

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No.162 OF 2019 & IA No.2077 OF 2024
APPEAL No.328 OF 2019, APPEAL No.181 OF 2022
APPEAL No.234 OF 2019, APPEAL No.165 OF 2019
APPEAL No.173 OF 2019, APPEAL No.310 OF 2019
APPEAL No.324 OF 2019, APPEAL No.325 OF 2019
APPEAL No.434 OF 2019, APPEAL No.395 OF 2019
APPEAL No.100 OF 2018, APPEAL No.86 OF 2018
APPEAL No.87 OF 2018, APPEAL No.276 OF 2019
APPEAL No.323 OF 2019, APPEAL No.233 OF 2019
APPEAL No.214 OF 2022, APPEAL No.164 OF 2019
APPEAL No.163 OF 2019
AND
APPEAL No.53 OF 2021

Dated : 16.06.2025

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

In the matter of:

APPEAL No.162 OF 2019 & IA No.2077 OF 2024

Suryadev Alloys and Power Ltd

No. 497 & 498, ISANA building, 8th Floor,
Poonamallee High Road, Arumbakkam,
Chennai – 600106

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,

No. 19-A, Rukmanila Laskshmipathy Salai,

Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,
144, Anna Salai, Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri
Neha Garg

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.328 OF 2019

Rajshree Sugars and Chemicals Ltd.

338/8, Avinashi Road
Peelamedu, Coimbatore 641 004

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary
TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : M G Ramachandran, Sr. Adv.
Anand K. Ganesan

Swapna Seshadri
Adishree Chakraborty

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.181 OF 2022

Vedanta Limited

SIPCOT Industrial Complex
Madurai Bypass Road
Tuticorin-628002

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri
Damodar Solanki
Utkarsh Singh

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.234 OF 2019

Chettinad Cement Corporation Ltd

HTSC NO.70

Keelapalur Village, Ariyalur
Tamil Nadu - 621705
Through its Company secretary

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

No.19A, Rukmini Lakshmipathy Salai
Egmore, Chennai – 600 008
Tamil Nadu.
Through its secretary

**2. Tamil Nadu Electricity Generation and Distribution Company
(TANGEDCO)**

Rep. by its Chief Financial Controller / Revenue
No.144, Anna Salai Chennai – 600 002

3. M/s.E.I.D. Parry (India) Limited

Having its Registered office at
Dare House Parrys Corner, Chennai – 600 001
and factory at Pugalur, Karur – 639 113
Rep. by its Sr.AVP – Legal

4. M/s. Seshasayee Paper & Boards

Through it Deputy Managing Director and Secretary
Cauvery R.S.(Post) Pallipalayam – 638 007.

5. Kamachi Industries Limited

Through its Director,
ABC Trade Centre, 3rd Floor (inside Devi Theatre Complex)
Old No.50, New No.39, Anna Salai Chennai – 600002.

6. The Ramco Cements Ltd.

Through its Sr.Deputy General Manager Legal
Govindapuram Village Ariyalur Taluk & District
Tamil Nadu 621705

7. The Ramco Cements Ltd.

Through its Sr. Deputy General Manager Legal

Alathiyur works Perambalur District 621719

8. Dalmia Cement (Bharat) Limited

Through its Senior General Manager (legal)
Dalmiapuram, Ariyalur Unit, Tamil Nadu 621705

9. Dalmia Cement (Bharat) Limited

Through its Senior General Manager (legal)
Trichy- Chidambaram Salai,
Dalmiapuram, Lalgudi (TK) Trichy Dt,
Tamil Nadu 621651

10. Sree Rengaraj Ispat Industries (P) Ltd.

Sipcot Industrial Growth Centre
Perundurai (638052), Erode district, Tamil Nadu
Through its Director

11. Chettinad Cement Corporation Ltd

HTSC NO.101
Puliyur Cement Factory,
Karur, Tamilnadu (639 114)
Through its Company secretary

12. Tamil Nadu Power Producers Association

Through its Secretary
Temple Steps, 3rd Floor, Block No.A Unit "B",
Anna Salai Little Mount, Chennai – 600 015.

13. The South India Sugar Mills Association

Through its Secretary
Karumuthu Centre (2nd Floor) No.634,
Anna Salai Nandanam, Chennai – 600 035.

14. Biomass Power Producers Association Tamil Nadu

Represented by its President,
Registration No.186 of 2006 Sigapi Achi Building,
4th Floor No.18/3, Rukmani Lakshmi pathi Salai
Egmore, Chennai – 600 008.

15. Suryadev Alloys and Power Ltd.

Through its Director
No.497 & 498, ISANA Building
8th Floor, Poonamallee High Road
Arumbakkam, Chennai – 600 106.
Tamil Nadu 621705

... Respondent (s)

| | | |
|-------------------------------|---|---|
| Counsel for the Appellant(s) | : | Kumar Mihir R.S. Pandiyaraj S.P. Parthasavathy |
| Counsel for the Respondent(s) | : | Jaideep Gupta, Sr. Adv. Anusha Nagarajan for Res.2 |

APPEAL No.165 OF 2019

Kamachi Industries Ltd

ABC Trade Centre, 3rd Floor,
(Inside Devi Theatre Complex)
Old No. 50, New No. 39, Anna Salai,
Chennai – 2

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

| | | |
|------------------------------|---|-------------------------------------|
| Counsel for the Appellant(s) | : | Anand K. Ganesan Swapna Seshadri |
|------------------------------|---|-------------------------------------|

Neha Garg

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.173 OF 2019

Sree Rangaraj Ispat Industries (P) Ltd

SIPCOT Industrial Growth Centre

Perundurai (638052)

Erode District, Tamil Nadu

Through its Director

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,

No. 19-A, Rukmanila Laskshmipathy Salai,

Marshalls Road, Egmore,

Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by Its Chief Financial Controller / Revenue,

144, Anna Salai,

Chennai – 600002

3. M/s.E.I.D. Parry (India) Limited

Having its Registered office at

Dare House Parrys Corner, Chennai – 600 001

and factory at Pugalur, Karur – 639 113

Rep. by its Sr.AVP – Legal

4. M/s. Seshasayee Paper & Boards

Through it Deputy Managing Director and Secretary

Cauvery R.S.(Post) Pallipalayam – 638 007.

5. Kamachi Industries Limited

Through its Director,

ABC Trade Centre, 3rd Floor (inside Devi Theatre Complex)

Old No.50, New No.39, Anna Salai Chennai – 600002.

6. The Ramco Cements Ltd.

Through its Sr.Deputy General Manager Legal
Govindapuram Village Ariyalur Taluk & District
Tamil Nadu 621705

7. The Ramco Cements Ltd.

Through its Sr. Deputy General Manager Legal
Alathiyur works Perambalur District 621719

8. Dalmia Cement (Bharat) Limited

Through its Senior General Manager (legal)
Trichy- Chidambaram Salai,
Dalmiapuram, Lalgudi (TK) Trichy Dt,
Tamil Nadu 621651

9. M/s.Chettinad Cement Corporation Ltd.

Rep. by its Company Secretary
Keelapalur Village, Ariyalur.
Tamil Nadu 621705

10. M/s.Chettinad Cement Corporation Ltd.

Rep. by its Company Secretary
Puliyur Cement Factory
Karur – 639114

11. The South India Sugar Mills Association

Through its Secretary
Karumuthu Centre (2nd Floor) No.634,
Anna Salai Nandanam, Chennai – 600 035.

