

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No.218 OF 2024

Dated: 16.07.2025

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

In the matter of:

Jharkhand State Electricity Board
(Now known as Jharkhand Urja Vikas
Nigam Limited in Short "JUVNL")
Engineering Building
HEC, Dhurwa, Ranchi-834004

... Appellant

Versus

1. Damodar Velley Corporation
DVC Towers, VIP Road,
Kolkata – 700054

2. Central Electricity Regulatory Commission
3rd & 4th Floor, Chanderlok Building
36, Janpath, New Delhi – 110 001

... Respondents

Counsel on record for the Appellant(s) : Anup Kumar
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Aashwyn Singh
Harsh Vardhan
Suhael Buttan
Priya Dhankar
Anant Singh
Vineet Kumar
Nikunj Bhatnagar
Kunal Veer Chopra
Vedant Choudhary for Res. 1

J U D G M E N T

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. Jharkhand Urja Vikas Nigam Limited (in short "JUVNL"), a distribution licensee in the State of Jharkhand has filed this appeal against the order dated 29.01.2015 passed by 2nd respondent Central Electricity Regulatory Commission (hereafter referred to as "the Commission") in petition no.64/MP/2013 which had been filed by the 1st respondent Damodar Valley Corporation (in short "DVC").

2. In the petition filed before the Commission, the DVC had sought following reliefs: -

"(a) Adjudicate the disputes between DVC and the Jharkhand State Electricity Board ("JSEB"), the predecessor of the Appellant.

- (b) *Issue directive to JSEB for liquidation of outstanding dues of which principal dues is (Rs. 3621.84 Crores and delayed payment surcharge is Rs. 2172.87 Crores), as claimed by DVC till the end of February 2013, immediately so that the financial health of DVC improves.*
- (c) *Issue directives to JSEB to restrain from claiming Line Loss prior to the year of claim preferred to DVC.*
- (d) *Issue directives to JSEB to restrain from claiming Free Hydel Power prior to the year 2006-07, subject to acceptance by the Commission, since for the past period up to 2006-07 DVC already allowed a 15% rebate to JSEB on its energy charge and demand charge.*
- (e) *Issue directives to DVC & JSEB as the Commission considers most appropriate in respect of other disputed issues, raised by JSEB viz. TISCO Differential, Rebate on Tariff, Delay Payment Surcharge, Incentive, Settlement of Differential Tariff.*

- (f) *To kindly settle the disputes and resolve the long pending issues once for all so that tariff can be regularized in the operating area of DVC."*

3. The petition has been disposed off by the Commission vide impugned order dated 29.01.2015, *inter alia*, holding that: -

- "(a) DVC is entitled to immediately recover the total undisputed amount of Rs. 4213.745 crore from JSEB.*
- (b) DVC shall be provisionally paid the un-reconciled amount of Rs. 578.72 crore for the period July, 2013 to January, 2014 which shall be finally adjusted after reconciliation.*
- (c) The amounts withheld by JSEB on account of TISCO differential and 12% free power shall be released in favour of DVC.*
- d) Rebate on tariff and Delayed Payment Surcharge ("DPS") shall be regulated in accordance with Ld. CERC's regulations on these two aspects. Accordingly, 15% rebate shall not be applicable on the tariff determined by Ld. CERC. Since, however, DPS amount has already been reconciled between the*

parties in the meeting held on 10.1.2014, the issue need not be reopened.

- (e) JSEB is not entitled to incentive under the Securitization Scheme on accounts various defaults of omission and commission committed.*
- (f) Differential tariff for the period April, 2006 to April, 2010 shall await the directions of the Hon'ble Supreme Court in the appeals pending before it.*
- (g) DVC shall pay JSEB an amount of Rs. 53.33 crore for line losses to the period from September, 2001 to June 2013.*
- (h) The amount found due or refundable in terms of the Impugned Order shall be paid by JSEB latest by 31.03.2015, failing which DVC shall recover the entire amount in accordance with the Securitization Scheme along with interest @ 15% per annum on the total amount from 01.04.2015 till the date of actual realization.”*

4. Feeling aggrieved by the impugned order, appellant JUVNL (successor of Jharkhand State Electricity Board) has filed the instant appeal.

