IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No.185 OF 2022

Dated: 28.05.2025

Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member
Hon'ble Mr. Virender Bhat, Judicial Member

In the matter of:

M/s Rana Sugars Limited
Through its Authorized Signatory,
Vill: Belwara, Distt: Moradabad – 244104
Uttar Pradesh
E-mail: gmt.belwara@ranasugars.com … Appellant

Versus

1. **Uttar Pradesh Electricity Regulatory Commission**
Vidyut Niyamak Bhawan
Vibhuti Khand-II, Near Mantri Awas
Gomti Nagar, Lucknow, 226010, U.P.
Through its Secretary & others
E-mail: secretary@uperc.org

2. **U.P. Power Corporation Ltd.**
Through its Managing Director
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001
E-mail: cmd@uppcl.org

3. **The Superintending Engineer**
Electricity Import Export and Payment Circle,
U.P. Power Corporation Ltd.
Shakti Bhawan Extension,
Lucknow – 226010
E-mail: seiepclko@upptcl.org

4. Director, State Load Dispatch Centre
Phase-II, Vibhuti Khand,
Lucknow – 226010
E-mail: directorsldc@upsldc.org

5. The Chief Engineer
Power Purchase Directorate
Shakti Bhawan, 14, Ashoka Marg,
Lucknow – 226001
E-mail: ceppa2019@gmail.com … Respondent(s)

Counsel for the Appellant(s) : Desh Deepak Chopra, Sr. adv.
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Nived Veerapaneni
Karan Arora
Shubham Mudgil
Kartikeya Yadav
Sujoy Sur
Vedant Kumar for Res. 2

Divyanshu Bhatt for Res. 4

J U D G M E N T

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. This appeal is directed against the order dated 15.03.2022 passed by 1st respondent Uttar Pradesh Electricity Regulatory Commission (hereinafter referred to as "the Commission") in petition no.1767 of 2021 of the appellant, whereby the Commission, while dismissing the petition, has refused the

request of the appellant to rectify an bonafide mistake committed by it in feeding data in portal of 4th respondent State Load Dispatch Centre (in short "SLDC") with regards to the declared capacity of its 27.4MW Bagasse based generating plant.

2. A brief conspectus of the facts giving rise to the instant appeal is given below.

3. The appellant is engaged in the business of sugar manufacturing and other incidental business and also owns/operates a 27.4MW Bagasse based generating plant in Moradabad, Uttar Pradesh.

4. The 2nd respondent UPPCL is responsible for electricity distribution within the State of Uttar Pradesh and for that purpose, procures power from various sources including State/Central Government owned power generators as well as independent power producers to ensure power supply to its consumers within the State. Respondent no.3, Electricity Import Export and Payment Circle is a Department of 2nd respondent and is responsible for processing and approval of bills raised by the generating companies having Power Purchase Agreements (PPAs) with the discom for onward payment by the Finance Department of 2nd respondent.

5. Respondent no.4 SLDC has been constituted under the provisions of Section 31 of the Electricity Act, 2003, and is responsible for monitoring grid operation including optimum scheduling and dispatch of electricity within the State. In accordance with the contracts entered into with the licensees or the generating companies operating within the State. The 5th respondent is the Chief Engineer in Power Purchase Directorate of 2nd respondent and is responsible for executing agreements with the generators to procure electricity for the discom through the 2nd respondent.

6. The appellant has entered into a Power Purchase Agreement (PPA) dated 03.08.2006 with 2nd respondent UP Power Corporation Limited (hereinafter referred to as the "UPPCL") to export 15 MW surplus power from its generating plant during season and 20MW during off-season as per the tariff determined by the Commission. The said export of power was increased to 27MW during season and 32MW during off-season vide supplementary Power Purchase Agreement dated 15.10.2014 executed between the parties to this effect.

7. As per the provisions of UPERC (Captive and Renewable Energy Generation Plant) Regulations, 2019 (hereinafter referred to as the "CRE

Regulations, 2019") all Renewable Energy Generators (Co-generators, Captive Generators, Solar Generators) in the State of Uttar Pradesh are required to submit their Declared Capacity (DC) on day ahead basis in the time block of 15 minutes to third respondent on regular basis.

8. It appears that due to some confusion or miscommunication, the appellant declared only 25% of its declared capacity each in the time block of 15 minutes. Thus, the appellant has been wrongly feeding only 1/4th i.e. 25% of its actual declared capacity in the time block of 15 minutes each, as a result of which there is substantial difference between the actual power exported to the discom by the appellant and the declared capacity as fed in the portal of 4th respondent SLDC. It further appears that the error in feeding the declared capacity by the appellant went unnoticed by both the UPPCL as well as SLDC up to January, 2021.

