

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**IA NO. 1466 OF 2018 IN
DFR NO. 3849 OF 2018 &
IA NO. 1434 OF 2018**

Dated: 12th October, 2018

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. S.D. Dubey, Technical Member**

In the matter of:

M/s JSW Steel Ltd. & Anr.

.... Appellant(s)

Versus

Maharashtra Electricity Regulatory Commission & Anr.

.... Respondent(s)

Counsel for the Appellant(s) : Mr. Sanjay Sen, Sr. Adv.
Mr. Aman Anand
Mr. Aman Dixit
Mr. Suraj Das Guru

Counsel for the Respondent(s) : Mr. Buddy A. Ranganadhan for R-1

Ms. Rimali Batra
Mr. Ashish Singh
Ms. Shruti Awasthi
Mr. Amit Buta for R-2

ORDER

**IA NO. 1434 OF 2018
*(Application for urgent listing)***

The IA is disposed of since it has become infructuous.

IA NO. 1466 OF 2018
(Application for leave to file appeal)

With the consent of the parties, this application is taken up.

For the reasons stated in the application, leave to file the instant appeal is granted. Application is disposed of.

DFR NO. 3849 OF 2018

We have gone through the provisions of Section 9 and Section 42 of the Electricity Act, 2003. Learned counsel for the Appellant brought Para 9.38.18 of the impugned order dated 12-9-2018 to our notice which read as under:

“.....

As per Section 42(4) of the EA, 2003, the levy of Additional Surcharge arises where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the Distribution Licensee of his area of supply. However, as per Section 9 of the EA, 2003, CPPs have been given the right to carry electricity from the Generating Plants to the destination of their own use. The question of ‘permit’ and ‘supply’ does not arise to the extent of ‘self-consumption’ by Captive Users of the CPPs. Thus, the Commission is of the view that Additional Surcharge is not applicable to Captive Users of CPPs to the extent of their self-consumption from such Plants.”

The scope of Appeal revolves around three issues, viz. Section 9, 42 and Tariff order dated 3-11-2016, inter alia, Regulations.

Learned counsel for Respondent No. 2 submits the due date for payment would be 20th October 2018 so far as disputed bill pertaining to additional surcharge levied against captive consumers.

In the light of the above submissions made and the disputed issues are to be heard and decided, we direct Respondent No. 2 not to take any coercive steps till the next date of hearing, i.e. 29-10-2018.

Registry is directed to number the appeal and list the matter for admission on **29-10-2018**. Meanwhile, learned counsel for Respondent may file reply, if any, to the main appeal with advance copy to the other side.

(S.D. Dubey)
Technical Member

tpd/kt

(Justice Manjula Chellur)
Chairperson