

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

**IA No.311 OF 2025 IN
APPEAL NO.360 OF 2018**

Dated : 24.06.2025

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

In the matter of:

1. ACME Solar Holdings Limited
Plot No. 152, Sector – 44,
Gurugram – 122 002
Haryana, India
2. Devishi Solar Power Private Limited
Plot No. 152, Sector – 44,
Gurugram – 122 002
Haryana, India
3. Devishi Renewable Energy Private Limited
Plot No. 152, Sector – 44,
Gurugram – 122 002
Haryana, India
4. Eminent Solar Power Private Limited
Plot No. 152, Sector – 44,
Gurugram – 122 002
Haryana, India
5. Sunworld Energy Private Limited
Plot No. 152, Sector – 44,
Gurugram – 122 002
Haryana, India

...Applicants/
Appellants

Versus

1. The Secretary
Uttarakhand Electricity Regulatory Commission
Vidyut Niyamak Bhawan, Near I.S.B.T.,
P.O. Majra, Dehradun – 248171
Uttarakhand
 2. The Secretary
Uttarakhand Power Corporation Limited
Victoria Cross Vijeyta Gabar Singh,
Urja Bhawan, Kanwali Road,
Balliwala Chowk, Dehradun – 248001
Uttarakhand
 3. The Secretary
Power Transmission Corporation of Uttarakhand Limited
Vidyut Bhawan, Near ISBT Crossing,
Saharanpur Road,
Majra, Dehradun
- ...Respondent

Counsel on record for the Appellant(s)	:	Aniket Prasoon Akash Lamba Shubham Mudgil Rishabh Bhardwaj Anandini Thakre Shweta Vashist Akanksha Tanvi Priya Dhankar for App.1 to 5
Counsel on record for the Respondent(s)	:	C.K. Rai Anuradha Roy Vinay Kumar Gupta for Res. 1 Pradeep Misra for Res. 2

ORDER

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. By way of this application, the appellants have sought clarification in our judgment dated 29.08.2024 vide which the appeal has been

disposed off.

2. Appellant No.1, which was formed as a Special Purpose Vehicle by appellant Nos.2-5, was declared as one of the successful bidders for development of four solar power projects with a total installed capacity of 50MW i.e. 12.5MW each. As per Article 2.2 of the PPAs executed by appellant Nos.2-5 with UPCL for sale of entire capacity of 50MW power generated from these four projects, appellant Nos.2-5 had an option to construct evacuation infrastructure themselves, and if so opted, clause 15.1(b) of UERC RE Regulations, 2013 was to apply. Regulation 15.1 of these RE Regulations, 2013 provided that in case a solar power generating company opted to construct evacuation infrastructure from the point of connection to the nearest sub-station of transmission/distribution licensee, it shall be entitled to normative levelized tariff of 12 paise per unit over and above the generation tariff determined at the point of inter-connection.

3. The appellants opted to construct the necessary evacuation infrastructure and accordingly, the appellant Nos.2 & 3 are connected to 33kV/11kV Chinimill sub-station at Gadarpur owned by UPCL by way of 33kV total circuit D/C transmission line whereas appellant Nos.4 & 5 are connected to 132/33kV Bazpur sub-station owned by PTCUL by way of

33kV D/C. It appears that since appellants had chosen to construct only two 33kV total circuit line to evacuate power from their four power projects, the UPCL bifurcated the additional levelized tariff of 12 paise per unit permissible to the appellants and it has been paying the same to the appellants @ 06 paise per unit for each generating station.

4. Aggrieved by the said conduct of UPCL, the appellants had approached the Commission i.e. 1st respondent by way of petition No.16 of 2018 claiming additional levelized tariff @12 paise per unit for each of the four generating stations. However, the petition came to be dismissed by the Commission vide order dated 12.07.2018. Accordingly, the appellants had approached this Tribunal by way of appeal No.360 of 2018 challenging therein the said order of the Commission. The appeal was allowed by this Tribunal vide judgment dated 29.08.2024, the relevant portion of which is extracted hereinbelow: -

“16. Hence, the impugned order of the Commission cannot be sustained. The same is hereby set aside. The Appeal stands allowed.

