

COURT-II

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

APPEAL NO. 228 OF 2014

Dated : 25th March, 2019

**Present: Hon'ble Mr. Justice N. K. Patil, Judicial Member
Hon'ble Mr. Ravindra Kumar Verma, Technical Member**

In the matter of:

**Silvasa Industries Association & Ors. Appellant(s)
Vs.
Joint Electricity Regulatory Commission & Ors. Respondent(s)**

Counsel for the Appellant(s) : Mr. Rohit Rao N.
Ms. Devahuti Tamuli

Counsel for the Respondent(s) : Ms. Rimali Batra
Ms. Shruti Awasthi
Ms. Saroj Bala
Ms. Krishna Singh for R-1

Mr. Gaurav Mitra
Mr. Vishnu Sharma
Mr. Rohan Ganpathy for R-3

O R D E R

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

The Appellant has presented the instant Appeal seeking the following reliefs:

- a) Call for the entire records pertaining to the Petition No. 120 of 2013 dated 27.11.2013 for Review of financial year 2013-2014, Aggregate Revenue Requirement and Retail Supply Tariff for financial year 2014-2015 of the 2nd Respondent filed before the 1st Respondent Commission, which resulted in the passing of the impugned order dated 05.05.2014;

- b) Set aside the impugned order dated 05.05.2014 passed by the 1st Respondent Joint Electricity Regulatory Commission in Petition No. 120 of 2013;
- c) Set aside the re-categorization of earlier HT(A) category of consumer into HT(A)-I and HT(A)-II;
- d) Set aside the tariff applicable to LT, HT(A)-I and HT(A)-II and restore the tariff applicable to LT and HT(A) consumers in the financial year 2013-2014;
- e) Grant cost of this appeal, and
- f) To grant such other and further reliefs as this Tribunal deems fit to pass under the facts and circumstances of the case, in the interest of justice.

The Appellant has presented this Appeal for considering the following Questions of Law:

- A. Whether Regulation 8 of the Joint Electricity Regulatory Commission (Determination of Tariff) Regulations, 2009, empowers the 1st Respondent Commission to suo-motto increase the ARR of the Licensee, while reviewing the performance of the Licensee, especially when the application for review sought for reducing the ARR?
- B. Whether the 2nd Respondent, being a company incorporated under the Companies Act, 1956, is not obligated to maintain accounts as per the Accounting Standards of the Companies Act, 1956?
- C. Whether the bifurcation of HT(A) consumers to HT(A)-I and HT(A)-II and granting them different tariffs, merely on the basis that HT(A)-II consumers deserve benefits for procuring electricity at higher voltages is not discriminatory and against the provisions of Section 62(3) of the Electricity Act, 2003?

D. Whether cross-subsidizing heavy power intensive industries at the cost of smaller industries consuming lesser power, can be permitted under the scheme of the Electricity Act, 2003, particularly Section 61?

In the instant Appeal, Silvassa Industries Association & Ors. (in short, the "Appellants") are questioning the legality and validity of the Impugned Order dated 05.05.2014 passed in Petition No. 120 of 2013 by the Joint Electricity Regulatory Commission, Gurgaon.

The learned counsel appearing for the Appellant has filed a Memo dated 25.03.2019. The same is taken on record.

The learned counsel Ms. Devahuti Tamuli on behalf of the learned counsel Mr. Rohit Roa N. appearing for the Appellants at the outset submitted that the instant Appeal filed by the Appellants may be disposed of on the ground that the prayer sought in this Appeal does not survive for consideration by virtue of subsequent tariff order passed by the Joint Electricity Regulatory Commission, Gurgaon. Therefore, upon instructions she submitted that the instant Appeal on the file of Appellate Tribunal for Electricity, New Delhi may kindly be disposed of.

The submissions made by the learned counsel appearing for the Appellants, as stated supra, are placed on record.

We have heard the learned counsel for the Appellants and learned counsel appearing for the Respondents.

The statement made in the Memo dated 25.03.2019 reads as follows:-

- "1. The above appeal filed by the Appellants pertains to the tariff order passed for the year 2014-15.

2. That upon instructions from the Appellants it is submitted that the issues that arise in the instant appeal have been rendered infructuous by virtue of the subsequent tariff orders passed by the JERC.
3. Therefore, it is prayed that this Tribunal may be pleased to:
 - A. Pass as order disposing of the Appeal, by keeping the questions of law open, as infructuous;
 - B. Pass any other order as is deemed fit and appropriate in the interest of justice.”

In the light of the submissions and the statement made in Memo dated 25.03.2019 as stated supra, the instant Appeal filed by the Appellant stand disposed of on the ground that the prayer sought in the present Appeal does not survive for consideration by virtue of subsequent tariff order passed by the Joint Electricity Regulatory Commission, Gurgaon.

It is needless to clarify that the Appellants are entitled to redress their grievances regarding question of law if advised or if the need so arises.

With these observations, the instant Appeal being Appeal No. 228 of 2014 stands disposed of as having become infructuous.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member

mk/bn

(Justice N. K. Patil)
Judicial Member