9. Later on, the 2nd respondent stopped payment of bills raised by the appellant towards export of power from its power project on account of mismatch between the energy account and the bills raised by the appellant. It is at this stage that the appellant realized the mistake in feeding declared capacity on portal of 4th respondent and accordingly, vide email dated

30.01.2021 informed respondent no.3 about the same. It was followed by various reminder from the appellant.

10. The 2nd respondent has paid all the bills raised by the appellant for export of power till September, 2020 but has refused to pay bills from the month of October, 2020 on account of feeding error committed by the appellant.

11. It is, in these circumstances that the appellant approached the Commission by way of petition on.1767 of 2021 invoking its inherent power to rectify the error which had occurred on the part of the appellant in feeding data in the portal of UPSLDC from October, 2020 to January, 2021. The appellant had made following prayers in the petition: -

> *"a) while exercising its inherent power, this Learned Commission may be pleased to rectify the mistake committed by the Petitioner in feeding data in Respondent No. 3's portal from October, 2020 to January, 2021; or,*
>
> *b) to direct Respondent No. 3 or Respondents, to rectify the mistake committed by the Petitioner in*

feeding data in its portal and to make payments of the bills raised by the Petitioner from October, 2020 onwards; and/ or;

c) the Hon'ble Commission may issue any other further order or directions in favor of the Petitioner as it may deem fit and proper under the facts and circumstances of the case."

12. The petition has been dismissed by the Commission vide impugned order dated 15.03.2022, thereby expressing its inability to accept the appellant's prayers. The relevant portion of the impugned order is quoted hereinbelow: -

"34. <u>It is observed that in a similar matter with identical prayers, the Commission vide Order dated 11.11.2021 in Petition No. 1669 of 2021 (Sukhbir Agro Energy Ltd. vs UPPCL & others) has decided not to allow rectification of the mistake committed in feeding the data in UPSLDC portal beyond five days as specified in UPEGC/ IEGC</u>. The relevant extract of the same is reproduced below:

"……

18. Petitioner has submitted that regulations are silent for the period beyond 5 days. In this context, it is to clarify that the regulation provides the time period (i.e., 5 days) within which the users can rectify/verify their mistake, and this time period cannot be left open for infinite time period to rectify/verify their mistake as in an integrated system, the correction of one user may have consequent impact on the others users / entities as it would affect the energy accounting, DSM accounts and bills raised, in terms of the UPERC CRE Regulâtions, 2019 and UPEGC/IEGC as amended from time to time.

19.The onus lies with the Petitioner to furnish/submit the correct data/information without any laxity to the system operator as per applicable UPEGC provisions and Regulations. Further, the Petitioner had been submitting schedules to UPSLDC even earlier to the disputed period.

Therefore, this feeding of data in SLDC's portal was not new to the Petitioner but because of its negligence and laxity, so called mistakes happened for over six and half months without any correction.

20.In view of the above, we are not inclined to allow the prayer of the Petitioner to rectify the mistake committed in feeding the data. However, the banking of power is commercial arrangement between the Petitioner and the Respondent / Discom, therefore, UPPCL may settle the payment for the unutilized banked energy, if any, for the period pertaining to dispute i.e, 16.05.2020 to 03.12.2020 as per UPERC CRE Regulations, 2019.

……..”

35. <u>In view of above, the Commission has already taken a view that the regulation provides the time period (i.e., 5 days) within which the users can</u>

rectify/verify their mistake, and this time period cannot be left open for infinite time period to rectify/verify mistake as in an integrated system, the correction of one user may have consequent impact on the others users / entities as it would affect the energy accounting, DSM accounts and bills raised, in terms of the UPERC CRE Regulations 2019 and UPEGC/IEGC. In the present case, the negligence/error in feeding the DC persist for more than 2.5 months. The onus lies with the Petitioner to feed the correct data and to ensure to verify/rectify their error/mistake without any laxity as per applicable provisions of UPEGC/IEGC.

36. Accordingly, it is unequivocally clear that rectification of such kind of mistakes is not considered to be in accordance with extant regulatory regime. Therefore, the Commission in line with above mentioned decision in Order dated 11.11.2021 in Petition No. 1669 of 2021 (Sukhbir Agro Energy Ltd.

vs UPPCL & others), decides to not allow the prayers of the Petitioner to rectify the mistake committed by the Petitioner in feeding the data in UPSLDC portal.