17. We hold that Appellant Nos. 2 to 5 are entitled to normative levelised tariff of 12 paise per unit

*over and above the generation tariff determined in their respective PPAs for each of their generating units and, therefore, direct the UPCL to make payment of the normative levelised tariff to the Appellants accordingly from the date of the respective commercial operation of the power projects. The previous **outstanding dues** in this regard shall be cleared by UPCL within one month from the date of this order.”*

(Emphasis supplied)

5. The prayer of the appellants in the instant application is to clarify the term outstanding dues appearing in last sentence of Paragraphs 17 of our judgment which has been reproduced hereinabove.

6. According to the appellants, the “outstanding dues” must be clarified to include the surcharge of 1.25% in terms of the PPAs and interest @14% on the dues outstanding towards appellants from UPCL till realization thereof.

7. The application is vehemently opposed on behalf of the 2nd

respondent-UPCL.

8. We have heard learned counsels for the parties and have also perused the written submissions filed by them.

9. The wisdom of appellants in filing the application at hand is not discernable to us. Clarification is sought when there is some ambiguity or confusion in any order/direction issued by an authority. We do not find any such ambiguity in Paragraph 17 of our judgment dated 29.08.2024. The term “previous outstanding” appearing therein clearly indicates the outstanding unpaid amount by the UPCL to the appellants @ 12 paise per unit over and above the generating tariff determined in the PPAs. It appears that the appellants are in fact aggrieved by the said judgment dated 29.08.2024 in so far as there is no direction for payment of surcharge and interest by the UPCL to them along with outstanding dues. That being the case, the application for clarification ought not to have been filed and the right course for the appellants was to file an application for review as provided in Order 47 Rule 1 of Civil Procedure Code, 1908, if so advised.

10. We may note that in the appeal, the appellants had prayed for following reliefs: -

“In view of the facts mentioned in Para 7 above, questions of law and grounds set out in Paragraph 8 and 9 respectively, the Appellants most humbly pray for the following reliefs:

*(a) To set aside the Impugned Order dated 12.07.2018 passed by the Uttarakhand Electricity Regulatory Commission in Petition No.18 of 2018, to the extent it holds that the normative **levelized** tariff of 12 paise/unit for the common infrastructure shall be apportioned equally among the solar generating companies using such common infrastructure and that the approach followed by UPCL in making payment of nonnative tariff for creation of evacuation infrastructure is correct;*

(b) To direct UPCL to make payment @ 12paise/unit for each Project from the date of commercial operation and to clear the outstanding dues till date to the Appellants for construction of the transmission and

evacuation infrastructure, in terms of the applicable provisions of the PPAs and the UERC Regulations 2013;

(c) To direct UPCL to clear the outstanding dues of the Appellants along with the applicable surcharge of 1.25% in terms of Article 5.4 of the PPAs;

(d) To allow interest @14% on the dues outstanding to the Appellants till realisation thereof;

(e) To allow legal and administrative costs incurred by the Appellants in pursuing the instant Appeal; and

(f) To pass such other or further, orders as this Hon'ble Tribunal may deem appropriate.”

11. We have already quoted the operative paragraph i.e. Paragraph 17 of our judgment dated 29.08.2024, perusal of which would reveal that prayers (a) & (b) alone were allowed. This is indicative of the fact that other prayers made in the appeal were rejected. Therefore, the appellants should either have approached this Tribunal with an application for review or should have assailed the judgment before the

Hon'ble Supreme Court under Section 125 of the Electricity Act, 2003.

12. Hence, the instant application is clearly not maintainable and is dismissed as such.

Pronounced in the open court on this the 24th day of June, 2025.

(Virender Bhat)
Judicial Member

(Sandesh Kumar Sharma)
Technical Member (Electricity)

✓
REPORTABLE / ~~NON-REPORTABLE~~

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