5. Initially, the appeal was rejected by this Tribunal vide order dated 29.09.2015 on account of delay of 91 days in refiling the appeal. However, JUVNL assailed the said order before the Hon'ble Supreme Court by way of Civil Appeal No.364 of 2016 which was allowed vide order dated 18.01.2014 thereby condoning the delay of 91 days in refiling the appeal and setting aside the order dated 29.09.2015 of this Tribunal.

6. Admittedly, in the meanwhile, the parties had entered into a reconciliation settlement on 13.01.2016. The parties had mutually arrived at a final figure of Rs.4,770/- cores (principal amount of Rs.3,645.87 crores along with delayed payment surcharge @40% i.e. Rs.1,003.91 crores) payable by JUVNL to DVC up to September, 2015. This was a mutually agreed upon onetime settlement between the parties and the total settlement amount was to be paid to DVC before 31.03.2016. The bifurcation of the reconciliation amount is reflected in the following table which has been extracted by the appellant itself in its brief note submitted during the course of arguments: -

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<i>S. No.</i>	<i>Particulars</i>	<i>Amount payable (Cr.)</i>
<i>1.</i>	<i>Principal Energy Dues</i>	<i>Rs. 3645.87</i>
<i>2.</i>	<i>DPS (40% amount payable) of Rs. 2509.98 Cr.</i>	<i>Rs. 1003.91</i>

3.	<i>Billing difference/Penal demand charge</i>	<i>Rs. 25.83</i>
4.	<i>Difference of rate on account of STOA power including DPS</i>	<i>Rs. 94.00</i>
	<i>Total</i>	<i>Rs. 4769.61 Cr.</i>
	<i>Say (Roundup)</i>	<i>Rs. 4770.00 Cr.</i>

”

7. The contention of the appellant is that the principal amount of Rs.3,645.87 crores settled between the parties during the reconciliation settlement on 13.01.2016 excluded the sum towards line loss, TISCO differential and incentive, and therefore, the appellant is claiming the amounts under these three heads from the respondent DVC in this appeal. It is contended that the DVC had made payments towards free hydel power, TISCO differential and incentive till September, 2015, and therefore, it should continue paying the amounts under these heads *de hors* the aforesaid settlement also.

8. It is the case of the appellant also, as reflected from the brief note filed on its behalf, that the settlement arrived at between the parties on 13.01.2016 was full and final with regards to the outstanding dues payable to DVC as on 30.09.2015.

9. A copy of the minutes of meeting between the parties held on 13.01.2016 for reconciliation and final settlement of outstanding dues of DVC has been filed by the appellant along with IA No.195/2015. We have perused these minutes. With regards to TISCO differential, free hydel power and incentive it has been recorded in these minutes as under: -

“ii) Tisco Differential, Free Hydal Power and incentive on bond :- DVC and JUVNL/JBVNL officials mutually settled regarding TISCO Diff., free Hydel, Incentive of outstanding dues upto 30th Sep 2015. In view of pending SLP in Hon’ble Supreme Court of India in the matter of TISCO Diff., free Hydel, Incentive, it was mutually agreed by both the parties to follow the outcome of Hon’ble Supreme Court of India from October 2015 on wards.”

10. Once the parties have mutually agreed that the outstanding dues regarding TISCO differential, free hydel power and incentive with effect from October, 2015 onwards would be subject to the outcome of the SLP before the Hon’ble Supreme Court we feel of the opinion that no orders are called for in this regard from this Tribunal in this appeal.

11. Accordingly, we hereby dispose off the instant appeal without expressing any opinion upon the rival contentions of the parties and leaving the parties to follow the outcome of the SLP before the Hon'ble Supreme Court with regards to TISCO differential, free hydel power and incentive with effect from October, 2015 onwards.

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

(Virender Bhat)
Judicial Member

(Sandesh Kumar Sharma)
Technical Member (Electricity)

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REPORTABLE / NON-REPORTABLE

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