37. Further, it is noted that the Commission vide above Order dated 11.11.2021 has also observed that the banking of power is commercial arrangement with Discom, therefore, UPPCL may settle the payment for the unutilized banked energy, if any, for the disputed period as per UPERC CRE Regulations 2019. However, in this regard, it is pertinent to mention that the Petitioner in the instant Petition has admitted that it had received the deviation charges on account of under declaration of DC as against actual export of power for the same period. Therefore, the same may also be factored while settlement of payment for unutilized banked energy, if any, but not in contravention to the extant Regulations.

38. Accordingly, the matter is disposed of."

(Emphasis supplied)

13. It is clear that the Commission has founded its impugned order dated 15.03.2022 on its earlier order dated 11.11.2021 passed in petition no.1669 of 2021 titled Sukhbir Agro Energy Ltd. v. Uttar Pradesh Electricity Regulatory Commission and Ors., wherein the Commission had taken a view that error in feeding the data in the portal of SLDC can not be permitted to be rectified beyond the period of five days as stipulated under clause 6.5.25 of the Uttar Pradesh Electricity Grid Code 2007 (hereinafter referred to as “Grid Code 2007” or the “Code”).

14. Thus, the appellant is before us in this appeal assailing therein the said view taken by the Commission.

15. We have heard learned senior counsel appearing for the appellant, as well as learned counsels for the 2nd and 4th respondents. We have also perused the impugned order as well as the written submissions filed by the learned counsels.

16. We may note that the order dated 11.11.2021 passed by the Commission in petition no.1669 of 2021 had been assailed before this tribunal by way of appeal no.186 of 2023 which has been decided vide separate judgment dated 27.05.2025 wherein we have, upon analysis & discussing in

detail the application as well as ramifications of clause 6.5.25 of the Grid Code 2007, set aside the said order dated 11.11.2021 of the Commission and have held clause 6.5.25 to be an inchoate legal provision which does not cater to all the exigencies that may arise in feeding the incorrect data by a generating station in the portal of SLDC. The relevant portion of the judgment is quoted hereinbelow: -

> *"25. A bare reading of said clause 6.5.25 reveals that the SLDC shall have to keep open the procedure for scheduling and the final schedules issued by it for a period of five days for checking/verification by all users of its portal. Evidently, the users of the portal of SLDC are not only the generators but also the distribution licensees i.e. beneficiaries which provide their drawl schedule to the SLDC on this portal. It further provides that in case of detection of any mistake/omission in the said final schedule issued by SLDC, SLDC shall forthwith conduct a complete check and rectify the same. It is limpid that the limit of five days prescribed therein relates only to the period for which the SLDC is required to keep open its procedure for schedule as*

well as the final schedule for checking/verification by all users. The language used therein does not in any manner convey that the mistake or omission detected in the final schedule issued by SLDC has to be conveyed to the SLDC within the said time period of five days or the SLDC has to check and rectify the said mistake/omission within the said period of five days only.

26. Manifestly, the clause is silent as to what would happen in case the error in feeding the data in portal of SLDC is not detected within the said period of five days and what consequences would entail in that case. It is also not clear from the reading of the said clause whether the period of five days is the upper most limit for detection as well as rectification of mistake in the final schedule issued by SLDC or the same can be extended in a given situation, and if so, in what type of situation can the said time limit be relaxed or extended.

27. We may note here that the Grid Code is specified the State Electricity Commission in exercise of the regulatory powers under section 86(1)(h) of the Electricity Act, 2003. Therefore, it is akin to regulations issued by the Commission in exercise of its regulatory functions.

28. It ex-facie appears that clause 6.5.25 of the Code is an inchoate legal provision which does not cater to all the exigencies that may arise in feeding of incorrect data either by a generating station or by a beneficiary in the portal of SLDC and also does not specify consequences in case such mistake or omission is not detected within the stipulated period of five days. Since the Code is silent on the aspects noted hereinabove, there appears to be a regulatory gap which ought to have been filled up by the Commission in exercise of its regulatory powers by permitting the appellant to rectify the mistake

committed by it in feeding data in the portal of SLDC, if it was bonafide as contended by the appellant."

