

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

**Appeal No. 174 OF 2017 & 657 OF 2025**

**Dated: 14<sup>th</sup> May, 2025**

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

**In the matter of:**

**Orange Bercha Wind Power Limited**

Through its authorized signatory,  
301 B, 3<sup>rd</sup> Floor, D-21 Corporate Park,  
Sector 21, Dwarka,  
Dwarka, New Delhi-110 075.

**...Appellant**

Versus

- 1. Madhya Pradesh Electricity Regulatory Commission,**  
Through its Secretary,  
5<sup>th</sup> Floor, Metro Plaza, Arera Colony,  
Bittan Market,  
Bhopal – 462 016,  
Madhya Pradesh.
- 2. Madhya Pradesh State Power Transmission Company Limited,**  
Through its Managing Director,  
Block No.2, Shakti Bhawan, Rampur,,  
Jabalpur - 482 008.
- 3. Madhya Pradesh State Load Despatch Centre,**  
Through its Chief Engineer,  
Nayagaon, Rampur  
Jabalpur – 482 008

4. **Madhya Pradesh Power Management Company Limited,**  
Through its Managing Director,  
Shakti Bhawan, Vidyut Nagar,  
Rampur,  
Jabalpur – 482 008
5. **Madhya Pradesh New and Renewable Energy Department,**  
Through its Principal Secretary,  
Vallabh Bhawan, Mantralaya,  
Near Satpura,  
Arera Hills Bhopal - 462004
- ... Respondent(s)**

Counsel for the Appellant(s) : Mr. Vishrov Mukherjee  
Mr. Sitesh Mukherjee  
Mr. Deep Rao Palepu  
Mr. Vishal Binod  
Mr. Syed Jafar Alam  
Mr. Arman Shukla

Counsel for the Respondent(s) : Mr. S. Venkatesh for Res.1  
  
Mr. Aashish Anand Bernard  
Mr. Paramhans Sahani for Res.2  
& 3  
  
Mr. Nitin Gaur for Res.4

**ORDER  
IN  
IA No. 657 of 2025  
(for Rectification of Typographical Errors)**

**PER HON'BLE MR. SANDESH KUMAR SHARMA, TECHNICAL MEMBER**

1. The present IA has been filed by the Appellant, M/s Orange Bercha Wind

Power Ltd., in Appeal No. 174 of 2017, seeking rectification of a typographical error in the judgment dated 10.02.2025 passed by this Tribunal.

2. It is important to note that the Appellant has filed the said appeal assailing the order dated 19.04.2017 passed by the Madhya Pradesh Electricity Regulatory Commission (MPERC) in Petition No. 07 of 2017.

3. This Tribunal vide the said judgment has held that Appeal no.174 of 2017 has merit and is thus allowed. The Impugned Order dated 19.04.2017 passed by the Madhya Pradesh Electricity Regulatory Commission in Petition M.P. No.07/2017 is set aside.

4. This Tribunal vide the said Order has observed and directed as under:

***“ORDER***

*For the foregoing reasons as stated above, we are of the considered view that Appeal No. 174 of 2017 has merit and is thus allowed. The Impugned Order dated 19.04.2017 passed by the Madhya Pradesh Electricity Regulatory Commission in Petition M.P. No. 07/2017 is set aside.*

*We hold that the Appellant's plant was commissioned within the control period ending on 31.03.2016, making it eligible for a tariff*

*of Rs. 5.92/unit to be paid from the date of electricity supply into the grid.*

*Respondent No. 2 shall make the required payment along with the carrying cost at the LPS rate within three months from the date of this judgment.”*

5. From the above Order, it is seen that this Tribunal has observed and directed the following:

- a) The Appellant plant was commissioned within the control period ending on 31.03.2016,*
- b) The Appellant’s plant is eligible for a tariff of Rs. 5.92/unit to be paid from the date of electricity supply into the grid, and*
- c) Respondent No. 2, i.e., MPPTCL, shall make the required payment along with the carrying cost at the LPS rate within three months from the date of this judgment.*

6. Undisputedly, under the contractual agreement, i.e., the PPA signed between the Appellant and the Respondent No. 4, MPPMCL, the liability of making the payment is with MPPMCL and not with Respondent No. 2, MPPTCL.

