

**Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

IA no. 157 of 2014 in
Appeal no. 10 of 2013

Dated: 24th April, 2014

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

In the matter of:

**Association of Approved and
Classified Hotels of Kerala
Willington Island, Cochin 682 003
Kerala State**

...Appellant(s)

Versus

- 1. Kerala State Electricity Regulatory Commission
C.V. Raman Pillai road Vellayambalam
Thiruvananthapuram – 695 010** **...Respondent(s)**

- 2. Kerala State Electricity Board
Vydhuthi Bhavan, Pattom Post
Thiruvananthapuram – 695 004
Kerala State**

Counsel for the Appellant(s) : Mr. James P. Thomas

Counsel for the Respondent(s) : Mr. M.T. George

ORDER

RAKESH NATH, TECHNICAL MEMBER

The Applicant/Appellant has filed IA No. 157 of 2014 in Appeal no. 10 of 2013 for clarification in the judgment of this Tribunal dated 25.10.2013 in the above Appeal. Besides the application for clarification, the Applicant has also filed an application for condonation of delay. The reason for the delay has been indicated due to pendency of the Appeal filed by the Respondent no.2 against the judgment of the Tribunal before the Hon'ble Supreme Court.

2. We have heard the Learned Counsel for the Applicant and Learned Counsel for the Respondent no.2. Learned Counsel for the Respondent no.2 has not raised any objection regarding condonation of delay but

have serious objection to passing of any orders on the clarificatory Application seeking clarification.

3. According to the Learned Counsel for the Applicant, the Tribunal in the judgment dated 25.10.2013 allowed the Appeal and directed that the tariff for HT IV consumers should be confined to Rs. 5.50 per unit irrespective of the number of units and while doing so the Tribunal did not address any other issue raised, including that relating to the rate of cross subsidy, as the Tribunal went by the acceptance of the tariff as proposed by the Respondent no.2. The Applicant has no quarrel with the said proposition but its limited apprehension is that the acceptance of judgment may not be treated as acceptance of the rate of cross subsidy also. Hence, the petition is filed seeking clarification that issues relating to the rate of cross subsidy across the tariff revision orders and other issues raised in the Appeal

having not been considered in the judgment dated 25.10.2013, are left open.

4. According to Shri George, Learned Counsel for the Respondent no.2, the Application for clarification is not maintainable as the Applicant under the garb of clarification is seeking review of the judgment. The Respondent no.2 had filed an Appeal against the judgment of the Tribunal dated 25.10.2013 which has since been disposed of by the Hon'ble Supreme Court by upholding the findings of the Tribunal but making some modification regarding payment of interest.

5. We find that there is a prescribed time limit of 30 days for filing review petition before this Tribunal. However, for filing Application for clarification of the judgment of this Tribunal, there are no rules specifying the period within which the Application has to be filed. In view of

the fact that the Appeal filed against the said judgment was under consideration of the Hon'ble Supreme Court, we deem it fit to consider the Application seeking clarification of our judgment.

6. After careful consideration of the matter, we come to the conclusion that no order is required to be passed in the Application for clarification. Firstly, the Tribunal has dealt with all the matters raised by the Appellant in the said Appeal. Secondly, we find that the Applicant under the garb of clarification has sought review of our judgment which is not permissible. Thirdly, the judgment of the Tribunal was challenged by the Respondent no.2 in the Hon'ble Supreme Court which has already disposed of the said Appeal. Therefore at this stage, it may not be proper to make any new observation in the matter by way of clarification.

7. In view of above, we dismiss the IA no. 157 of 2014 in Appeal no. 10 of 2013 filed by the Applicant/Appellant.

8. Pronounced in the open court on this 24th day of April, 2014.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

REPORTABLE/NON-REPORTABLE

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