17. We have further held that the regulatory gap created by lack of sufficient mechanism in clause 6.5.25 of the Grid Code 2007 to cater to all kinds of situations that may arise on account of feeding of incorrect data in the portal of SLDC by a generating station or a beneficiaries ought to have been supplied by the Commission in exercise of its regulatory powers by permitting the appellant to rectify the mistake committed by it in feeding correct data in the portal of SLDC. Referring to the recent judgment of Hon'ble Supreme Court in Power Grid Corporation of India Limited v. Madhya Pradesh Power Transmission Company Limited & Ors. Civil Appeal No. 6848 of 2025 decided on 15.05.2025, we have also held in the said judgment in appeal no.186 of 2023 that there is no bar on the State Electricity Commissions in exercising regulatory functions by way of the orders passed under section 86 of the Electricity Act, 2003 while adjudicating on the disputes brought before it. The relevant portion of the judgment in appeal no.186 of 2023 in this regard are extracted hereinbelow: -

"29. The question which would arise in such a situation would be as to whether the Commission would be

justified in exercising its regulatory functions while exercising its adjudicatory functions at the time of adjudicating a dispute under section 86(1)(f) of the Electricity Act, 2003. This legal issue has been discussed and answered by the Hon'ble Supreme Court in a recent judgment in the case of Power Grid Corporation of India Limited V/s Madhya Pradesh Power Transmission Company Limited & Ors. Civil Appeal No. 6848 of 2025 decided on 15.05.2025 in the following words:-

> *"46. It is the submission of the respondent no. 1 that the CERC does not possess any regulatory or legislative power while adjudicating a petition and it functions as a purely quasi-judicial body, therefore, it does not have the jurisdiction to impose a charge on the respondent no. 1. In our considered view, the said argument must fail for the reason that Section 79 of the Act, 2003 envisages dual function of regulation and adjudication to be performed by the CERC. The expressions "to*

regulate", "to determine" and "to adjudicate" are used for different purposes in the list of matters enumerated under Section 79(1) and cannot be incorporated within the umbrella term of "adjudication".

*47. The exposition of law in **PTC** (supra) clarifies the scheme of regulatory powers and functions under the Act, 2003. It was held therein that Section 178 that deals with making of regulations by way of subordinate legislation by the CERC, is wider than Section 79(1) which enumerates specified areas where the CERC exercises regulatory functions to be discharged by orders or decisions. Therefore, unlike the regulations enacted under Section 178 that have a general application, the CERC, under Section 79, has both regulatory and adjudicatory functions which it exercises in respect of specific issues arising between specific parties. The relevant portion of*

the judgment reads thus:

"92. (i) In the hierarchy of regulatory powers and functions under the 2003 Act, Section 178, which deals with making of regulations by the Central Commission, under the authority of subordinate legislation, is wider than Section 79(1) of the 2003 Act, which enumerates the regulatory functions of the Central Commission, in specified areas, to be discharged by orders (decisions)."

(Emphasis supplied)

48. The regulatory powers provided to the CERC under Section 79 are of ad hoc nature and are required to be exercised by the CERC in context of the specific circumstances of the parties before it. The rationale for provision of such ad hoc powers by the Act, 2003 is to ensure that regulatory gaps, if any, that may be discovered on a case-to-case basis, are filled or removed. Therefore, there is no doubt in our mind that the CERC is enabled to exercise its regulatory powers by way of orders under Section 79 and the purview of Section 79 is not limited to only adjudicatory orders but includes within its scope administrative functions as well."

30. In this judgment, the Hon'ble Supreme Court has also held that there is no blanket ban on the Central Commission to exercise its regulatory functions by way of orders under section 79(1) of the Electricity Act, 2003. The relevant portion of the judgment in this regard is extracted hereinbelow: -

> *"57. The respondent no. 1 has averred that the CERC cannot conflate its powers of regulation with its adjudicatory functions and a regulation cannot be brought into force by way of a judicial order. In the specific case of* ***Nuclear Power Corporation*** *(supra), we are inclined to agree with the submission of the respondent no. 1 to the extent that a regulation cannot be done through the process of adjudication. However, could it be said that there is a blanket ban on the CERC to exercise its regulatory functions by way of orders under Section 79(1)? In light of this Court's dictum in*

AERA *(supra), our answer to this question must be an emphatic 'No'.*

58. We are of the view that even though the orders under Section 79 may not always be limpid as regards the matters where CERC is exercising its regulatory functions yet this cannot be the reason to conclude that the CERC passes all orders in its capacity as an adjudicator. The nomenclature "judicial order(s)" as used in ***Nuclear Power Corporation*** *(supra) does not change the nature of a specific order that the CERC gives in its capacity as a regulator and the courts must understand the true import of an order to determine the nature thereof.*

