

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Dated, the 7th Mar, 2014

Appeal No. 202, 203 AND 263 OF 2012

Present:

HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM, CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER

Appeal No. 202 of 2013

Punjab State Power Corporation Limited.,
Shed No.F-4, Shakti Vihar,
Patiala (Punjab)

... Appellant

Versus

- 1. Punjab State Electricity Regulatory Commission**
SCO No.220-221, Sector 34-A,
Chandigarh (UT)
- 2. BSNL Limited.,**
Punjab Circle,
Sanchar Sadan,
Sector 34A,
Chandigarh (UT)

Respondent(s)

Counsel for the Appellant (s): Mr. Anand K Ganesan
Ms. Swagatika Sahoo
Ms. Swapna Seshadri

Counsel for the Respondent (s): Mr. Sakesh Kumar for R-1
Mr. Vivek Kohli
Mr. Shwetank Tripathi
Mr. Gurmeet Singh
Mr. Pradeep Kumar

Mr. Abhishek Swaroop for R-2
Mr. Jagmohan Modi, Dir. PSERC

Appeal No. 203 of 2013

**Punjab State Power Corporation Limited.,
Shed No.F-4, Shakti Vihar,
Patiala (Punjab)**

... Appellant

Versus

- 1. Punjab State Electricity Regulatory Commission
SCO No.220-221, Sector 34-A,
Chandigarh (UT)**
- 2. RIMT Institution,
G.T. Road,
Mandi Govindgarh,
Punjab (UT)**

Respondent(s)

**Counsel for the Appellant (s): Mr. Anand K Ganesan
Ms. Swagatika Sahoo
Ms. Swapna Seshadri**

**Counsel for the Respondent (s): Mr. Sakesh Kumar for R-1
Mr. Vivek Kohli
Mr. Abhishek Swaroop for R-2
Mr. Jagmohan Modi, Dir. PSERC**

Appeal No. 263 of 2013

**Punjab State Power Corporation Limited.,
Shed No.F-4, Shakti Vihar,
Patiala (Punjab)**

... Appellant

Versus

1. **Punjab State Electricity Regulatory Commission
SCO No.220-221, Sector 34-A,
Chandigarh (UT)**
2. **Jaswinder Pal Singh,
Unit No.T.F-7 Third Floor,
First Mall Complex,
The Mall, Ludhiana (Punjab)**
3. **Kunal Projects Private Limited.,
Kunal Tower-88, Mall Road,
Ludhiana (Punjab)**

Respondent(s)

**Counsel for the Appellant (s): Mr. Anand K Ganesan
Ms. Swapna Seshadri**

**Counsel for the Respondent (s): Mr. Sakesh Kumar for R-1
Mr. Tajender K Joshi for R-2 & 3
Mr. Jagmohan Modi, Dir. PSERC**

J U D G M E N T

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. Punjab State Power Corporation Limited is the Appellant herein in all these Appeals.
2. Challenging the Impugned Orders passed by the State Commission on 1.8.2012, 6.8.2012 and 10.10.2012, these

Appeals namely 202, 203 and 263 of 2012 respectively have been filed by the Appellant.

3. Since the issue is common in all these Appeals, this common judgment is being rendered.
4. In the Impugned Orders, the State Commission has held that the Respondent consumers are entitled to the rebate at 7.5% for taking supply of electricity on 11 KV up to the period 31.3.2010.
5. Aggrieved by these Orders, Punjab State Power Corporation Limited, the Appellant has filed these Appeals challenging the findings in the Impugned Orders.
6. Though the issue is common in all these Appeals, these Impugned Orders have been passed by the State Commission in the different Petitions filed by the different parties claiming the rebate. The State Commission passed separate Impugned Orders in each of the Petitions filed by the Respondents on 1.8.2012, 6.8.2012 and 10.10.2012. Since the facts are different in all these Appeals, we would first refer to the facts of each case separately.
7. The **facts** in **Appeal No.202 of 2012** are as follows:
 - (a) The Appellant, Punjab State Power Corporation Limited is an unbundled entity of the erstwhile Punjab State Electricity Board. It has been vested with the

functions of generation and distribution of electricity in the State of Punjab.

(b) Punjab State Commission is the 1st Respondent. BSNL Limited, the 2nd Respondent herein, is engaged in the business of providing telecommunication facilities in India including the State of Punjab.

(c) BSNL Limited (R-2) is a retail supply consumer of the Appellant, having a total connected load of more than 100 KW. The supply to the BSNL Limited (R-2) is effected at 11 KV in accordance with the provisions of the General Tariff Conditions.

