

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 103 of 2012

Dated : 31st May, 2013

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

M/s. Maruti Suzuki India Ltd. ... Appellant(s)

Versus

Haryana Electricity Regulatory Commission & Anr. ... Respondent(s)

Counsel for the Appellant(s): Mr. M.G. Ramachandran
Mr. Anand K. Ganesan
Ms. Swagatika Sahoo

Counsel for the Respondent(s): Ms. Shikha Ohri for R-1
Mr. Amit Kapur,
Mr. Vishal Anand,
Mr. Gaurav Dudeja for R-2

ORDER

The learned counsel for the parties have filed a statement giving the details of the various issues to be decided by this Bench. We feel that it would be better that the said issues can be decided by the Full Bench, which are as under:

- “ A) Whether the term “shall be guided” used in Section 61, 79 and 86 means Appropriate Commission has to mandatorily follow Tariff Policy and National Electricity Policy ignoring Regulations framed by it?***
- B) Whether in view of the decisions the decision of the Hon'ble Supreme Court in PTC India Limited V. Central Electricity Commission (2010) 4 SCC and RVK Energy Private Limited V. Central Power Distribution Co. of Andhra Pradesh Ltd. 2007 ELR (APTEL) 1222:***

- i) A Tariff Policy framed under Section 3 of the Electricity Act, 2003 can override Regulations framed under Section 61 read with Section 178/181 of the Electricity Act, 2003?*
 - ii) The Regulations notified by the State Commission under Section 181 of the Electricity Act can specify any different methodology or formula for calculation of cross subsidy surcharge?*
- C) Whether in the fact and circumstances of the present case Regulation 33 of the Haryana Electricity Regulatory Commission (terms and conditions for Determination of Wheeling Tariff and Distribution and Retail Supply Tariff) Regulations, 2008 specifies a methodology for determination of cross subsidy surcharge contrary to the methodology provided under the Tariff Policy?*
- D) Whether in the facts of the case the Appellant can seek adjudication upon the issue(s) which have already been decided in light of the Judgment dated 04.10.2012 passed in Appeal No. 200 of 2011 which now are the subject matter of Civil Appeal Nos. 13 of 2013 (by Maruti Suzuki on 06.12.2012) and D-3684 of 2013 (by DHBVN on 31.01.2013)?*
- E) Whether the cross-subsidy determined by Ld. Haryana Commission in the impugned Order is contrary to the provisions of the Electricity Act, 2003?*

Therefore, the matter is referred to the Full Bench to decide the issues referred to above in the light of the statement filed by the learned counsel for the parties.

Post the matter before the Full Bench on **29.07.2013** for deciding the above mentioned issues as well as the merits of the Appeal.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

ts/vt