59. The CERC granted liberty to the appellant herein to claim compensation from the respondent no. 1 to deal with a situation caused due to an unprecedented event not covered by any guidelines, regulations or contractual provisions

between the parties. The dictum of this Court in paragraph 20 of ***Energy Watchdog*** *(supra), indicates that in such a situation where there is an absence of regulations and guidelines, the Act, 2003 mandates the CERC to strike a judicious balance between the parties keeping in mind commercial principles and consumers' interest, in exercise of its general regulatory powers under Section 79(1).*

60. The aforesaid leaves no manner of doubt in our mind that though the CERC's orders dated 21.01.2020 and 27.01.2020 respectively were for determination of tariff, yet the order granting liberty to the aggrieved appellant to claim compensation from the defaulting party is a consequence of a regulatory lacuna in the 2014 Tariff Regulations and therefore, is an instance of regulation of tariff between the parties."

31. We are conscious of the fact that the Hon'ble Supreme Court in the above noted case was dealing with the powers and functions of the Central Commission under section 79 of the Electricity Act, 2003. However, the observation of the court in that case are squarely applicable to the powers and functions of the State Electricity Commissions under section 86 of the Act also for the reason that both the legal provisions are Pari Materia in so far as the power to regulate the tariff and adjudication of dispute is concerned. Section 79 empowers the Central Commission to regulate tariff of the generating companies, to adjudicate upon the disputes involving generating companies or transmission licensees and to render advice to the Central Government whereas section 86 empowers the State Electricity Commissions to regulate the purchase price and procurement process of the electricity by the distribution licensees, to adjudicate upon the disputes between the distribution licensees and the generating

companies as well as to render advice to the State Government. Thus, both the Central Commission as well as State Commissions exercise regulatory as well as advisory function also apart from the adjudicatory functions.

32. Therefore, considering the dictum of the Supreme Court in above noted judgment in Power Grid case it is manifest that there is no bar on the State Electricity Commissions also in exercising the regulatory functions by way of orders passed under section 86 of the Act while adjudicating on the disputes brought before it."

18. In the instant case, there can not be any doubt with regards to the fact that there had been a bonafide mistake on the part of the appellant in feeding data in the portal of SLDC from November, 2020 to January, 2021. The appellant could not have and actually has not got any benefit by feeding only 25% of its actual declared capacity in the portal of UPSLDC despite the fact that it has exported power to its full actual declared capacity to UPPCL, which is not disputed on the part of UPPCL. Further, it is also manifest that no harm

has been caused by such action of the appellant either to UPPCL or to any other person/entity. In fact, the appellant has been caught in a very peculiar situation where it has exported power to its full declared capacity to UPPCL but on account of mistake in feeding the correct declared capacity on the portal of 4th respondent SLDC, its bills have remained unpaid. It is an admitted position that neither UPPCL nor SLDC pointed out or objected to the incorrect data fed by the appellant in the portal of SLDC during the said period. It appears that when UPPCL received the tariff bills raised by the appellant for the month of October, 2020 it found the same to be not in accordance with the data fed by the appellant in the SLDC portal and accordingly refused the payment. It is the refusal of UPPCL to pay the said bill which made the appellant to detect the error in feeding the data in SLDC portal. Accordingly, the appellant sent an email dated 30.01.2021 to respondent no.3 informing it about the mistake in feeding the data in SLDC portal which was followed by various reminders. However, both, the SLDC as well as the Commission rejected the request of the appellant to rectify the data.

19. In our judgment in appeal no.186 of 2023, we have taken note of the well settled judicial principle that a bonafide and honest mistake committed by a person/entity with no intention to cause any harm/loss to any other person/

entity should be permitted to be rectified. Our discussion on this aspect in the said judgment in extracted hereinbelow: -

> *"35. We may also note that it is a well settled judicial principle that where a bonafide and honest mistake has occurred with no intention to cause any harm/loss by the party committing such mistake to any other person then that person must be permitted to rectify the mistake. While dealing with the issue of bonafide mistake committed by a person, the Supreme Court in the case of Price Waterhouse Coopers Private Limited V/s CIT, (2012) 348 ITR 306 (SC) held that no penalty can be imposed in respect of inadvertent and bonafide mistake committed by an assessee. The relevant portion of the judgment is extracted hereinbelow: -*
>
> > *"15. The contents of the Tax Audit Report suggest that there is no question of the assessee concealing its income. There is also no question of the assessee furnishing any inaccurate particulars. It appears to us that all that has happened in the*

present case is that through a bona fide and inadvertent error, the assessee while submitting its return, failed to add the provision for gratuity to its total income. This can only be described as a human error which we are all prone to make. The calibre and expertise of the assessee has little or nothing to do with the inadvertent error. That the assessee should have been careful cannot be doubted, but the absence of due care, in a case such as the present one, does not mean that the assessee is guilty of either furnishing inaccurate particulars or attempting to conceal its income.