(d) BSNL Limited (R-2) was earlier provided a rebate of 7.5%. However, the Appellant, finding that the BSNL was not entitled to the rebate in terms of the statutory provisions of the condition of tariff; it raised the question of quantum of rebate provided to the BSNL.

(e) Aggrieved by the same, the BSNL Limited (R-2) filed a Petition in Petition No.27 of 2012 before the State Commission claiming that it is entitled for the rebate for supply being at 11 KV.

(f) After hearing the parties, the State Commission allowed the Petition filed by the BSNL Limited (R-2),

through the Impugned Order dated 1.8.2002 holding that it is entitled to the rebate of 7.5%.

(g) Aggrieved by this Order, the Appellant has filed the present Appeal No.202 of 2012 challenging the findings with reference to the entitlement of the Respondent-2 on the rebate.

8. The **facts** in **Appeal No.203 of 2012** are as under:

(a) The Punjab State Power Corporation Limited is the Appellant herein. Punjab State Electricity Regulatory Commission is the 1st Respondent. RIMT Institution is the 2nd Respondent.

(b) The Appellant, Punjab State Power Corporation Limited is vested with the functions of the generation and distribution of electricity in the State of Punjab.

(c) RIMT Institution (R-2) is a retail supply consumer of the Appellant having a total connected load of more than 100 KW.

(d) The supply to the R-2 is effected at 11 KV in accordance with the provisions of the General Tariff Conditions framed by the State Commission.

(e) The R-2 (RIMT Institution) was earlier provided rebate of 7.5%. Finding that the R-2 was not

entitled to the rebate, the Appellant raised the question on the quantum of the rebate.

(f) Aggrieved by the same, the 2nd Respondent filed a Petition being Petition No.29 of 2012 before the State Commission claiming that it is entitled for the rebate for supply being taken at 11 KV.

(g) The Appellant opposed this claim. However, the State Commission passed the Impugned Order on 6.8.2012 allowing the Petition filed by R-2 holding that R-2 is entitled for rebate of 7.5%.

(h) As against this order, the present Appeal in Appeal No.203 of 2012 has been filed.

9. The **facts** in **Appeal No.263 of 2012** are as under:

(a) Punjab State Power Corporation Limited is the Appellant herein.

(b) Punjab State Commission is the 1st Respondent. Jaswinder Pal Singh (R-2) is the 2nd Respondent who is the Retail Supply consumer of the Appellant having a connected load of 894 KW for Commercial Complex styled as 'First Mall', Ludhiana.

(c) The supply to R-2 was effected at 11 KV in accordance with the provisions of the General Tariff Conditions framed by the State Commission.

(d) Kunal Projects Private Limited the 3rd Respondent is also a Retail supply consumer of the Appellant having a total connected load of 882.8 KW for its Commercial Complex situated in Ludhiana.

(e) Supply to Kunal Projects Private Limited (R-3) is also effected at 11 KV in terms of the General Tariff Conditions.

(f) In terms of the Tariff Order passed by the State Commission from the year 2006-07, a rebate of Rs.7.5% was allowed to the consumer taking supply of electricity at 11 KV. But the same was amended with effect from 1.4.2010.

(g) The Appellant, finding that the R-2 and R-3 were not entitled to the rebate in terms of the statutory provisions of the conditions of tariff raised the question on the quantum of rebate upon the Respondent 2 and 3.

(h) Aggrieved by the above, R-2 and R-3 filed a Petition being Petition No.41 of 2012 claiming that they were entitled to get the rebate.

(i) The Appellant opposed the said claim. However, the State Commission passed the Impugned Order dated 10.10.2012 allowing the Petition filed by R-2

and R-3 thereby holding that the R-2 and R-3 are entitled to the rebate of 7.5%.

(j) Aggrieved by the Impugned Order dated 10.10.2012, the Appellant has presented this Appeal.

10. The common question that would arise for consideration in the above Appeals is this:

“Whether the State Commission is justified in holding that the Respondent consumers are entitled to the rebate at the rate of 7.5% for supply being made at 11 KV in terms of the applicable schedule of tariff and the legal position as existing?”

11. On this question, the learned Counsel appearing both for the Appellant and the Respondents have made their elaborate submissions.

12. The learned Counsel for the Appellant has raised the following contentions assailing the Impugned Orders:

(a) The Impugned Orders are contrary to the provisions of General Conditions of Tariff and Schedule of Tariff applicable to the consumers during the years 2005-06 and 2006-07 and the subsequent orders. In terms of the General Conditions and Schedule of Tariff, the rebate is not permitted to the

Respondent consumers for supply being made at 11 KV.