12. Suryadev Alloys and Power Ltd.

Through its Director
No.497 & 498, ISANA Building
8th Floor, Poonamallee High Road
Arumbakkam, Chennai – 600 106.
Tamil Nadu 621705

... Respondent (s)

Counsel for the Appellant(s) : Kumar Mihir

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.310 OF 2019

Ponni Sugars (Erode) Limited

Odappli, Cauvery RS Post,
Erode – 638007

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : M G Ramachandran, Sr. Adv.
Anand K. Ganesan
Swapna Seshadri
Adishree Chakraborty

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.324 OF 2019

Sakthi Sugars Limited

Sakthi Nagar Nhavani Taluk,
Erode Dist.
Tamilnadu- 638315

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : M G Ramachandran, Sr. Adv.
Anand K. Ganesan
Swapna Seshadri
Adishree Chakraborty

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.325 OF 2019

Bannari Amman Sugars Limited

Represented by its Company Secretary

C Palaniswamy

Having Registered Office at

1212 Trichy Road, Coimbatore 641 018

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : M G Ramachandran, Sr. Adv.
Anand K. Ganesan
Swapna Seshadri
Adishree Chakraborty

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.434 OF 2019

E.I.D - Parry (India) Limited

Registered Office: Dare House, No.234,
NSC Bose Road, Chennai – 600 001

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : M G Ramachandran, Sr. Adv.
Anand K. Ganesan
Swapna Seshadri
Adishree Chakraborty

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.395 OF 2019

M/s. Kothari Sugars and Chemicals Limited

No.115, Mahatma Gandhi Salai,
Nungambakkam,
Chennai 600 0034

Represented by Whole time Director
Mr. Silvester Goldwin

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : M G Ramachandran, Sr. Adv.
Anand K. Ganesan
Swapna Seshadri
Adishree Chakraborty

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.100 OF 2018

Chemplast Sanmar Limited

Raman Nagar

Mettur Dam -636 402 Tamil Nadu

...Appellant

Versus

1. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002

2. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary
TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Rahul Balaji

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.1

Sethu Ramalingam for Res.2

APPEAL No.86 OF 2018

Tamil Nadu Newsprint and Papers Ltd

67, Mount Road
Guindy, Chennai – 600 032

...Appellant

Versus

1. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002

2. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Rahul Balaji

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.1

Sethu Ramalingam for Res.2

APPEAL No.87 OF 2018

M/s. Seshasayee Paper and Boards Limited

Cauvery R.S. Post,
Pallipalayam, Erode-638007

...Appellant

Versus

1. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002

2. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Rahul Balaji

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.1

Sethu Ramalingam for Res.2

APPEAL No.276 OF 2019

Dhanalakshmi Srinivasan Sugars Private Limited

Having its Office at Udumbiyam Village,
Venganur Post, Veppanthattai Taluk,
Perambalur District, Tamil Nadu - 621116
(Through its Executive Director)
Email ID : chinnappan@vvsugars.com

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary
TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Corporation Ltd

144, Anna Salai,
Chennai – 600002
Through the Chief Financial Controller/Revenue
Email ID: cfcrev@tnebnet.org

... Respondent (s)

Counsel for the Appellant(s) : Buddy Ranganadhan, Sr. Adv.
Pawan Bhushan

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.

APPEAL No.323 OF 2019

The Ramco Cements Limited

Represented by its Senior Manager – Legal
Auras Corporate Centre
V Floor, 98, Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary
TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002

... Respondent (s)

| | | |
|-------------------------------|---|---|
| Counsel for the Appellant(s) | : | Anand K. Ganesan Swapna Seshadri Adishree Chakraborty |
| Counsel for the Respondent(s) | : | Jaideep Gupta, Sr. Adv. Anusha Nagarajan for Res.2 |

APPEAL No.233 OF 2019

Chettinad Cement Corporation Ltd

HTSC NO.101

Puliyur Cement Factory,

Karur, Tamilnadu (639 114)

Through its Company secretary

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmipathy Salai
Egmore, Chennai – 600 008
Tamil Nadu.
Through its secretary
2. Tamil Nadu Electricity Generation and Distribution Company
(TANGEDCO)
Rep. by its Chief Financial Controller / Revenue
No.144, Anna Salai Chennai – 600 002
3. M/s.E.I.D. Parry (India) Limited
Having its Registered office at
Dare House Parrys Corner, Chennai – 600 001
and factory at Pugalur, Karur – 639 113
Rep. by its Sr.AVP – Legal
4. M/s. Seshasayee Paper & Boards
Through it Deputy Managing Director and Secretary
Cauvery R.S.(Post) Pallipalayam – 638 007.
5. Kamachi Industries Limited
Through its Director,
ABC Trade Centre, 3rd Floor (inside Devi Theatre Complex)
Old No.50, New No.39, Anna Salai Chennai – 600002.

6. The Ramco Cements Ltd.
Through its Sr.Deputy General Manager Legal
Govindapuram Village Ariyalur Taluk & District
Tamil Nadu 621705
7. The Ramco Cements Ltd.
Through its Sr. Deputy General Manager Legal
Alathiyur works Perambalur District 621719
8. Dalmia Cement (Bharat) Limited
Through its Senior General Manager (legal)
Dalmiapuram, Ariyalur Unit, Tamil Nadu 621705
9. Dalmia Cement (Bharat) Limited
Through its Senior General Manager (legal)
Trichy- Chidambaram Salai,
Dalmiapuram, Lalgudi (TK) Trichy Dt,
Tamil Nadu 621651
10. Sree Rengaraj Ispat Industries (P) Ltd.
Sipcot Industrial Growth Centre
Perundurai (638052), Erode district, Tamil Nadu
Through its Director
11. M/s.Chettinad Cement Corporation Ltd.
Rep. by its Company Secretary
Keelapalur Village, Ariyalur.
Tamil Nadu 621705
12. Tamil Nadu Power Producers Association
Through its Secretary
Temple Steps, 3rd Floor, Block No.A Unit "B",

Anna Salai Little Mount, Chennai – 600 015.

13. The South India Sugar Mills Association
Through its Secretary
Karumuthu Centre (2nd Floor) No.634,
Anna Salai Nandanam, Chennai – 600 035.

14. Biomass Power Producers Association Tamil Nadu
Represented by its President,
Registration No.186 of 2006 Sigapi Achi Building,
4th Floor No.18/3, Rukmani Lakshmipathi Salai
Egmore, Chennai – 600 008.

15. Suryadev Alloys and Power Ltd.
Through its Director
No.497 & 498, ISANA Building
8th Floor, Poonamallee High Road
Arumbakkam, Chennai – 600 106.
Tamil Nadu 621705

... Respondent (s)

Counsel for the Appellant(s) : Kumar Mihir
R.S. Pandiyaraj
S.P. Parthasavathy

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.214 OF 2022

Chennai Petroleum Corporation Limited

Represented by its Company Secretary
536, Anna Salai, Teynampet – 600018
Email: ShankarP@cpcl@cpcl.co.in

...Appellant

Versus

1. Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO)

*Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002
Email ID: chairman@tnebnnet.org*

2. Superintending Engineer

*CEDC/North,
Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO)
144, Anna Salai,
Chennai – 600002
Email ID: sechnn@tnebnnet.org*

3. Tamil Nadu Electricity Regulatory Commission

*Represented by its Secretary
TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008
Email ID: tnerc@nic.in*

... Respondent (s)

Counsel for the Appellant(s) : Munawwar Naseem
Sanjna Dua

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.1

Anusha Nagarajan for Res.2

APPEAL No.164 OF 2019

Chemplast Sanmar Ltd

Registered Office: 6,

Catherdral Road, Chennai - 600086

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri
Ashwin Ramanathan
Ritu Apurva

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.163 OF 2019

Tamil Nadu Newsprint and Papers Ltd.

