

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

**Appeal Nos, 163,164, 165, 172 of 2009,
34 & 35 of 2010**

Dated :30th May, 2011

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. V.J. Talwar, Technical Member**

**Appeal No. 163 of 2009 &
IA No. 280 of 2009**

Trent Ltd. & Co. ... Appellant (s)

Versus

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

**Appeal No. 164 of 2009 &
IA No. 281 of 2009**

Hard Castle Restaurants (P) Ltd. ...Appellant(s)

Versus

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

**Appeal No. 165 of 2009 &
IA No. 282 of 2009**

Spencers Retail Ltd. ...Appellant(s)

Versus

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

Appeal No. 172 of 2009

Trent Ltd. & Co. & Ors. ...Appellant(s)

Versus

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

Appeal No. 34 of 2010

Multiplex Association of India ...Appellant(s)

Versus

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

Appeal No. 35 of 2010

Multiplex Association of India ...Appellant(s)

Versus

Maharashtra Electricity Regulatory
Commission & Anr Respondent (s)

Counsel for the Appellant(s): Mr. Anand K. Ganesan,
Mr. Rajat Jariwal
Ms. Ranjitha Ramachandran

Counsel for the Respondent(s): Mr. Buddy A. Ranganadhan for
MERC
Mr. Hasan Murtaza for R.2
Mr. Samir Malik for MSEDCL

ORDER

We have heard all the Learned counsel for the parties.

The short controversy involved in these Appeals is as to what should be the base year figure for the purpose of calculation of cross subsidy in the impugned tariff order, which has fixed the Retail tariff for the year 2009-2010.

These Appeals involve the tariff for the Appellant's categories decided by the State Commission for the year 2009-10 which have been challenged on the ground that there is an increase in the cross-subsidy. Admittedly, the decision of this Tribunal in the present appeals relate to the period subsequent to the tariff year which is under challenge in the Civil Appeals before Hon'ble Supreme Court filed by some parties in which the operation of the Tribunal's judgement is stayed. The Appellants have contended that the base tariff taken by the State Commission for the year 2009-10 is as per the tariff determined by the State Commission for the year 2008-2009 without following the judgement of the Appellate Tribunal setting aside the same. It is also contended that any decision by this Tribunal in the present Appeals can be given effect to and implemented by the State Commission only after the pronouncement of the judgements by the

Hon'ble Supreme Court on the issue as they are dependent on implementation of the order relating to the previous year.

On the other hand, on behalf of the State Commission, the Learned Counsel has submitted that if the tariff of 2008-09 is taken the Base Tariff, then there is in fact a decrease in the cross subsidy for the subject categories and that since the redetermination of tariff for the year 2008-09 has already been stayed by the Hon'ble Supreme Court, the Base Tariff for the year 2009-10 has been correctly fixed by the State Commission.

We have considered the submissions of both the parties. In view of the contention urged by the respective counsel for the parties and also in the light of the fact that the decisions on the issues involved in the present Appeals are dependent on the decisions on the issues pending before the Hon'ble Supreme Court, we deem it fit to dispose of all the present Appeals observing that the decision on the issues

involved in the present Appeals shall follow the decision of the Hon'ble Supreme in the Civil Appeal No. 1603 of 2009 and other similar Appeals and accordingly, the State Commission may take decision in accordance with and as per the decision of the Hon'ble Supreme Court after pronouncement of the judgement in those Appeals by the Hon'ble Supreme Court.

Thus, all these Appeals shall be disposed of with a direction to the State Commission to decide the said issues in accordance with the judgement of Hon'ble Supreme Court after its pronouncement.

With these observations, all these Appeals stand disposed. There is no order as to cost.

(V.J. Talwar)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

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