(b) When the consumers are contributing to the reduction of losses and for better Grid Standards, the rebate of Rs.7.5% is provided to the consumers as an incentive. However, the same cannot be applied to a consumer who is otherwise required to be supplied electricity at 11 KV and not at 400 Volts.

(c) Clause 13.5 of the General Conditions of Tariff specifically provides that the rebate is to be allowed when the supply is catered at 11 KV as against 400 Volts as per the character of service. The effect of the Impugned Order would mean that Clause 13.5 of the General Conditions of Tariff and Schedule of Tariff has no effect whatsoever.

(d) The Tariff Order for the Year 2006-07 did not specifically deal with the mechanism of providing the rebate or otherwise provide the rebate is to be given irrespective of the fact that as per the Character of Service, the supply is to be given at 11 KV, but merely continued the existing practice. Hence, the interpretation given by the State Commission in the Impugned Order is not valid.

13. In reply to the above submissions, the learned Counsel for the Respondents in justification of the Impugned Order has made the following submissions:

(a) The Appellant had already granted rebate to the Respondents from 2006-07 to 2009-10. As per the Tariff Order for the year 2006-07, this was confirmed by the State Commission in the subsequent orders. When the Appellant raised objection before the State Commission at the time of finalisation of the Tariff Orders for the year 2006-07 to 2008-09, the State Commission rejected this objection and confirmed the applicability of the rebate in the tariff orders passed in respective years. Admittedly, these orders have not been challenged. Therefore, this aspect has attained finality. By way of the present Appeal, the Appellant is in fact seeking to challenge the tariff orders passed earlier by the State Commission for the years 2006-07 to 2008-09 which is not permissible under law.

(b) The Appellant's contention is that the rebate should only be granted to the consumers taking supply up to 100 KW. The whole purpose of rebate is to minimise the transmission losses. The T&D losses on the transmission lines would only diminish at higher power. In order to take supply at more than 100 KW, the consumers are required to install specific high

power transformers. In that process, the consumers incurred extra expenditure and contributed to reduction of transmission losses. Thus, the consumers are entitled to the rebate.

(c) The Electricity charges are same for 400 Volts or 11 KV supply. Hence, the interpretation suggested by the Appellant would not serve any purpose. Instead, if the consumers are provided rebate at 11 KV, irrespective of character of service they would be encouraged to transform to high voltage connection. In that case, it would not incur any extra burden upon the Appellant.

(d) The General Conditions of the Tariff and Schedule of Tariff ought to be constructed harmoniously in order to give effect to the objective of the policy behind the introduction of the system of the rebate. As such, the interpretation given in the Impugned Order is perfectly valid.

14. Having regard to the rival submissions made by the parties, we are called upon to decide the issue as to **“whether in terms of applicable to terms and conditions, the rebate of 7.5% with effect from 1.4.2006 was to be allowed to the consumers who were taking supply at 11 KV as per the character of service”**.

15. These Appeals would involve the interpretation of various clauses. The State Commission in these cases interpreted the various clauses and held that the Respondents consumers are entitled to get 7.5% voltage rebate up to 31.3.2010.
16. While considering the question as to whether this interpretation is valid or not, we have to take note of Clause 23 of the General Conditions of Tariff.
17. Clause 23 of the General Conditions of Tariff deals with the interpretation of the tariff. The same is as follows:

“23. Interpretation of Tariff:

If a question arises as to the applicability of tariff to any class of consumer or as to the interpretation of various clauses of tariff or General Conditions of Tariff, decision of the Commission shall be final.”

18. In the light of the above Clause 23, we have to discuss the issue raised in these Appeals.
19. At the outset, it shall be pointed out that the Appellant had already granted the rebate to the Respondent consumers from Financial Year 2006-07 to 2009-10 as per the Tariff Order for the year 2006-07. This was further confirmed by the State Commission in the subsequent tariff orders.
20. As a matter of fact, the Appellant earlier raised his objection relating to the rebate before the State Commission at the

time of finalisation of tariff orders for the year 2006-07, 2007-08 and 2008-09. However, the State Commission after rejecting the objections raised by the Appellant confirmed the applicability of the rebate in the tariff orders passed in the respective years.