67, Mount Road
Guindy, Chennai – 600 032

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary

TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,

Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Corporation Ltd

Represented by its Chairman & MD,
144, Anna Salai,
Chennai – 600002

... Respondent (s)

Counsel for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri
Ashwin Ramanathan
Utkarsh Singh

Counsel for the Respondent(s) : Jaideep Gupta, Sr. Adv.
Anusha Nagarajan for Res.2

APPEAL No.53 OF 2021

The India Cements Limited

“Coromandel Towers”
93, Santhome High Road
Karpagam Avenue
R.A.Puram
Chennai – 600 028

...Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Represented by its Secretary
TIDCO Office building,
No. 19-A, Rukmanila Laskshmipathy Salai,
Marshalls Road, Egmore,
Chennai – 600008

2. Tamil Nadu Generation and Distribution Company

Represented by its Chairman & MD,

144, Anna Salai,
Chennai – 600002

... Respondent (s)

| | | |
|-------------------------------|---|--|
| Counsel for the Appellant(s) | : | Anand K. Ganesan Swapna Seshadri Damodar Solanki |
| Counsel for the Respondent(s) | : | Jaideep Gupta, Sr. Adv. Anusha Nagarajan for Res.2 |

J U D G M E N T

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. In this batch of 21 appeals, the appellants have assailed the finding of the 1st respondent Tamil Nadu Electricity Regulatory Commission (hereinafter referred to as “the Commission”) in the order dated 04.01.2019 passed in petition bearing M.P. No.10 of 2018 and tariff order dated 11.08.2017 to the effect that Captive Generating Plants (in short “CGP”) are liable to pay parallel operation charges envisaged under Regulation 26 of Tamil Nadu Electricity Regulatory Commission Grid Connectivity and Intra-State Open Access Regulations, 2014 (hereinafter referred to as “Open Access Regulations, 2014) irrespective of the fact whether or not have they opted for parallel operation with the grid of the licensee as per procedure contemplated under these regulations.

2. The appellants are the industries engaged in manufacture of different types of goods and also run captive generating plants within their factory / plant premises.

3. Seventeen appeals have been filed against the order dated 04.01.2019 passed by the Commission in M.P. No.10 of 2018 filed by 2nd respondent Tamil Nadu Generation and Distribution Company Limited (in short “TANGEDCO”) seeking adoption of the methodology proposed by it for levying of Parallel Operation Charges (in short “POC”). In three appeals, the tariff order dated 11.08.2017 has been impugned to the extent it deals with levy of parallel operation charges by 2nd respondent. In one appeal i.e. Appeal No. 214 of 2022, the Appellant, Chennai Petroleum Corporation Ltd. has assailed the demand notice dated 22nd February, 2019 issued by TANGEDCO towards POC for the period between May, 2014 to January, 2019. Be it noted here that the said appellant had initially impugned the said demand notice before the Madras High Court by way of Writ Petition bearing No.12411 of 2019. However, vide Order dated 21.09.2021, the High Court disposed off writ petition relegating the appellant to this Tribunal for appropriate adjudication of the dispute raised by it. Accordingly, the appellant approached this Tribunal

by way of said appeal No.214 of 2022 assailing the levy of POC by 2nd
Respondent – TANGEDCO.

4. The details of the appellants, their respective businesses, details of respective appeals filed by them and the details of the orders impugned by them would be clear from the following table: -

| Sr. No. | Name of the Appellant and Appeal Number | Details of Plant | Impugned Order Details | Remarks |
|----------------|--|---|--|--|
| 1. | APL No. 162 of 2019 Suryadev Alloys and Power Limited | Appellant engaged in business of manufacture of rolled steel products and having 2X80 MW coal based captive power plant with co-located load. | (TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018) | Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid*. |
| 2. | APL No. 163 of 2019 | Appellant engaged in business of manufacturing of | (TNERC Order dated 04.01.2019 | Captive Power Plant with co- |

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| | <i>Tamil Nadu Newsprint and Papers Limited</i> | <i>newsprint and printing papers. Appellant having generation station of installed capacity of 122.12 MW at Karur District (Unit -I) and Unit-II of 30 MW TG Set is fossil fuel based captive generating plant. These plants are co-located.</i> | <i>passed in MP No. 10 of 2018)</i> | <i>located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 3. | <i>APL No. 164 of 2019 Chemplast Sanmar Limited</i> | <i>Appellant engaged in business of PVC paste, resin, caustic soda, chlorine etc. Appellant having fossil fuel based captive generating plant at Mettur with an installed capacity of 48.5 MW with co- located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Power Plant with co- located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 4. | <i>APL No. 165 of</i> | <i>Appellant engaged in</i> | <i>(TNERC</i> | <i>Captive</i> |

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| | 2019 <i>Kamachi Industries Limited</i> | <i>business of manufacturing of steel. Appellant having Captive Power Plant of 2X35MW with co-located load.</i> | <i>Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 5. | <i>APL No. 173 of 2019 Sree Rangarajlspat Industries (P) Ltd</i> | <i>Appellant engage in manufacturing of sponge iron. Appellant set-up Captive Generating Plant with capacity of 8MW heat recovery bases captive co-generation plant and 30 MW captive generation plant with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 6. | <i>APL No. 233 of 2019 Chettinad Cement</i> | <i>Appellant having cement manufacturing plant. Appellant set-up</i> | <i>(TNERC Order dated 04.01.2019</i> | <i>Captive Power Plant with co-</i> |

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| | <i>Corporation Limited</i> | <i>15 MW fossil fuel bases Captive generating plant with co-located load</i> | <i>passed in MP No. 10 of 2018)</i> | <i>located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 7. | <i>APL No. 234 of 2019 Chettinad Cement Corporation Limited</i> | <i>Appellant having cement manufacturing plant. Appellant set-up with 3X15 MW (45 MW) Captive generating Plant with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 8. | <i>APL No. 276 of 2019 Dhanalakshmi srinivasan Sugars Private Limited</i> | <i>Appellant engaged in business of sugar. Appellant set-up 25 MW co-generation power plant for self consumption with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Co-GEN Plant with co-located load and undisputedly connected to</i> |

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| | | | | <i>TANGEDCO's Grid.</i> |
| 9. | <i>APL No. 310 of 2019 Ponni Sugars (Erode) Limited</i> | <i>Appellant set-up bagasse based co-generation power plant at its sugar mill of 19 MW with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Co-GEN Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 10. | <i>APL No. 323 of 2019 The Ramco Cements Limited</i> | <i>Appellant engaged in business of Cement manufacturing. Appellant set-up 36 MW Plant at Alathiyur, 25 MW plant at RR Nagar and 60 (40+20) MW plant at Ariyalur having manufacturing plant at RR Nagar, Alathiyur, Ariyalur with co-located</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |

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| | | <i>load.</i> | | |
| 11. | <i>APL No. 324 of 2019 Shakti Sugars Limited</i> | <i>Appellant set-up 3 Co-gen plants having combined capacity of 91.50 MW co-generation power plant located at 3 different locations with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Co-GEN Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 12. | <i>APL No. 325 of 2019 Bannari Amman Sugars Limited</i> | <i>Appellant set 3 Sugar factory with 3 bagasse based Co-generation plants having combined capacity of 73.8 MW at three different location for self consumption.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Co-GEN Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 13. | <i>APL No. 328 of 2019 Rajshree Sugars</i> | <i>Appellant set Sugar factory with 3 unit of bagasse based co-</i> | <i>(TNERC Order dated 04.01.2019</i> | <i>Captive Co-GEN Plant with co-</i> |

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| | <i>and Chemicals Limited</i> | <i>generation plant located at three different sugar plant i.e., 12 MW at Gullupuram Village, 22MW at Mudiampakkam village and 20.5 MW at Semmedu Village with co-located load.</i> | <i>passed in MP No. 10 of 2018)</i> | <i>located load and and undisputedly connected to TANGEDCO's Grid.</i> |
| 14. | <i>APL No. 395 of 2019 Kothari Sugars and Chemicals Limited</i> | <i>Appellant set Sugar factory along with bagasse based co-generation plant with 11MW plant at Kattur factory and 22MW plant at Sathiamangalam factory with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Co-GEN Plant with co-located load and and undisputedly connected to TANGEDCO's Grid.</i> |
| 15. | <i>APL No. 434 of 2019 E.I.D Parry India</i> | <i>Appellant set-up Sugar factory with 3 unit of co-generation plant located at three different sugar</i> | <i>(TNERC Order dated 04.01.2019 passed in</i> | <i>Captive Co-GEN Plant with co-located load</i> |

