

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
AT NEW DELHI**

**(APPELLATE JURISDICTION)**

**Review Petition No. 15 of 2014  
in Appeal No. 270 of 2013**

**Dated: 17<sup>th</sup> April, 2015**

**Present: Hon'ble Mr. Rakesh Nath, Technical Member  
Hon'ble Mr. Justice Surendra Kumar, Judicial Member**

**IN THE MATTER OF**

M/s Chadha Sugars & Industries Pvt Ltd.,  
Village Kiri Afgana,  
Tehsil Batala, Distt. Gurdaspur,  
(Punjab) 143527

.... Review Petitioner/  
Appellant

***VERSUS***

1. Punjab State Electricity Regulatory Commission,  
SCO: 220-221, Sector: 34-A,  
Chandigarh - 160034
  2. Punjab State Power Corporation Limited (PSPCL),  
The Mall, Patiala  
(Punjab) - 147001
  3. Punjab Energy Development Agency,  
Solar Passive Complex, Plot No. 1-2,  
Sector 33-D, Chandigarh
- .... Respondents

Counsel for the Appellant(s) ..... Mr. Rajesh Mittra

Counsel for the Respondent(s)... Mr. Sakesh Kumar for R-1

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

**ORDER**

**PER HON'BLE JUSTICE SURENDRA KUMAR, JUDICIAL MEMBER**

1. We have heard the learned counsel for the contending parties and perused the material on record.

2. The instant Review Petition has been filed by M/s Chadha Sugars & Industries Pvt. Ltd. (in short, the '**Review Petitioner/Appellant**'), seeking review of our judgment and order, dated 1.10.2014 in Appeal No. 270 of 2013 mainly on the following grounds:

- (a) that this Appellate Tribunal, in the judgment, had made a patent error in observing in para 12 thereof that the said two projects of M/s Rana Sugars Ltd. & M/s A.B. Sugars Ltd. were set up three years after the setting up of the Appellant's co-gen project in contrast to the narration of facts in para 2(f) of the said judgment, dated 1.10.2014, where the plants of M/s Rana Sugars Ltd. & M/s A.B. Sugars Ltd. are stated to be three years older to the Appellant's co-generation project.
- (b) that this Appellate Tribunal had erred in overlooking that since the projects of the Appellant and those of M/s Rana Sugars Ltd. & M/s A.B. Sugars Ltd. are similarly placed and governed by similar PPA, allowing two sets of rate of variable fuel charges in the same state for the projects using similar fuels is highly discriminatory and unjustified. The PPA of the Appellant/petitioner was signed in September, 2012 and PPAs of M/s Rana Sugars Ltd. & M/s A.B. Sugars Ltd. were signed in November, 2012 during the same year and differential variable charges granted to the Appellant and the other two similarly placed projects by the State Commission were upheld by this Appellate Tribunal in the said judgment, which is an error apparent on the face of the record.

- (c) that this Appellate Tribunal erred in overlooking the Appellant's plea that the need for furnishing detailed data regarding fuel prices was not felt since the same were never refuted by the contesting respondents before the State Commission.

3. We find that in para 2(f), we correctly mentioned the fact that two other similarly placed co-generation projects in the State of Punjab namely, M/s Rana Sugars Ltd and M/s A.B. Sugars Ltd., which are older to the Appellant's co-gen project by three years have been granted by the State Commission, vide its order, dated 30.11.2012, a rate of Rs. 4.95 per kWh against Rs.4.85 per kWh allowed to the Appellant. Thus, in para 2(f), in our judgment, we had mentioned the correct position of facts that the two other similarly placed co-generation projects are older to the Appellant's co-generation project by three years.

4. We have considered the contents of para 12 of our judgment, dated 1.10.2014. In para 12, we had mentioned the contention of the Appellant and not our version. The contention of the Appellant, as mentioned in para 12, was that the State Commission had provided/allowed higher rates of tariff to M/s Rana Sugars Ltd. & M/s A.B. Sugars Ltd., the two similarly placed co-generation plants, which had been set up three years after the co-generation plant of the Appellant. Citing this contention of the Appellant, we found just in the next line of para 12 of this judgment, both these contentions are without merits. Thus, whatever we stated in para 12 of our judgment that was not our version/finding or any kind of observation but it was only production of the contention of the Appellant which was raised before us during the arguments.

5. We may further note here that whatever fact mentioned in the matter, the same was reproduced and mentioned in para 2(f) of our judgment, which had been stated to be the correct position on the facts submitted by the learned counsel for the Appellant. Since, para 12 of our judgment simply depicts the contention of the Appellant's counsel and the same cannot be said to be amounting to any kind of error apparent on the face of the record warranting or authorizing us to review our aforesaid

judgment, dated 1.10.2014. So far as the 2<sup>nd</sup> & 3<sup>rd</sup> ground of the review petition, as mentioned above are concerned, we had already, after analyzing the same points, decided the same in our judgment, dated 1.10.2014. No review petition can be allowed in the disguise of any appeal on 2<sup>nd</sup> & 3<sup>rd</sup> ground as mentioned above.

6. Even after considering the said contention of the Review Petitioner/Appellant, we do not find any sufficient or satisfactory ground or material on record to review our aforesaid judgment, dated 1.10.2014, because even if we assumed that two similar placed co-generation projects in the State of Punjab namely, M/s Rana Sugars Ltd and M/s A.B. Sugars Ltd. were set up three years prior to the Appellant's co-generation projects that would not change the position so as to entitle the Appellant/Review petitioner to any higher tariff as claimed by him in the Appeal. We had given our aforesaid judgment after considering rival contentions of the parties and going through the material on record.

7. In view of the above, the instant Review Petition, being Review Petition No. 15 of 2014, is hereby dismissed as it has no merits. No order as to costs.

**PRONOUNCED IN THE OPEN COURT ON THIS 17<sup>TH</sup> DAY OF APRIL, 2015.**

**(Justice Surendra Kumar)  
Judicial Member**

**(Rakesh Nath)  
Technical Member**

**√ REPORTABLE/NON-REPORTABLE**

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