21. Admittedly, these tariff orders have not been challenged before the Appellate Forum. As such these tariff orders have attained finality.
22. According to the Respondent Consumers, the Appellant in effect, through these Appeals is seeking to challenge those tariff orders passed by the State Commission for the years 2006-07, 2007-08 and 2008-09 and this is not permissible under law.
23. Before delving deep into this issue, we will now examine the Impugned Orders which are the subject matters of these Appeals.
24. The relevant portion of the Impugned Order dated 1.8.2012 which has been challenged in Appeal No.202 of 2012 is given below:

“3. The Commission observes that clause 13.5 of the General Conditions of Tariff approved by the Commission states that Medium Supply, Small Power, Domestic Supply and Non-Residential Supply consumers shall be allowed a rebate of 7.5% on their consumption charges including demand charges, if any, or monthly minimum charges where supply is

catered at 11 KV or higher voltage against the supply voltage of 400 volts specified in the character of service.

Further, Schedule of Tariff for Non-Residential Supply, approved by the Commission also has a provision for 7.5% rebate on consumption charges or monthly minimum charges if the supply is catered at 11 KV. The Commission has nowhere, in the General Conditions of Tariff and Schedule of Tariff, denied the rebate of 7.5% to NRS consumers catered at 11 KV.

The General Conditions of Tariff and Schedule of Tariff, approved by the Commission were sent to the erstwhile Board (now PSPCL) vide Commission's letter no. 1372 dated 6.3.2006 for making the same effective from 1.4.2006.

4. The Commission further observes that the erstwhile Board (now PSPCL) in its ARR and Tariff Application for the financial year 2006-07 had proposed that the high voltage rebate of 7.5% being allowed to all DS/NRS consumers getting supply at 11 KV irrespective of their connected load, be allowed to those consumers in DS/NRS categories, connected at 11 KV where connected load is less than 100 KW. The Commission after considering the issue in detail, in para 5.2.2 of the Tariff Order for the FY 2006-07 issued on 10th May, 2006, decided to continue with the existing provisions for rebates and surcharges for availing supply at different voltages.

5. The Commission, however, in its Tariff Order dated 8.9.2009 for the FY 2009-10, decided to discontinue all voltage rebates w.e.f. 1st April, 2010.

6. In view of the above the Commission decides that a rebate of 7.5% is admissible to Bharat Sanchar

Nigam Limited having connected load of more than 100 KW and supplied at 11 KV, upto 31.03.2010”

25. Perusal of the above order would make it clear that the State Commission while interpreting Clause 13.5 of the General Conditions of Tariff approved by the State Commission has held that the consumers shall be allowed a rebate of 7.5% on their consumption charges where supply is catered at 11 KV. It is also held that the predecessors of the Appellant itself had proposed in the tariff application for the Financial Year 2006-07 that high voltage rebate of 7.5% being allowed to all consumers getting supply at 11 KV irrespective of the connected load be allowed. The State Commission while passing the Tariff Order for the year 2006-07 on 10.5.2006 decided to continue with the existing provisions for rebates and surcharges for availing supply at different voltages.
26. Having considered the above facts and also having regard to the Tariff Order passed on 8.9.2009 for the year 2009-10 wherein the State Commission decided to discontinue the rebate with effect from 1.4.2010 held in the above order that the rebate of 7.5% is admissible to the Respondent consumers having connected load of more than 100 KW and supply at 11 KV up to 31.3.2010.

27. As pointed out by the Respondents, the earlier tariff orders which allowed the rebate to continue up to 31.3.2010 have not been challenged in the Appellate Forum.
28. On that basis, the State Commission in the Impugned Order dated 1.8.2012 has concluded that the rebate of 7.5% will be admissible up to 31.3.2010.
29. Now let us refer to the second Impugned Order dated 6.8.2012 which has been Appealed in Appeal No.203 of 2012.
30. The relevant findings in this Order is as follows:

“PSPCL filed additional submissions vide C.E./ARR & TR memo No.5624/Sr.Xen/TR-5/517 dated 27.07.2012. PSPCL submitted that as per revised General Conditions of Tariff and Schedule of Tariff framed by PSERC and further circulated by erstwhile PSEB (now PSPCL) vide CC 36/06 dated 14.07.2006, there is reference in clause 13.5 vide which :

“Medium Supply, Small Power, Domestic Supply and Non Residential Supply consumers shall be allowed a rebate of 7.5% on their consumption charges including demand charges, if any, or Monthly Minimum Charges where supply is catered at 11 KV or higher voltage against the supply voltage of 400 volts specified in the character of service”.