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| | | <i>plant i.e., 22 MW at Pugalur, 20MW at Pettavaithalai, 18 MW at Pudukottai and 18.5 MW at Nellaikuppam for with co-located load</i> | <i>MP No. 10 of 2018)</i> | <i>and and undisputedly connected to TANGEDCO's Grid.</i> |
| 16. | <i>APL No. 53 of 2021 The India Cement Limited</i> | <i>Appellant having cement factory along with captive generating pant of 48MW capacity with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Power Plant with co-located load and and undisputedly connected to TANGEDCO's Grid.</i> |
| 17. | <i>APL No. 181 of 2022 Vedanta Limited</i> | <i>Appellant engaged in business of mineral processing and set-up thermal power plant of 2X80 MW with co-located load.</i> | <i>(TNERC Order dated 04.01.2019 passed in MP No. 10 of 2018)</i> | <i>Captive Power Plant with co-located load and undisputedly connected to</i> |

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| | | | | <i>TANGEDCO's Grid.</i> |
| 18. | <i>APL No. 214 of 2022 Chennai Petroleum Private Limited</i> | <i>Total installed capacity of 129.9 MW comprising of 7 generators at its refinery in Manali Chennai with co-located load.</i> | <i>Demand Notice dated 22.02.2019 and remanded by Hon'ble Madras High Court</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 19. | <i>APL No. 86 of 2018 Tamil Nadu Newsprint and Papers Limited</i> | <i>Appellant engaged in business of manufacturing of newsprint and printing papers. Appellant having generation station of installed capacity of 122.12 MW at Karur District (Unit -I) and Unit-II of 30 MW TG Set is fossil fuel</i> | <i>Para 5.12.8 of 2017 Tariff Order NOTE: Also challenged Order dated 04.01.2019 in APL No. 163 of 2019</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |

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| | | <i>based captive generating plant. These plants are co-located.</i> | | |
| 20. | <i>APL No. 87 of 2018 Seshasayee Paper and Boards Limited</i> | <i>Appellant having generation station of installed captive plant having capacity of 20 MW steam turbo generator power plant and 16 MW bio mass power plant with captive load. These plants are co-located.</i> | <i>Para 5.12.8 of 2017 Tariff Order</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |
| 21. | <i>APL No. 100 of 2018 Chemplast Sanmar Limited</i> | <i>Appellant engaged in business of manufacturing of steel. Appellant having Captive Power Plant of 2X35MW with co-located load.</i> | <i>Para 5.12.8 of 2017 Tariff Order NOTE: Also challenged Order dated 04.01.2019 in APL No. 164 of 2019</i> | <i>Captive Power Plant with co-located load and undisputedly connected to TANGEDCO's Grid.</i> |

5. We have heard learned senior counsels/counsels appearing on behalf of the appellants as well as the learned senior counsels/counsels appearing on behalf of the respondents. We have also perused the impugned orders as well as written submissions filed on behalf of the Appellant and the 2nd Respondent.

Legal issue arising in this batch of appeals: -

6. The legal issue which arises for adjudication in the batch of captioned appeals in the facts and circumstances narrated therein relates to the interpretation of Regulation 26 of Open Access Regulations, 2014 and its applicability. For the sake of reference, Regulation 26 of these Regulations is quoted herein below: -

“26. Parallel Operation Charges. –

If the Captive Generating Plants (CGPs) opt for parallel operation with the licensee’s grid for safe and secure operation of their generators and to provide quality, reliable power supply to their load, the CGPs shall pay a parallel operation charges of Rs.30,000/-

per month for each MW capacity (or part thereof) of the generator. This charge is applicable to the generators availing only parallel operation with the grid without availing open access. The application fees and procedure for parallel operation of generators with grid shall be same as that of grid connectivity of generators.”

7. It needs note here that these Open Access Regulations, 2014 were notified by the Commission on 07.05.2014.

8. A petition bearing M.P. No.10 of 2018 was filed by TANGEDCO before the Commission with the prayer to confirm the methodology adopted by it to levy the Parallel Operation Charges from the generators on their net capacity with effect from 07.05.2014 when they run their generators in parallel with the grid and use the industrial load. The petition had been filed in pursuance to the order dated 22.03.2017 passed by the Hon'ble High Court of Madras in Writ Petition No.2128 of 2017 & batch filed by some of the appellants herein whereby the writ petitioners were directed to refer the issue pertaining to levy

of Parallel Operation Charges to the Commission within two weeks from the date of that order.

9. The 2nd respondent TANGEDCO in the said petition filed before the Commission, had sought confirmation of the following methodologies adopted by it for levy of parallel operation charges.

“a) When the generator has an industrial use and utilize part of the generation for industry and wheel some quantum through open access, technically it amounts to mere parallel operation of generator and falls within the provision of Regulation 26 of Grid Connectivity and Intra-State Open Access Regulations, 2014. Such generators utilize the network and are so bound to pay Parallel Operation Charges.

b) In the case of generators who have industry in the same premises and connected to the grid in the same interfacing lines from which they are availing power supply as consumer, they too fall within the provisions

of the Regulation 26 of Grid Connectivity and Intra-State Open Access Regulations, 2014 and are liable to POC.

c) The generators and the industrial loads are connected to the interfacing point of the Licensee grid. The generators may be synchronized at various voltages either at LT or HT inside the premises of the industry. In such cases the generator is deemed to be electrically connected to interfacing point/ interfacing line of the Licensee's grid and therefore parallel operation charges shall be collected.

d) In respect of cases where the generator has an industrial use and has also executed Energy Wheeling Agreement to wheel some quantum through open access but has not injected any power and therefore not wheeling power to their captive users, then the Captive Generators has to pay parallel operation charges for the entire installed capacity of the

generator till expiry of Energy Wheeling Agreement (EWA) or till request for termination of grid connectivity/ parallel operation.

e) In all the above cases as the load and the generator operate in parallel with licensee's network and utilize all the facilities of the grid for their beneficial use, parallel operation charges shall be collected from the captive generators on the net capacity with effect from 07.05.2014 (the Date of notification of TNERC's Grid Connectivity and Open Access Regulations) i.e the capacity utilized for self-consumption for extending the facility of grid support. There is no need for any option to be submitted by the generator as the permission granted for grid connectivity of the generators is based on the application of the generators for synchronization with the grid. In case of no open access, parallel operation charges shall be levied for the entire installed capacity of the generator.

f) When the generator installed is in a factory/industry and the industry is a consumer of the distribution licensee but the generator is not synchronized with the licensee's grid /network, the generator runs on standalone mode and so parallel operation charges are not applicable in such cases.

g) In the absence of any industrial loads i.e. when there exists only a generator, Parallel Operation Charges is not levied.”

10. The Commission concluded that mere connectivity to the grid of the licensee by a captive generating plant tantamounts to parallel operation making the CGP liable for payment of Parallel Operation Charges. The relevant portion of the impugned order of the Commission is quoted herein below: -

“... The Commission therefore also wishes to confirm that when, a captive generator with co-existing load or a co-generator is synchronized with the Licensee's grid for any purpose be it for start up purpose, export

or import power under open access, or consume power as a consumer, or supply the excess power to the grid as in the case of co-generators, it is the point of common coupling where they are electrically connected to the grid and hence utilize all the benefits of absorption of harmonics, negative phase sequence current, improvement in power factor, metering fluctuations and providing reactive power support and hence liable to pay the parallel operation charges.”

...

