

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

**I.A. No. 248 of 2014 in Appeal No. 108 of 2014**

**Dated: 23<sup>rd</sup> July, 2014**

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

**In the matter of:**

- 1. Power Company of Karnataka Ltd.,  
KPTCL Building, Kaveri Bhavan,  
K.G. Road,  
Bangalore- 560 009**
  - 2. Bangalore Electricity Supply Co. Ltd.,  
KR Circle, Bangalore- 560 001**
  - 3. Mangalore Electricity Supply Co. Ltd.,  
Paradigm Plaza, AB Shetty Circle,  
Mangalore-575 001**
  - 4. Gulbarga Electricity Supply Co. Ltd.,  
Station Main Road,  
Gulbarga-585 102**
  - 5. Hubli Electricity Supply Co. Ltd.,  
Corporate Office,  
Navanagar, PB Road,  
Hubli-580 025**
  - 6. Chamundeshwari Electricity Supply Corporation Ltd.,  
Corporate Office, No. 927, LJ Avenue,  
New KantarajaUrs Road,  
Saraswathipuram,  
Mysore-570 009**
- .... Appellants/  
Non- Applicants/**

**Vs.**

- 1. Central Electricity Regulatory Commission,  
3<sup>rd</sup> & 4<sup>th</sup> Floor, Chanderlok Building,  
36, Janpath,  
NEW DELHI-110 001**

2. **Punjab State Power Corporation Ltd., Patiala**  
**The Mall,**  
**Patiala-147 001**  
**Punjab**

3. **M/s. Janajagrithi Samithi, Karnataka,**  
**Executive President, Nandikur, Udupi District,**  
**Karnataka-574 138** .... Respondents

**Udupi Power Corporation Limited, Bangalore,**  
**2<sup>nd</sup> Floor, Le Parc Richmond,**  
**51, Richmond Road,**  
**Bangalore-560 025** .... Respondent No.2/  
**Applicant**

**Counsel for the Applicant/  
Respondent No. 2** : **Mr. C.S. Vaidanathan, Sr. Adv.**  
**Mr. Sitesh Mukherjee**  
**Ms. Sakya Singha Chaudhuri**  
**Mr. Anand Kr. Shrivastava**  
**Ms. Kanika Chug for R-2/Applicant**

**Counsel for the Appellants/  
Non-Applicant** : **Mr. Anand K. Ganesan**  
**Ms. Swapna Seshadri**

**Counsel for the Respondent(s)** : **Mr. Nikhil Nayyar**  
**Mr. Dhananjay Baijal for R-1**  
**Mr. Pradeep Misra**  
**Mr. Daleep Kr. Dhyani for**  
**R-3 to 5**

## **ORDER**

### **Rakesh Nath, Technical Member**

I.A. no. 248 of 2014 in Appeal No. 108 of 2014 has been filed by Udupi Power Corporation Limited, the Respondent no. 2/Applicant to seek clarification of the interim order dated 3.6.2014 passed by this

Tribunal regarding payment of tariff and arrears to the Applicant.

2. The Applicant has sought the clarification on the following:

(i) In paragraph 11 (ii) of the said Order, the Appellants were directed to pay the arrears due from 1.2.2013 on account of difference between the final tariff decided by the Central Commission and the amount already paid at provisional tariff as per the interim order dated 8.2.2013 of this Tribunal. The order dated 8.2.2013 had directed the Appellants to pay the provisional tariff with effect from 1.9.2012. Accordingly, the Tribunal may clarify that the arrears due on account of difference between the final tariff decided by the Central Commission and the amount

paid at provisional tariff as per the Order dated 8.2.2013 shall be paid with effect from 1.9.2012.

(ii) In the said Order dated 3.6.2014 at paragraph 11 (iii), it is stated that the payment of arrears claimed for the period from 11.11.2010 to 31.1.2013 will be subject to the outcome of these Appeals. In view of the above clarification sought aforesaid from this Tribunal, this Tribunal may be pleased to clarify that the payment of arrears claimed for the period from 11.11.2010 to 31.8.2012 will be subject to the outcome of these Appeals.

(iii) In paragraph 10 of the said Order dated 3.6.2014 this Tribunal has noted the contention of Respondent No. 2 that the outstanding after adjustments of the advance given by the distribution licensee are of the order of Rs. 1540 crores. The

Tribunal may be pleased to clarify that the said advance given by the distribution licensee shall not be adjusted by Appellants during the pendency of the Appeals.

3. We have heard Shri C.S. Vaidanathan, learned Sr. Advocate representing the Applicant/Respondent no. 2 and Shri Anand K. Ganesan, learned counsel for the Appellants.

4. We feel that no clarification is necessary as our order dated 3.6.2014 is very clear. As stated in the order, keeping in view the balance of interests of both the generator and the distribution licensees, we have passed the interim order directing the Distribution Licensees to pay the charges at the final tariff determined by the Central Commission vide impugned order dated 20.2.2014 from 1.4.2014 and the arrears

due from 1.2.2013 on account of difference between the final tariff and the provisional tariff as per the interim order dated 8.2.2013 in eight equal instalments by the end of every month, the first instalment to be paid by 30.6.2014. However, we have not allowed the payment of arrears claimed for the period from 11.11.2010 to 31.1.2013 which will be subject to the outcome of these Appeals.

5. The Applicants/ Appellants by filing the IA no. 248 of 2014 want us to re-consider our decision and grant payment of arrears w.e. from 1.9.2012 which is not permissible in clarificatory order. The Applicants also want us to issue order on the issue regarding adjustment of advance given by the Distribution licensee which is not permissible in a clarificatory order.

6. Accordingly, we dismiss I.A. No. 248 of 2014.

7. Post the main Appeals for hearing on **26.08.2014**. In the meantime, pleadings be completed.

**( Rakesh Nath)**  
**Technical Member**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**

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**REPORTABLE/~~NON-REPORTABLE~~**

Vs