Therefore Tariff Order for FY 2006-07 and CC 36/2006 issued by erstwhile PSEB (now PSPCL) on the basis of recommendations of PSERC, are to be read together.

The Commission notes that issue in this petition and pleadings of the parties are similar as in the case of Petition No.37 of 2012 filed by BSNL versus PSPCL and stands decided vide Order dated 01.08.2012 by the Commission. The operative part of Order dated 01.08.2012 passed by the Commission in Petition No.37 of 2012 is as under:-

“6. In view of the above the Commission decides that a rebate of 7.5% is admissible to Bharat Sanchar Nigam Limited having connected load of more than 100 KW and supplied at 11 KV, upto 31.03.2010”.

Accordingly, the Commission decides that rebate of 7.5% is admissible to RIMT Institutions (the petitioner) having connected load of more than 100 KW and supplied at 11 KV upto 31.03.2010.

The petition is disposed of accordingly.”

31. This order also would indicate that the State Commission has decided in favour of the consumers holding that they are entitled to get 7.5% rebate, relying upon its earlier order dated 1.8.2012.
32. Let us see the relevant portion of 3rd Impugned Order dated 10.10.2012 in Appeal No.263 of 2012 :

“6. The Commission notes that the issue in this petition and pleadings of the parties are similar as in the case of Petition No.37 of 2012 filed by Bharat Sanchar Nigam Limited (BSNL) versus PSPCL, which had been decided by the Commission vide Order dated 01.08.2012. The operative part of the Order

dated 01.08.2012 passed by the Commission in Petition No.37 of 2012 is as under:-

“6. In view of the above the Commission decides that a rebate of 7.5% is admissible to Bharat Sanchar Nigam Limited having connected load of more than 100 KW and supplied at 11 KV, upto 31.03.2010”.

The Commission further notes that Section 56(2) of the Electricity Act 2003 provides:-

“Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity”.

Thus, the recoveries raised against the petitioners after more than two years are not in accordance with law and are illegal.

7. Accordingly, the Commission allows this petition and set aside the impugned demand amounting to Rs.14,09,890/- issued by respondent No.2, Assistant Executive Engineer (Commercial), West Division (Special), Ludhiana vide memo No.1926 dated 18.06.2012 to the petitioner No.1 against A/c No.W 41-CS-01-00319 and demand amounting to Rs.9,88,023/- raised by respondent No.2 vide memo No.1944 dated 18.06.2012 against A/c No. W 41-CS-01-00648 of petitioner No.2 and directs the respondents to refund the amounts (1/3rd of the disputed amount) of Rs.4,69,964/- and Rs.3,29,341/- to petitioner No.1 and petitioner No.2 respectively. The Commission further directs the respondents to

allow HT rebate @ 7.5% of consumption for the months of January, February and March 2010 (upto 31.03.2010) to the petitioner No.1 and petitioner No.2, by adjustment in the ensuing bills”.

33. This Impugned Order also would reveal that similar order was passed relying upon the findings rendered in the earlier order dated 1.8.2012.
34. In this order, the State Commission would refer to Section 56.2 of the Electricity Act that if at all any recovery to be made against the consumers, the same must be done within two years from the date when such sum begun due.
35. In this case, the recoveries were raised against the Petitioners after more than two years which is not in accordance with the law.
36. So, the perusal of all the Impugned Orders would make it clear that the State Commission has interpreted relevant clauses in detail and concluded that the Respondents consumers are entitled to rebate of 7.5% at 11 KV irrespective of character of service.
37. According to the Appellant, the rebate should only be provided to those consumers which could avail supply at 400 Voltage as per the general conditions of tariff but taking supply at 11 KV. The policy of high voltage rebate was conceived as an incentive to the consumers to transform their connection towards higher voltage. We do

not understand as to how allowing rebate to consumers who otherwise have to avail supply at 11 KV would discourage the consumers with connected load of up to 100 KW who could take supply at 400 KV to switch over to 11 KV and avail the rebate. The tariff of the consumers with connected load of above 100 KW who are availing supply at 11 KV has not been determined based on the actual cost/voltage wise cost of supply but has been determined on the basis of average cost of supply. Therefore, allowing rebate to such consumers who otherwise had to avail supply at 11 KV is perfectly in order.

38. It is a well settled rule of statutory interpretation that if the language of the legislation used is capable of bearing more than one construction in selecting the true meaning, regard must be had to the consequences resulting from adopting the alternative constructions.
39. Hence the harmonious and purposive interpretation of the Clause 13.5 of the General Conditions and Clause SV 3.2 of the said Schedule, would necessarily entail that the rebate would be applicable to all the consumers taking supply at 11 KV including those consumers who are otherwise entitled to avail supply at 400 V but are taking supply at 11 KV.