“As contended by the petitioner, the Commission also views that synchronization of the Captive generator/Co-generator with the Licensee’s grid enable them derive the benefits of the parallel operation with Licensee’s grid. Hence Parallel operation charges are applicable for generators electrically connected to the State grid directly or indirectly. These charges are applicable from 07.05.2014, the date of notification of the Regulation. The Commission hereby directs the petitioner, to

regularize the parallel operation by obtaining an application along with the prescribed fee for all generators including captive and co-generating units. The respondents on their part would submit the application along with the prescribed fee to the distribution licensee seeking approval for parallel operation with the grid specifying the quantum. The respondents are free to reduce their contracted demand with the Distribution Licensee if needed so. Due regulatory procedure may be followed by the petitioner for fresh cases. If no such application is received from CGPs, the Distribution licensee is at liberty to levy POC as per the directions given above.”

(Emphasis supplied)

Submissions of the parties: -

a) Submissions on behalf of the Appellants: -

11. On behalf of the appellants, it is vehemently argued that the Commission has rendered a grossly erroneous finding that mere connectivity to the grid of

the licensee tantamounts to parallel operation as contemplated under Regulation 26 of Open Access Regulations, 2014 which is not only contrary to the basic purpose of parallel operations but also runs contrary to the basic language of the Regulation. It is pointed out that Regulation 4 of these Regulations deals with the connectivity with the grid whereas Regulation 26 deals with parallel operation and both cannot be treated as one and the same for the reason that both operate in different fields and for different purposes. It is further argued that: -

- i) The very provision that a generator can opt for parallel operation would also pre-suppose that generator can opt not to have parallel operation and have only connectivity. The impugned order has removed such distinction between connectivity and parallel operations.
- ii) It is clear that when Regulation 26 envisaged that a generator has to “opt” for parallel operation, it does not imply mere connectivity or synchronization for which provision is made in Regulation 4. If the intention was to state that connectivity by itself would amount to parallel operation, there was no reason for having two independent provisions like Regulation 4 and Regulation 26 dealing separately with these two aspects.

- iii) Regulation 26 provides that POC leviable only on such generators who avail parallel operation without availing open access. This makes it clear that the facility of parallel operation should be availed in exclusion to other facilities. When the CGP is connected to the grid for other facilities alone, POC will not be applicable.
- iv) Regulation 26 also provides that the application procedure for availing parallel operation is the same as that of grid connectivity of the generators which is indicative of the fact that parallel operation can not be merely assumed but a CGP should have opted/applied for the same on the prescribed format by following prescribed procedure.
- v) The position that parallel operation has to be independently applied for and obtained does not flow only from Open Access Regulation, 2024 but also from POC circular issued by 2nd respondent itself which reads as under: -

“....In accordance with the above, the parallel operation charges is applicable to the generators those who are availing only parallel operation with the grid without availing open access. However, it is

noticed that most of the circles have not collecting the said charges from the said type of generators from the date of 07.05.2014. The Parallel Operation Charges may be collected in respect of the generators furnished in the list enclosed from the date of mentioned above. It is also requested that said charges may also be collected in respect of similar generators who availed grid connectivity for only parallel operation.

2. Hence, all the Superintending Engineer of Distribution circles are hereby informed to take necessary action in order to collect the said charges immediately.”

(Emphasis supplied)

- vi) The said circular makes it clear that TANGEDCO never intended to levy Parallel Operation Charges from all generators who are connected to grid and the understanding was to levy such charges from the generators who are connected to grid only for the purpose of parallel

operation. The Commission has no power or jurisdiction to deviate from the regulations framed by it. In this regard reference is made to judgment of Supreme Court in PTC India Limited v. CERC 2010 4 SCC 603.

vii) It is only where the generator applies power only to its captive co-located load and has no open access, it would avail parallel operation facility for its generator and would be liable for payment of Parallel Operation Charges. This fact is completely ignored by the Commission.

b) Submissions on behalf of the Respondents: -

12. On behalf of the respondents, it is emphatically argued as under: -

i) The appellants are captive generating plants and have co-located load. They all are connected to the grid in the manner that, as per well settled principles, constitutes parallel operation which is beneficial in their operation. Since the CGPs of the appellants are technically and electrically in parallel operation with the grid, the purpose for which they chose to get connected with the grid (i.e. whether for sale of balance power to the distribution licensee, wheeling or standby electricity) is

immaterial for the purposes of applicability or regulation 26 of Open Access Regulation, 2014.

- ii) To “opt” for parallel operations in regulation 26 need not necessarily be taken to mean a written application or a formal request submitted by the generator. Instead, such opting can be inferred by the conduct of the generator and the factual circumstances surrounding the inter-connection operation of generating plant with the state utility grid, particularly where the plant is operating in parallel with the grid through a common coupling point. In the electricity sector, particularly in case of captive power plants and co-generation plants with co-located loads, parallel operation refers to a technical arrangement where the captive generating unit operates simultaneously with the state grid.
- iii) In such scenario the act of operating in parallel with the grid itself constitutes implied consent or acceptance of the associated regulatory obligations, including the liability to pay parallel operation charges.
- iv) The Open Access Regulations, 2014 do not prescribe any mandatory written format or application as the only means of opting for parallel operation. Instead, the focus is on the existence of parallel connectivity

and the actual use or readiness to use grid support. Therefore, opting for POC must be assessed based on the operational reality rather than procedural formality.

v) The fact that appellants are in parallel operations with the grid is also undeniable considering the express terms of the agreement entered into between them and 2nd respondent TANGEDCO. Although each of these agreements may have been entered into for different purposes, these categorically and unequivocally acknowledge and establish the position that each of the generators is operating in parallel to the grid (copies of such agreements entered into between the appellants and TANGEDCO have been filed on behalf of the TANGEDCO during the course of arguments).

vi) Being connected to the grid in parallel operation mode, the contentions of the appellants that they are nevertheless required to do something additional to “opt” for parallel operation is hyper-technical and specious to defeat the purport of regulation 26. The affirmative choice of parallel operation of the grid is expressed by the fact that none of the appellants have chosen to disconnect from the grid and operate in island mode. In

other words, the appellants have not “opted” out of parallel operation mode.

vii) The position is consistent with the principle recognized in regulatory jurisprudence that substance prevails over form i.e. actual mode of operation and benefit from grid takes precedence over the presence or absence of a formal document. In that sense the liability to pay POC arises not solely from a written application but from the benefit and support obtained by the generator due to its parallel inter-connection with the state grid.

viii) The contention on behalf of the appellants that they never opted for parallel operation is not supported by the operational realities and regulatory compliance obligations under which their captive power plants function. In the instant case by virtue of factually being in parallel operation as well as by executing agreements in which the appellants admit and acknowledge that they are in parallel operation with the grid, it can not be contended that they are not liable for payment of POC on flimsy ground that they have not specifically opted for parallel operation. This can be explained by way of following three illustrations: -

“Illustrative example -1- Consider a CPP that is connected to the TANGEDCO grid via a 110 kV line and has protections installed to ensure synchronization. The plant draws power during shutdowns and maintains real-time synchronization parameters. Though the generator may argue that no formal application was filed to “opt for” parallel operation, the mere technical setup and operational behavior confirm that the grid is being used in parallel mode. In such a case, the opting for parallel operation is implied and well-established through conduct.

Illustrative example -2 - Consider an individual or business whose annual income crosses the threshold limit prescribed under the Income Tax Act. Under Indian tax law (and similarly in many jurisdictions), once the income of an assessee crosses the basic exemption limit, the liability to pay income tax arises

automatically, even if the assessee does not voluntarily file a return or formally declare their income.