7. We are satisfied that such an error has occurred in the judgment,

inadvertently, due to a typographical error, which can be seen from various paragraphs recorded in the judgment.

8. Clearly, it was also held that the Appellant's plant was commissioned within the control period ending on 31.03.2016, making it eligible for a tariff of Rs. 5.92/unit to be paid from the date of electricity supply into the grid, which can be made in terms of the PPA only.

9. It is also noted that the core issue before us in the said appeal pertained to the entitlement of the Appellant/Applicant to a tariff of ₹5.92/per unit under the Tariff Order dated 26.03.2013, because the Applicant's 50 MW Wind Power Project was ready for commissioning before 31.03.2016.

10. Undoubtedly, as already observed that as per the PPA signed between the parties, the MPPMCL/Respondent no.4 has the liability of making payments as per the tariff decided and certainly not with Respondent No.2, therefore, the direction that Respondent No.2 shall make the required payment along with the carrying cost at the LPS rate within three months from the date of the judgment, is incorrectly noted due to typographical error.

11. The term LPS is drawn from the PPA, which is signed by the Appellant and Respondent No.4 and not with Respondent No.2.

12. Additionally, para 26, 32, 33, 35, 36, 54, and 99 make it clear that after concluding the Appellant's tariff as Rs. 5.92 per unit, the judgment has

inadvertently recorded that such tariff shall be paid by Respondent No. 2.

13. The above-quoted paragraphs clarify that the power sale shall be to Respondent No. 4, and the Appellant signed the PPA while reserving the right to claim payment at the Rs. 5.92 per unit tariff applicable for projects commissioned before 31.03.2016, and Respondent No. 4 consented to the Project's commissioning. Even the High Court of Madhya Pradesh vide Order dated 12.09.2016, directed Respondent No. 4 only to release the undisputed amount of bills, without prejudice to the rights of the Appellant. Further, vide order dated 23.02.2017, the High Court of Madhya Pradesh directed the Appellant to file a petition with MPERC within three weeks, and Respondent No. 4 was ordered to pay for electricity already supplied, once the Appellant resubmitted its bill.

14. Further, in para 107 of the said judgment, it is noted as under:

*“107. After hearing all the parties at length, the following questions need to be answered through this Appeal:*

- a) Whether the project was ready and commissioned on or before 31.03.2016, and if not,*
- b) **Whether the delay in the Commissioning of the Project beyond 31.03.2016 is attributable to the Appellant and the Power Purchase Agreement dated 10.02.2017 executed between the Appellant and Respondent No. 4 shall be at the tariff rate of Rs. 5.92 per unit as per the Tariff***

***Order dated 26.03.2013 or at lower tariff of Rs. 4.78 per unit  
in accordance with the Tariff Order dated 17.03.2016?"***

15. Therefore, the question before this Tribunal was the tariff rate which is payable to the Appellant by Respondent No. 4 and not by Respondent No. 2.

16. It is also seen from Para No.133 of the said judgment that MPPMCL informed the Appellant that it had failed to achieve the COD by 31.03.2016, and accordingly, any future power sales would be subject to the 17.03.2016 tariff order, thereby it is clear that the power sales are to the Respondent No.4 (MPPMCL) and not to Respondent No.2. Therefore, all payments for the sale of power are to be made by Respondent No.4.

17. Similar typographical errors are noticed at Para 75 at Pg. 26 and Para 135 at Pg. 55 of Judgment dated 10.02.2025 as submitted by the Applicant (Appellant), where the PPA is incorrectly stated to have been executed with Respondent No. 3 instead of Respondent No. 4. These are the factual errors due to typographical mistakes.

18. It cannot be disputed that the above typographical errors are purely inadvertent and clerical in nature, which need to be corrected or otherwise will result in confusion and potential non-compliance with the true intent of the Judgment.

19. However, MPPMCL raised objections to the rectification, claiming it to be without any basis as MPPMCL itself has challenged the judgment dated

10.02.2025 before the Hon'ble Supreme Court by way of Diary No. 18850 of 2025, as confirmed by the Appellant.

20. Additionally, it is a settled principle that every judicial authority, including this Tribunal, possesses such powers to correct clerical or typographical mistakes in its judgments or orders to give effect to its true intention.