16. We are of the opinion, given the peculiar facts of this case, that the imposition of penalty on the assessee is not justified. We are satisfied that the assessee had committed an inadvertent and bona fide error and had not intended to or attempted to either conceal its income or furnish inaccurate particulars."

36. Similar view has been expressed by the Delhi Hight Court in Charu Kain V/s High Court of Delhi, 2022 LiveLaw (Del) 551. In that case the petitioner before the court had appeared for Delhi Judicial Service Preliminary Examination, 2022 as a General Category candidate whereas she belonged to a reserve category (SC). The petitioner had secured 119.5 marks which was admittedly above the cut-off marks i.e. 115.5 specified for reserve category candidates. Therefore, in the event she was considered as a reserve category candidate, she would have made it for appearing in the mains examination. In such a situation, the court observed and held as under: -

> *"13. In the given facts, the limited question that falls for consideration before this Court is whether the petitioner should suffer the consequence of her mistake, which she has admittedly committed, or ought to be given a chance to rectify the same.*

14. The petitioner has relied upon the decision of the Division Bench of the High Court of Rajasthan in the case of Kavita Choudhary v. Registrar (Examination): 2017 SCC OnLine Raj 3612, wherein the court had taken a liberal view that the mistakes which do not prejudice any other person, should be permitted to be rectified. The perusal of the said decision indicates that the court had also followed several decisions passed by this Court to the aforesaid effect.

15. This Court concurs with the aforesaid view. Clearly, a person committing a bona fide mistake, which does not cause prejudice to any person, should be given an opportunity to rectify the same.

16. In the present case, it is clear that the petitioner's mistake is a bona fide one; she derived no benefit from submitting an incorrect application disclosing her category as the general category. She had further compounded the mistake by not

seeking immediate rectification as soon as she became aware of the same.

17. Notwithstanding the same, this Court finds that there is no prejudice caused to any person and the matter regarding the examination has not proceeded to a stage, which renders it inapposite to correct this mistake."

37. In the case before Bombay High Court in Commissioner of Income-Tax V/s Somany Evergree Knits Limited 2013 SCC Online Bom 1798, the respondent an income-tax assessee had, in its return of income claimed depreciation of Rs.1.70 crores. During the assessment proceedings, he realized that it had wrongly claimed Rs.1.70 crores of depreciation instead of Rs.1.05 crores and explained that this had happened due to mistake a calculation. The Assessing Officer did not accept that it was a mistake and levied penalty under section 271(1)(c) of the Income Tax Act, 1961. The Commissioner of Income Tax (Appeals)

upheld the order of Assessing Officer. The Appellate Tribunal held the mistake to be bonafide and inadvertent an accordingly reversed the decision of Commissioner of Income Tax as well as the Assessing Officer. The decision of the Income Tax Tribunal was upheld by the Bombay High Court saying that there is no reason to interfere in the same."

20. Thus, in view of our discussion in the judgment in appeal no.186 of 2023, we are of the firm opinion that the Commission has fallen into error in refusing the request of the appellant to rectify the data in question.

21. Hence, we are unable to sustain the impugned order of the Commission. The same is hereby set aside. We direct the SLDC to permit the appellant to rectify the bonafide mistake committed by appellant in feeding the data in its portal from December, 2020 till January, 2021 by substituting the same with actual/correct data within one month from the date of this judgment and upon such rectification, the tariff bills of the appellant with effect from October, 2020 shall be paid by the 2nd respondent UPPCL within two months along with carrying cost as provided under the PPA dated 03.08.2006.

22. Accordingly, the appeal stands allowed.

Pronounced in the open court on this the 28th day of May, 2025.

(Virender Bhat)	(Sandesh Kumar Sharma)
Judicial Member	Technical Member (Electricity)

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REPORTABLE / ~~NON REPORTABLE~~

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