Illustrative example -3- Under the Goods and Services Tax (GST) law, a business becomes liable to register and pay GST the moment its aggregate turnover exceeds ₹20 lakhs (~~₹40 lakhs~~ or ₹10 lakhs in some states and sectors, depending on specific rules). This obligation is triggered automatically by law, not by the submission of an application or registration request. Even if the trader never files for GST registration, the law presumes that liability exists from the day the threshold is breached.

- The trader is **deemed to be a taxable person**.
- The tax authorities can assess and demand tax dues, penalties, and interest for non-compliance.
- The trader **cannot argue** that tax liability did not arise simply because they did not submit a written application or register voluntarily.”

13. To buttress their submissions, the learned counsels placed reliance upon the previous judgments of this Tribunal in Chhattisgarh State Power Distribution Company Limited v. Godawari Power & Ispat Limited 2011 SCC OnLine APTEL 20, HEG Limited v. Madhya Pradesh Electricity Regularity Commission, Appeal No.167 of 2014 decided on 08.10.2015, Shree Renuka Sugars Limited v. Gujarat Energy Transmission Corporation Limited 2015 SCC OnLine APTEL 11 and Rain CII Carbon (Vizag) Ltd. v. Andhra Pradesh Electricity Regularity Commission, Appeal No.288 of 2022 decided on 14.12.2023.

c) Arguments in rebuttal on behalf of the Appellants: -

14. In rebuttal, it has been argued on behalf of the appellants that the TANGEDCO is erroneously seeking to place reliance on the agreements entered into with the appellants to established that the appellants had explicitly accepted/opted to operate in parallel with the grid. It is pointed out that a plain reading of the agreements would reveal that these were entered into for the purpose of exporting power to the grid or to avail open access and therefore, by no means can be construed as admission of operation in parallel with the grid. The fact that these agreements are identical would not enable appellants to avail one facility in place of another without independently applying and

obtaining permission for the same. It is submitted that the argument on behalf of respondents that any agreement (whether for obtaining open access, connectivity or synchronization) would also impliedly serve as agreement for parallel operations, is absurd and untenable.

Our Analysis: -

15. As already noted hereinabove, the basic issue before us in this batch of appeals is with regards to the proper interpretation of Regulation 26 of Open Access Regulations, 2014 and its applicability. There is no gainsaying that Open Access Regulations, 2014 were issued by the Commission in discharge of its legislative jurisdiction/powers under Section 181 of the Electricity Act, 2003 and these have the force of law binding upon the Commission itself also while discharging adjudicatory functions.

16. At the outset, we may note that the fundamental principle of interpretation is to assign the words in a statute/legal provision their natural, original and precise meaning, provided the words are clear and taking into account the purpose of the statute. This is known as primary rule of literal construction in the interpretation of statutes and states that the words/phrases in a statute should be examined in their literal sense and given their natural

effect. According to this rule, the words/phrases and sentences of a statute are to be understood in their natural, original, popular or grammatical meaning unless such a construction leads to an absurdity or the statute suggests a different meaning. In other words, in interpreting a statute the cardinal rule is that the statute is constructed literally or grammatically giving the words their ordinary or natural meaning.

17. The other basic principle of literal construction is that every word in the law should be given meaning as no word is unnecessarily used and one should not presume any omission and if a word is not there in the statute, it shall not be given any meaning. Nothing is to be added to or taken from the statute unless there are adequate grounds to justify such interference.

18. Having said so, we may also note that the Commission had felt need to issue Open Access Regulations, 2014 in view of various orders issued by the Commission itself from time to time and the past experience to notify new comprehensive regulation governing the grid connectivity and open access.

19. Chapter 2 of Open Access Regulations, 2014 deals with connectivity and is extracted hereunder: -

“4. Connectivity. –

(1) Any consumer having contracted demand of 10 MW and above or a consumer availing supply at 66 kV and above or a Generating Station having capacity of 15 MW and above or a Generating Station requiring connectivity at 66 kV and above shall be eligible to obtain connectivity to the intra-State transmission system, unless already connected, and shall apply for connectivity, in accordance with the provisions in this chapter.

(2) Any consumer having contracted demand of less than 10 MW or a consumer availing supply at 33 kV and below or a Generating Station having installed capacity less than 15 MW or a Generating Station requiring connectivity at 33 kV and below shall be eligible to obtain connectivity to the Distribution system and shall apply for connectivity as per the provisions of these Regulations, unless already connected, in accordance with the provisions in this chapter.

(3) Fossil fuel based generating stations shall be given connectivity at HT/EHT level. Generating stations generating energy based on new and renewable energy sources shall be provided with connectivity at any voltage, subject to the provisions of the Commission's regulations/orders in force."

20. Regulation 5 prescribes the procedure for connectivity to intra-State transmission system and is quoted hereinbelow: -

"5. Application procedure for Connectivity to intra-State transmission system. - (1) An application for connectivity to intra-state transmission system shall be made to the STU in the Form prescribed by the STU.

(2) Every application shall be accompanied by a non-refundable fee as specified below in the manner as mentioned in the procedure to be issued by the STU.

The said fee is inclusive of the charges for any load flow / system studies to be conducted by the STU.

| Sl. No. | Quantum of power to be injected / off take into / from Intra-State Transmission and / or Distribution System. Application fee for connectivity (Rs. In Lakhs) | Application fee for connectivity (Rs. In Lakhs) |
|----------------|--|--|
| 1. | Up to 100 MW | 2 (Two) |
| 2. | More than 100 MW and up to 500 MW | 3 (Three) |
| 3. | More than 500 MW and up to 1000 MW | 6 (Six) |
| 4. | More than 1000 MW | 9 (Nine) |

(3) In case of co-generation and generation of electricity from renewable energy sources, the application fee shall be 50% of the normal fee. (4) The application for connectivity shall contain details such

as, geographical location of the applicant, quantum of power to be interchanged, that is, the quantum of power to be injected in the case of a generating station including a captive generating plant and quantum of power to be drawn in the case of consumer, with the intra-State transmission system and such other details as may be laid down by the State Transmission Utility in the detailed procedure: Provided that in cases where once an application has been filed and thereafter there has been any material change in the location of the applicant or change by more than 10 percent in the quantum of power to be interchanged with the intra-State transmission system, the applicant shall make a fresh application, which shall be considered in accordance with these Regulations:

Provided further that an application by the collective generators shall be considered by STU, only if all the generators, whose aggregate capacity is connected at the single connection point, formalize a written

agreement among themselves that the lead generator shall act on behalf of all the generators to undertake all operational and commercial responsibilities for all the collective generators connected at that point in following the provisions of the Indian Electricity Grid Code or Tamil Nadu Electricity Grid Code as the case may be and all other Regulations of the Commission, such as grid security, scheduling and dispatch, collection and payment/ adjustment of Transmission charges, Unscheduled Interchange (UI) charges, congestion and other charges, etc., and submit the application of connectivity with a copy of the agreement to the STU and also send a copy of the application to the SLDC:

Provided also that the STU shall suitably incorporate the requirement of formal agreement amongst such generators in the detailed procedure and Connection Agreement signed with such lead generator.”

21. Regulation 26, which is the bone of contention between the parties in this batch of appeals, finds its place in Chapter 5 of the Regulations under the heading “Open Access Charges”. For the sake of convenience and at the cost of repetition Regulation 26 is extracted hereunder again: -

“26. Parallel Operation Charges. –

*If the Captive Generating Plants (CGPs) **opt** for parallel operation with the licensee’s grid for safe and secure operation of their generators and to provide quality, reliable power supply to their load, the CGPs shall pay a parallel operation charges of Rs.30,000/- per month for each MW capacity (or part thereof) of the generator. This charge is applicable to the generators availing only parallel operation with the grid without availing open access. **The application fees and procedure for parallel operation of generators with grid shall be same as that of grid connectivity of generators.**”*

(Emphasis supplied)

22. A bare perusal of Regulation 4 and Regulation 26 manifests that these operate in different scenarios. Regulation 4 is applicable when a generating station requires connectivity with the Intra-State Transmission System either at 66 KV and above or at 33 KV and below. For obtaining such connectivity, the generating station needs to submit an application along with prescribed fee as provided in Regulation 5.

