Before the Appellate Tribunal for Electricity (Appellate Jurisdiction)

Review Petition No. 28 of 2007 in Appeal No. 47 of 2007

Dated: October 11, 2007

Present: Hon'ble Mr. A.A. Khan, Technical Member

Hon'ble Mrs. Justice Manju Goel, Judicial Member

Arpee Electrical Supply Co. Ltd. -Review Petitioner(s)

V/s.

Bangalore Electricity Supply Company Ltd. & Anr. -Respondent(s)

Counsel for the Review Petitioner(s) : Mr. R.P. Gupta, M.D.

Counsel for the Respondent(s) : Ms. Swapna Seshadri for BESCOM

ORDER

The present review petition seeks review of the order dated May 16, 2007 passed in appeal no. 47 of 2007. The appeal was filed by the respondent no.1 herein against the order of the Karnataka Electricity Regulatory Commission dated January 8, 2004 whereby the Commission directed the respondent no. 1 to refund the alleged deposit of Rs.1,78,292/- with interest at the rate of 6% from the alleged date of deposit i.e. sometime in 1988-89. The appeal challenged the jurisdiction of the Commission in passing the impugned order of January 8, 2004 as well the maintainability of the claim for refund on the ground of limitation. The appeal also disputed the finding of fact regarding the alleged deposit. The order now sought to be reviewed was passed on the consent of the parties. The respondent no. 1 (appellant in the appeal no. 47 of 2007) expressed willingness to allow the review petitioner (respondent in the appeal) to withdraw the amount of Rs.1,78,292/-

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deposited with the Karnataka High Court (when the appeal against the Commission's order was filed in the Karnataka High Court) without going into legal disputes raised and the review petitioner said that he did not press his claim for interest. This Tribunal ordered:

- " In view of the above we feel it appropriate to conclude the matter here by allowing the respondent to withdraw the amount in deposit with the Karnataka High Court as offered by the appellant and accept the amount in full and final settlement of its claim in respect of the aforesaid deposits."
- 2) The review petitioner alleges that there is error apparent on the face of the record and the order dated May 16, 2007 calls for a review. We have heard the two parties on the review petition.
- 3) The entire order dated May 16, 2007 has been read out. The Review Petitioner says that there is an error apparent in the first paragraph of the order dated May 16, 2007 wherein this Tribunal has held that "the question of jurisdiction of the Commission to go into the dispute between the parties is also a substantial question of law." He maintains that the Commission has a power to go into the dispute. This does not make the above sentence erroneous. This is not an error apparent. The main ground of the appeal was that the Commission did not have the jurisdiction to adjudicate upon the dispute between the respondent (Review Petitioner herein) and the utility and hence we mentioned the question and observed that it was substantial question of law.
- 4) The second error pointed out in the order is about the liability to pay interest. He says that it is an error because he was entitled to interest. He claims to be entitled to interest in law as well as under the rules binding

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the respondent-appellant utility. This cannot be treated as an error

apparent warranting a review. He does not dispute that he did not press

his claim for interest on May 16, 2007 before this Tribunal which led this

Tribunal to pass the order. The review petitioner is today armed with

various legal provisions to justify his claim for interest. However, it is

beyond the scope of review to go into the question of petitioner's

entitlement to interest in law or under the rules and regulations governing

utilities.

5) No error apparent in the order dated May 16, 2007 has been

pointed out and accordingly no relief can be given to the Review

Petitioner.

6) The Review Petitioner has sent a cheque of Rs.1,78,292/- to be kept

safe with the Registrar of this Tribunal. This cheque was sent on the Review

Petitioner's own volition and without there being any directions in this

regard from this Tribunal; the cheque may now be returned to the Review

Petitioner.

Accordingly, the *Review Petition is dismissed*, leaving the parties to

bear their own costs.

(Manju Goel) Judicial Member (A. A. Khan) Technical Member

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