21. Further, in the absence of an application, this Tribunal can suo motu rectify such errors to prevent miscarriage of justice and ensure clarity in execution. The same is also contended by the Appellant, citing the principle of ***actus curiae neminem gravabit***, i.e., an act of the court shall prejudice no one.

22. The Respondent No. 4 placed reliance on the judgment passed by the Hon'ble High Court of Bombay in the case of ***Hindustan Petroleum Corporation Ltd. Vs. Nivedita reported in 2014 SCC Online Bom 390***, wherein the learned Single Judge while relying on a judgment passed by the Hon'ble Supreme Court in the case of ***State Bank of India & Ors. Vs. S.N. Goyal reported in 2008 (8) SCC 92*** has held that a judge becomes functus officio when he has decided a question brought before him. In the instant case, this Hon'ble Tribunal became functus officio once the appeal was disposed of vide order dated 10.02.2025, and, therefore, the only source of power by which a judgment can be changed is by a review petition and not by filing an interlocutory application in a disposed of case.

23. We make it clear that the present case is not reviewing the opinion or decision of this Tribunal, but to correct a typographical mistake, maintaining the



decision taken there. In fact, the question has been answered accordingly.

24. Reliance is placed on this Tribunal's Order dated 27.01.2025 passed in Execution Petition No. 9 of 2024 titled *M/s Aditya Industries (Partnership Firm) v. Himachal Pradesh State Electricity Board Limited* clarifying its power to correct clerical or accidental errors at any time, even suo motu, wherein this Hon'ble Tribunal acknowledged that EP No. 4 of 2016 was wrongly included and disposed of in the batch order dated 12.10.2017 due to an accidental slip, the relevant extract of Order dated 27.01.2025 is reproduced below: -

*"16. As the power to correct accidental errors in judgments or orders can not only be exercised by this Tribunal suo moto but can also be exercised at any time, the fact that the prayers in both the afore-said I.A.s could have been more specific and unambiguous, and the correction being made is seven years after EP No.4 of 2016 was dismissed as infructuous by order of this Tribunal dated 12.10.2017, need not detain us as the power to correct errors in its orders, occasioned by an accidental omission or mistake, can always be exercised by this Tribunal suo-motu or even belatedly."*

25. This Tribunal vide order dated 04.04.2025 in Appeal No. 111 of 2018 titled ***Jaipur Vidyut Vitran Nigam Ltd. & Ors v. CERC & Ors.***, in a similar situation, has corrected a typographical error by substituting the name of the correct Respondent. Relevant portion of the said order is reproduced below: -

*“It is observed that the Judgement pronounced in this Appeal has some typographical error in the name of Respondent No. 2 (Rajasthan Steel Chambers) in the above said appeal. It is directed that the correction be done by substituting the name of Respondent No. 2 as “Rajasthan Steel Chambers” in place of “M/s National Engineering Industries Ltd.” mentioned in the judgement and the fresh Judgement be uploaded on the website of the APTEL.”*

26. After going through the entire judgment, it is clear that any payment as per the applicable tariff has to be made by Respondent No.4 and not by Respondent No.2. Accordingly, it is just and reasonable to correct the inadvertent error as under:

- a) “Respondent No. 2” is substituted with “Respondent No. 4” in the last paragraph on Page 59; accordingly, the “ORDER” para to be read as :

**“ORDER**

For the foregoing reasons as stated above, we are of the considered view that Appeal No. 174 of 2017 has merit and is thus allowed. The Impugned Order dated 19.04.2017 passed by the Madhya Pradesh Electricity Regulatory Commission in Petition M.P. No. 07/2017 is set aside.

We hold that the Appellant's plant was commissioned within the control period ending on 31.03.2016, making it eligible for a tariff of Rs. 5.92/unit to be paid from the date of electricity supply into the grid.

**Respondent No. 4 shall make the required payment along with the carrying cost at the LPS rate within three months from the date of this judgment.”**

- b) “Respondent No. 3” is substituted with “Respondent No. 4” at Para 136 (Pg. 55).

IAs are disposed of in the above terms.

**PRONOUNCED IN THE OPEN COURT ON THIS 14<sup>th</sup> DAY OF MAY, 2025.**

**(Virender Bhat)**  
**Judicial Member**

**(Sandesh Kumar Sharma)**  
**Technical Member**

*pr/mkj/kks*