40. The whole purpose of the voltage rebate is to recognise the reduction in loss in supply to consumers at 11 KV as compared to supply at 400 KV.
41. It is settled law that the General Conditions of Tariff and the Schedule of Tariff ought to be construed harmoniously in order to give effect to the policy objective behind introduction of the system of the rebate.
42. If the rebate was allowed in accordance with Clause 13.5 of the General Conditions of Tariff and Schedule of Tariff, then it ought to be allowed to all the consumers. Hence, the Appellant cannot pick and choose and contend that the Respondent consumers were not entitled for the rebate during the Financial Year 2009-10.
43. The stand of the Appellant is that the State Commission has approved General Conditions of Tariff and as per the Clause 13.5 of the said conditions, medium supply, small power, domestic and NRS consumers shall be allowed a rebate of 7.5% on their consumption charges or monthly minimum charges where supply is catered at 11 KV or higher voltage against the supply voltage of 400 Volts specified in the character of service.
44. Let us refer to the said conditions:

“1. General

Supply of electric energy to various categories of consumers shall be chargeable under the relevant Schedule of Tariffs. The particular Schedule applicable to a new consumer shall be determined with reference to nature and quantum of supply and load. This shall be determined before the connection is actually released and shall be intimated to the prospective consumer at the time of issue of Demand Notice. This shall be subject to review on the basis of any change in nature and the quantum of actual connected load. The Board/Licensee reserves the right to amend or alter any of the Schedules of Tariff with the approval of the Commission. The rates of tariff given in the Schedules are for the year 2005-06 as approved by the Commission. The rates of tariff for future years shall be as decided by the Commission from time to time.

45. The perusal of the above condition would show that the supply of electric energy to various categories of consumers shall be chargeable under the relevant schedule of tariff.
46. It means that it is the schedule of tariff which would prevail. In the General clause, it is specifically mentioned that the charges would be charged as per the schedule of tariff attached with the General Conditions of Tariff and the rates of Tariff given in the schedules are for the year 2005-06.
47. From the above, it is clear that the Respondent consumers were getting rebate of 7.5% on consumption charges or MMC in the year 2005-06 and in the tariff order. In the tariff order 2006-07, the same position was maintained by the State

Commission. In its Tariff Order for 2007-08 also, the State Commission discussed the issue of high voltage rebate.

48. As indicated above, the Appellant did not challenge this Tariff Orders before this Tribunal and as such, the Tariff Orders attained finality and the voltage rebate remained same as mentioned in the Tariff Order for the year 2006-07.
49. Similarly, in the Tariff Order for the year 2008-09, again the position remained the same. The State Commission specifically observed in the said Order that the existing provisions for rebates and surcharges for availing supply at different voltage will continue. This Tariff Order also was not challenged by the Appellant.
50. The similar observations made by the State Commission in the Tariff Order for the year 2009-10 also.
51. As mentioned above, these tariff orders have never been challenged by the Appellant. As per the Tariff Order for the Year 2009-10, the rebates were allowed to the Respondent consumers up to 31.3.2010. This order also has attained finality.
52. The Appellant has merely relied upon Clause 13.5 of the General Conditions of Tariff but this has to be interpreted in the light of Section 45 of the Electricity Act, 2003 and clause SV 3.2 of the Schedule of tariff. Section 45 of the Electricity Act which cannot be discarded, specifically says

that the tariff can be charged as determined by the Regulatory Commission. Therefore, the Appellant could charge only as per the Tariff Orders which have not been challenged.

53. In our view, the interpretation given by the State Commission on the relevant clauses and Section is perfectly valid.

54. In view of the above discussion, we conclude that there is no infirmity in the Impugned Order warranting any interference.

55. **Summary of Our Findings**

The State Commission has correctly held that the rebate of 7.5% is admissible to the consumers having connected load of more than 100 KW and supplied at 11 KV up to 31.3.2010. The tariff decided by the State Commission against the various orders from 2006-07 to 2009-10 specifically allowing the above rebate have attained finality and they could not be challenged now by the Distribution licensee under the garb of seeking clarification.

56. In view of our above conclusions, the Appeals are dismissed as devoid of merits. However, there is no order as to cost.

57. Pronounced in the Open Court on this 07th day of March, 2014.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:7th Mar, 2014

√REPORTABLE/~~NON-REPORTABLE~~