State Commission has not considered the Return on Equity and Depreciation on the Gross

Fixed Assets as per the final balance sheet of the Appellants notified by the State Government in exercise of the powers under Section 131 of the Electricity Act 2003 in regard to assets and liabilities of the Appellants and after such notification of the final balance sheet, it is not permissible for the State Commission to undertake truing up of financials based on the provisional balance sheet which stands superseded by statutory orders of the Government under Section 131 of the Electricity Act 2003. On behalf of the State Commission, it was maintained that it has been considered based on the details furnished by the Appellants and as per the Tariff Regulations.

19.2 We have considered the matter. As maintained by the State Commission that the Return on Equity and the Depreciation have been considered in truing up as per the Tariff Regulations, we are in agreement with the State Commission.

20. The eighth issue is Bad and Doubtful expenses.

20.1 The Appellants have submitted that in the facts and circumstances of the case in view of the cash flow arrangement which all the Distribution Licensees had on a common basis as per the policy

decision of the State Government, the State Commission ought to have allowed the writing off the bad and doubtful expenses on uniform basis to the extent of 1% of the sales revenue in all cases.

20.2 The Appellants have also challenged the decision of the State Commission in not allowing the effect of scheme for recovery of outstanding dues from the consumers providing for payment after allowing certain waiver. The State Commission while treating the amount recovered as income disallowed the amount waived to recover such income as bad and doubtful expenses. The scheme was considered beneficial as it recovered monies outstanding and the said recovery could not have been made without the waiver. On behalf of the State Commission, it was stated that it has been done strictly in accordance with the norms specified.

20.3 We have considered the matter and are in agreement with the State Commission.

21. The ninth and tenth issues are non-consideration of miscellaneous expenses and Non-tariff Income

21.1 The Appellants have stated that in the impugned order that the State Commission has not allowed miscellaneous expenses such

as net prior period charges of interest and finance charges, administrative expenses, interest expenses, sundry expenses etc. to prior period. The State Commission ought to have considered all the income of prior period in a uniform manner and ought to have allowed the same.

21.2 As regards Non-Tariff Income, the Appellants have stated that the State Commission considered the amount recovered by the Appellants from prosecuting proceedings of theft etc. as part of “other income” when such recovery has to be adjusted towards loss suffered by the Appellants on account of revenues.

21.3 We have considered the matter and are in agreement with the State Commission.

22. To conclude:

i) The first and second issues regarding non-consideration of the quantum of Energy Sales to unmetered agriculture consumers and non-consideration of the cost of power purchase are remanded to the State Commission for re-consideration in terms of the judgment dated 29.05.2014 in Appeal no. 258 of 2012 of this Tribunal.

ii) As regards other eight issues brought out by the Appellants as mentioned on page 7 from 2 (iii) to 2 (x) of the order, we are in agreement with the State Commission.

23. In view of above, the Appeals are allowed partly and the impugned order is set aside to the extent indicated above. No order as to cost.

24. Pronounced in the Open Court on this 15th day of September, 2015.

(I.J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

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