23. Regulation 26 applies when a captive generating plant intends to have connection with the grid of licensee for parallel operation. Therefore, it is limpid that a generating plant can have either simple connectivity with the Intra-State Transmission System as envisaged under Regulation 4 or it may also opt for parallel operation along with the connectivity as envisaged under Regulation 26.

24. The language used in Regulation 26 is very clear, unambiguous and easy to understand. There is no room for any confusion or absurdity in constructing it literally. The connotation flowing from it is definite and precise. What it prescribes is not difficult to comprehend. It specifies certain terms/conditions upon fulfillment of which, parallel operation with the grid can be granted to a captive power plant and it becomes liable to pay POC.

25. The word “opt” used in first sentence of Regulation 26 leaves no room for doubt that a captive generating plant may or may not go for parallel operation at the time of seeking connectivity with the grid. “Opt” means “to choose” or “decide to do” or “have something after thinking about it”. It is synonyms to the words “decide”, “elect” and “preferred”. A person opting for something indicates that he is exercising a choice or making a selection.

26. Therefore, in order to hold that a captive generative plant is liable to pay parallel operation charges envisaged under Regulation 26, it has to be first established that the generating plant had opted or chosen to go for parallel operation also. The last sentence of Regulation 26 is also very material. It provides that the application fee and procedure for parallel operation of generators with the grid shall be same as that of grid connectivity of the generators. Thus, it would be incongruous to say that a generating plant is liable to pay parallel operation charges under Regulation 26 by merely having been connected to the grid irrespective of the fact whether or not had it opted/applied for parallel operation. The application fee and procedure for application for parallel operation is covered by Regulation 5 which has already been noted hereinabove. Regulation 26 clearly mandates that a generating plant willing to have parallel operation with the grid needs to submit an

application in this regard along with requisite fee as prescribed under Regulation 5 and therefore, there can not be a case of parallel operation in the absence of requisite application and payment of requisite fee.

27. We do not find any force in the submissions made on behalf of respondents that the mere fact that appellants are technically and electrically in parallel operation with the grid is enough to levy parallel operation charges from them and the purpose for which they chose to get connected with the grid is immaterial. It has also been argued on behalf of the respondents that to opt for parallel operations under Regulation 26, a generating plant need not necessarily make a written application or a formal request. The argument is fallacious and runs contrary to the Regulation 26 itself, which, in clear words provides that for having parallel operation with the grid, a generating plant shall have to submit an application along with requisite fee as that of grid connectivity envisaged under Regulation 5.

28. We concur with the submissions made on behalf of the appellants that once Regulation 26 provides that a generator has to “opt” for parallel operation it does not imply mere connectivity or synchronization for which provision is made in Regulation 4. It is evident that in case the intention of the Commission at the time of notifying the Open Access Regulations, 2014 was to state that

connectivity by itself would amount to parallel operation, there was no reason for having two independent provisions like Regulation 4 and Regulation 26 dealing separately with these two aspects.

29. The fact that Regulation 26 provides that POC would be leviable only on such generators who avail parallel operation with the grid without availing open access makes it clear that the facility of parallel operation should be availed in exclusion to other facilities in order to be liable for payment of POC. Thus, when a generating plant is connected to grid for some other facilities alone, POC will not be applicable. This position gets support from the POC circular dated 02.05.2016 issued by the 2nd respondent TANGEDCO itself, which has been already quoted in paragraph 10(v) hereinabove. Vide the circular, TANGEDCO has issued departmental instruction to collect parallel operation charges as per Regulation 26 of Open Access Regulations, 2014 with effect from 07.05.2014. It is mentioned in the circular that these charges may also be collected in respect of the generators who avail grid connectivity only for parallel operation. This is indicative of the fact that TANGEDCO itself is aware of the situation where a generating plant may avail grid connectivity only for parallel operation and in that situation POC would be levied from the said plant.

30. In case the arguments on behalf of the respondents are taken to be correct, it will create a situation where we will be proceeding against the mandate of the Regulation 26. The regulation specifically provides for deposit of requisite fee along with application for grant of parallel operation with the grid. Concededly, neither have the appellants paid any such fee nor has the TANGEDCO made any endeavor to levy/demand such fee from the appellants during all these years. It is a cardinal rule that where a facility is to be granted only upon payment of some fee, grant of such facility can not be implied/assumed unless such fee is levied from the grantee. Holding the appellants liable to pay POC without fulfilling the conditions set out on Regulation 26 would be doing violence to the regulation.

31. We have gone through the previous judgments of this Tribunal cited at Bar on behalf of the respondents. None of those are relevant for our discussion on the issue which has arisen in this batch of appeals. In none of those judgments has this Tribunal embarked upon interpretation of Regulation 26 of Open Access Regulations, 2014 and its applicability.

32. It was also vehemently argued on behalf of the respondents that in the connectivity agreements executed by the appellants with TANGEDCO, they

have admitted that they are availing parallel operation facility and therefore they can not avoid payment of parallel operation charges in the wake of such admission even if they had not opted for parallel operation by way of a formal application. We do not find any merit in the said argument. We have perused each of those agreements which were produced on behalf of the respondents during the course of hearing of the appeals. Firstly, it has to be noted that the agreements were admittedly not for parallel operation but for connectivity with the grid for some other purpose. For the sake of clarity, we find it necessary to state hereunder the details of those agreements: -

“DETAILS OF AGREEMENTS FILED ON BEHALF OF TANGEDCO

| <i>S. NO.</i> | <i>DATE OF AGREEMENT</i> | <i>PARTIES</i> | <i>PURPOSE</i> |
|----------------------|---------------------------------|--|---|
| <i>1.</i> | <i>19.08.2015</i> | <i>Suryadev Alloys & Power Private Limited and TANGEDCO</i> | <i>The agreement is for wheeling of energy from coal based captive generating plant to the captive users (listed at pages 2 – 6). (@ Page 7 it is noted that all fees for the purposes of availing open access have been paid). Under Clause 6 (d)(@ pages 11 & 12) a sub-</i> |

| | | | |
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| | | | <p><i>category called “Grid availability/ Grid Support Charges” is mentioned however the clause provides only for start up charges, as applicable in case of outage and charges for deviation from schedule.</i></p> <p><i>For wheeling, even as per the impugned order, no parallel operation charges is applicable.</i></p> |
| 2. | 22.09.2017 | Tamil Nadu Newsprint and Papers Limited and TANGEDCO | <p><i>The agreement is for connectivity to the grid. While the recital portion of the agreement say that it is being entered into for the purpose of parallel operation of the CGP with the grid, the Standard Terms and Connections for Grid Connectivity (13) @ Page 26 states that “Grid Connectivity Charges if applicable has to be paid” and</i></p> |

| | | | |
|--|------------|--|--|
| | | | <p><i>Clause 5 “Other Charges” @ Page 22 specifies only charges for reactive power supply, power drawn for start up and other purposes and scheduling and system operation charges. The question of non application of POC does not arise in the event the agreement itself was for the purpose of parallel operation of the CGP with the grid. Nowhere, the agreement provides that POC will be applicable despite the agreement having been entered into post coming into force of the Open Access Regulations, 2014 and POC Circular.</i></p> |
| | 13.11.2015 | | <p><i>The agreement is for connectivity to the grid. The recital portion of the agreement states that it is for parallel operation of the CGP with the grid and sale of power from the</i></p> |

| | | | |
|-----------|------------|---------------------------------------|---|
| | | | <p><i>CGP to TANGEDCO. The parties have agreed on sale of 5MW infirm surplus power to TANGEDCO (Page 31). Clause 6 “Other Charges” @ Page 38 specifies only charges for reactive power supply, power drawn for start up and other purposes and scheduling and system operation charges. This agreement was temporary as mentioned at Clause 10 (“For Grid Connectivity” @ Page 39) until permanent connectivity is established at 110 KV level which was under process.</i></p> |
| 3. | 09.10.2017 | Chemplast Sanmar Limited and TANGEDCO | <p><i>It is a medium term open access agreement. While the agreement clearly states so, the recitals state that its for parallel operation of the CGP with the grid and for wheeling of energy from the CGP to captive consumers. Under</i></p> |

