

purpose of determination of its Annual Revenue Requirement for FY 2006-07. In the aforesaid order, the Commission did not consider intervening transmission line of MSETCL as a part of inter-state transmission for wheeling power from Western Regional pool or Central Generating Stations to State of Goa. The Commission in the impugned order has held as under:

“The Commission understands that currently MSETCL is transmitting central sector power to Goa via its transmission network and the transmission charges for the same are being levied as per the prevailing Regional norms. However, the Commission is of the view that as this power is being transmitted by the transmission lines (of MSETCL) within the State, the transmission tariff as determined by the Commission (inline with its Order dated 27th June, 2006) should be applicable for the quantum of energy transmitted to Goa. The Commission therefore directs MSETCL to levy the transmission tariff as determined by the Commission in its order on intra-state transmission pricing through transmission open access provision.”

3. The basic issue involved here is whether the intervening transmission system of MSETCL is to be treated as part of the inter-state transmission system for wheeling of power from the Central Generating Station and/or WREB pool of power to State of Goa. The inter-state transmission as defined in Section 2(36) of the Act is as under:

“2(36). Inter-State Transmission

- (i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;*
- (ii) the conveyance of electricity across the territory of an intervening state as well as conveyance*

within the State which is incidental to such inter-State transmission of electricity;

- (iii) *the transmission of electricity within the territory of a State on a system built, owned, and operated maintained or controlled by a Central Transmission Utility.”*

4. It is admitted by the parties that the electricity is transmitted to Goa from Central Generating Stations and / or WREB pool of power located outside Goa and the intervening transmission lines of MSETCL along with transmission lines of PGCIL are being used for such transmission. Accordingly, the transmission of power from Central Generating units to Goa is an inter-State transmission in terms of Section 2(36) of the Act. The use of transmission lines of MSETCL is incidental to the transmission of power from Central Generating Station to Goa. The determination of tariff for inter-State transmission as per the provisions of Section 79 of the Act is vested with CERC and is beyond the jurisdiction of MERC, Section 79(c) and (d) are extracted below.

“79. Functions of Central Commission – (1) The Central Commission shall discharge the following functions, namely:-

- (a)
- (b)
- (c) *to regulate the inter-State transmission of electricity;*
- (d) *to determine tariff for inter-State transmission of electricity;*
- (e)
- (f)
- (g)
- (h)
- (i)

- (j)
- (k)”

5. We, therefore, find that firstly MERC has no jurisdiction to determine tariff of inter-State transmission line including the intervening lines of MSETCL and, therefore, the directions of MERC to make inter-State transmission tariff applicable to quantum of electricity transmitted to Goa is in contravention to the provisions of the Act. The learned counsel for the respondent Commission has also fairly conceded the legal position as explained above.

6. In view of the above, we allow the appeal and set aside the impugned order dated 28th June, 2006 insofar as it relates to recovery of transmission charges for the intervening transmission system of MSETCL when it is used as inter-State transmission line. We also direct that no coercive action is to be taken to disrupt transmission of electricity to Goa and direct MSETCL to continue to accept payment of transmission charges as per the existing prevailing regional norms determined by CERC and raise the new bill accordingly and adjust the payments, if made, from the date the impugned order has come into effect.

(Ms. Justice Manju Goel)
Judicial Member

(A. A. Khan)
Technical Member