

**Appellate Tribunal for Electricity**

**(Appellate Jurisdiction)**

**IA 275 of 2013 in Appeal No.198 of 2013**

**Dated: 26<sup>th</sup> Sept, 2013**

**Present: HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,  
CHAIRPERSON  
HON'BLE MR. V.J. TALWAR, TECHNICAL MEMBER**

**In the Matter of:**

**M/s K.K.K. Hydro Power Ltd.,  
Having its head office at 1-41, DLF Industrial Area  
Phase-1, Faridabad, Haryana-121003.**

**..... Applicant/Appellant**

**Versus**

- 1. Himachal Pradesh Electricity Regulatory Commission,  
Through its Secretary, Khalini, Shimla-2.**
- 2. Himachal Pradesh State Electricity Board Ltd.,  
Through its Director, Kumar House,  
Shimla-171004.**
- 3. State of Himchal Pradesh,  
Through Principal Secretary(MPP & Power),  
to the Government of Himachal Pradesh,  
Shimla-2.**
- 4. The Himachal Pradesh Energy Development  
Agency(HIMURJA)sda Complex,  
Kasumpti, Shimla(H.P)-171009**

**..... Respondent(s)**

Counsel for the Appellant : Mr. Raj Kumar Mehta  
Mr. Antaryami Upadhyay

Counsel for the Respondent(s): Mr. Anand K. Ganesan  
Mr. Swapna Seshadri for R-2

**ORDER**

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,  
CHAIRPERSON**

1. M/s. K.K.K. Hydro Power Limited has filed this Appeal as against the impugned order dated 05.7.2013 passed by the Himachal Pradesh State Electricity Regulatory Commission.
2. By the said order, the State Commission dismissed the petition filed by the Appellant seeking for directions to the Himachal Pradesh State Electricity Board Ltd., the Respondent-2 to make payment of arrears for the electricity supplied by the Appellant to the Electricity Board at the rate of Rs.2.95 per unit with effect from 11.3.2018 i.e. the date of the supplementary PPA.
3. Pending the Appeal, the Appellant through this Application seeks for stay of the operation of the impugned order dated 07.5.2013 and for the directions to the Electricity Board to make the payment of arrears with regard to the differential

amount of 45 paise per unit with effect from 11.3.2008 to July,2013.

4. While we admitted the Appeal, we have issued notice to Respondent in the Application seeking for the grant of stay of the impugned order during the pendency of Appeal.
5. On receipt of the notice, the Respondent Board through its learned Counsel appeared and opposed the stay of the operation of the impugned order dated 5.7.2013 in entirety and suggested that the order may be passed to maintain the status-quo ante during the pendency of the Appeal.
6. We have heard the learned Counsel for both the parties with reference to the interim relief.
7. According to the learned Counsel for the Appellant/Applicant the Respondent may be directed to pay the tariff of Rs.2.95 per unit as per the supplementary PPA. On the other hand, the learned Counsel for the Respondent-2 submits that the main relief in the present Appeal is that the tariff of Rs.2.95 per unit should be paid to the Appellant and the said relief at the interim stage by way of mandatory interim order can not be granted.
8. However, the learned Counsel for R-2 filed a memo stating that order may be passed to maintain the status-quo ante. The relevant portion of the memo filed by the Respondent is as follows:-

“As the impugned order is under challenge before the Hon’ble Tribunal as an interim measure the Respondent No.2 shall maintain status quo ante, as was prevalent immediately prior to passing of the impugned order dated 5.7.2013. The Respondent No.2 shall not make any recovery of excess arrear payments in terms of the impugned order in the future bills to be raised by the Appellant during the pendency of the Appeal. This is without prejudice to the rights and contentions of the parties in the present Appeal.

The Respondent No.2 will maintain status quo ante i.e. continue to pay the Appellant at the rate of Rs.2.50 per unit without making any deductions pending the disposal of the Appeal before the Hon’ble Tribunal.”

9. In view of the memo filed by the Respondent, we deem it appropriate to pass the order directing the Respondent to maintain the status-quo ante as was prevalent immediately prior to the passing of the impugned order dated 5.7.2013 and continue to pay the Appellant at the rate of Rs.2.50 per unit without making any deduction pending disposal of the Appeal. Accordingly, ordered.
10. This order is subject to the out-come of the Appeal and without prejudice to the rights and contentions of the respective parties in the present Appeal.

- 11.** We feel it proper to fix an early date for the disposal of main Appeal. Accordingly, the Appeal is posted for final disposal on **28.10.2013**. In the meantime, the parties are directed to complete the pleading.
- 12.** With this observation, this Application in I.A. No.275 of 2013 is disposed of.

***(V.J. Talwar)***  
***Technical Member***

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

Dated: 26<sup>th</sup> Sept, 2013

✓ ~~REPORTABLE/NON-REPORTABLE~~