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| | | | <p><i>Clause 6 (d)(@ page 56) a sub-category called “Grid availability/ Grid Support Charges” is mentioned however the clause provides only for start up charges, as applicable in case of outage and charges for deviation from schedule.</i></p> |
| | 16.12.2015 | | <p><i>This was an addendum to energy wheeling agreement dated 29.09.2015. The agreement was for wheeling of energy from the CGP to captive consumers. (@ Page 64 it is noted that all fees for the purposes of availing open access have been paid) Under Clause 6 (d)(@ pages 71 & 72) a sub-category called “Grid availability/ Grid Support Charges” is mentioned however the clause provides only for start up charges, as applicable in case of outage</i></p> |

| | | | |
|-----------|------------|--|--|
| | | | <i>and charges for deviation from schedule.</i> |
| 4. | 10.10.2024 | <i>Kamachi Sponge & Power Corporation Ltd. and Tamil Nadu Power Distribution Corporation Limited</i> | <i>The agreement was entered into for the purposes of connectivity to the grid. Clause 13 @ Page 88 states that “Grid Connectivity Charges if applicable has to be paid by the company if approved by TNERC”. The question of non application of POC does not arise in the event the agreement itself was for the purpose of parallel operation of the CGP with the grid. Clause 23 @ Page 89 clearly states that the agreement is for grid connectivity of the generator alone.</i> |
| 5. | 30.09.2014 | <i>The Ramco Cements Limited and TANGEDCO</i> | <i>It is a short term open access agreement (Page 150).</i> |

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|----|------------|--------------------------------------|---|
| 6. | 23.03.2018 | The Indian Cements Ltd. and TANGEDCO | <p><i>It is an energy wheeling agreement for captive use. While the agreement clearly states so, the recitals state that its for parallel operation of the CGP with the grid and for wheeling of energy from the CGP to captive consumers. Under Clause 6 (d)(@ page 225) a sub-category called “Grid availability/ Grid Support Charges” is mentioned however the clause provides only for start up charges, as applicable in case of outage and charges for deviation from schedule. Details of captive consumers mentioned as Annexure @ Page 228. Clause 13 @ Page 230 states that “Grid Connectivity Charges if applicable has to be paid by the company if approved by TNERC”. The question of non application of POC does not arise in the event the</i></p> |
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| | | | <i>agreement itself was for the purpose of parallel operation of the CGP with the grid.</i> |
| 7. | 26.02.2015 | Sesa Sterlite Limited v. TANGEDCO | <i>The agreement was for the purpose of permanent grid connectivity (Page 237). Clause 13 @ Page 238 states that that “Grid Connectivity Charges if applicable has to be paid”. The question of non application of POC does not arise in the event the agreement itself was for the purpose of parallel operation of the CGP with the grid.</i> |
| 8. | 01.03.2023 | Chennai Petroleum Corporation Limited and TANGEDCO | <i>It is a medium term open access agreement. While the agreement clearly states so, the recitals state that its for parallel operation of the CGP with the grid and for wheeling of energy from the CGP to captive consumers. Under Clause 6 (d)(@ page 247) a</i> |

| | | | |
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| | | | <i>sub-category called “Grid availability/ Grid Support Charges” is mentioned however the clause provides only for start up charges, as applicable in case of outage and charges for deviation from schedule.</i> |
| 9. | 08.05.2013 | Seshasayee Paper and Board Limited | <i>It was entered into for the purposes of grid connectivity however termed as grid paralleling agreement. This was prior in time to the coming into force of the Open Access Regulations, 2014.</i> |

”

33. Nowhere in these agreements have the appellants stated that they have opted for parallel operation facility and that they have either paid the requisite fee or are ready and willing to pay such fee as provided under Regulation 5. There is even no clause in the agreements requiring the appellants to pay parallel operation charges envisaged under Regulation 26. Mere use of terms “parallel operation” in one or two clauses of the agreement can not be taken to mean that the appellants had opted for parallel operation with the grid upon

payment of requisite fee and have agreed to pay the parallel operation charges.

34. There is one more aspect of the case which needs to be noted and which further advances the case of the appellants. Having regard to the plain and simple language of Regulation 26, the appellants were all along of the impression that parallel operation charges would be leviable from them only in case they opt for parallel operations with the grid by submitting requisite application along with requisite fee. TANGEDCO also, on its part, appears to have been under the same impression which can be inferred from its conduct in allowing grid connectivity to the appellants without requiring them to apply for parallel operations. Even at the time of execution of the above referred agreements by the appellants with the TANGEDCO, it was not communicated to the appellants that by virtue of grid connectivity they are enjoying parallel operation facility also and therefore they are bound to deposit the requisite fee along with the prescribed application as per Regulation 5 and would also be liable to pay parallel operation charges. To accept the contentions of the respondents to the effect that the appellants are liable to pay parallel operation charges merely because of their power plants being connected to the grid irrespective of the fact whether or not have they opted/applied for parallel

operations, would tantamount to not only unsettle the settled position on the basis of plain and lucid language of Regulation 26 but also to contravene the Regulation 26 itself. Further, it would also be against the basic demands of justice. A cardinal rule of interpretation of statutes is that the statutes which impose any kind of penalty or liability upon an individual or entity have to be read and interpreted in strict terms. Therefore, there is no scope of any liberal interpretation of Regulation 26, as done by the Commission in the impugned order, for the reason that no liability can be fastened upon the appellants unless the procedure for the same envisaged under Regulation 26 is followed in letter and spirit.

35. There is no gainsaying that parallel operation is a facility in the nature of grid support to a captive power plant which gets various advantages by the same, viz. absorption of fluctuation in the load of captive power plant by the utility grid, absorption of harmonics, balancing of negative phase sequence current, prevention of voltage drop at load terminal, minimizing the variation in the voltage and frequency at the time of starting large motors and heavy loads, avoidance of impact created by sudden load throw off and consequent tripping of the power generator etc. It is thus, true that the gain to the captive power plant owing to parallel operation of the grid is quite substantial. However, fact

remains that as per clear mandate of Regulation 26, a captive power plant has to “opt” for parallel operation with the grid in the prescribed form and as per the procedure envisaged in Regulation 5 in order to become liable for payment of parallel operation charges.

Conclusion: -

36. Having regard to the above discussion, the findings of the Commission in the impugned orders to the effect that parallel operation charges envisaged under Regulation 26 of Open Access Regulations, 2014 are leviable from captive generating plants irrespective of the fact whether or not have they opted for parallel operation with the grid of the licensee as per procedure contemplated in these regulations is absolutely erroneous and can not be sustained. The same is hereby set aside. Accordingly, all the captioned appeals succeed and are hereby allowed.

37. We hold that parallel operation charges envisaged under Regulation 26 of Open Access Regulations, 2014 are leviable from only those captive generating plants who opt for parallel operation with the grid by submitting requisite application in this regard along with requisite fee as per the procedure prescribed under Regulation 5 of these Regulations.

38. Hence, the impugned orders of the Commission stand set aside to the extent indicated hereinabove.

Pronounced in the open court on this the 16th day of June, 2025.

(Virender Bhat)
Judicial Member

(Sandesh Kumar Sharma)
Technical Member (Electricity)

✓
REPORTABLE / ~~NON-REPORTABLE~~

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