

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

**Appeal No. 82 OF 2017**

**Dated: 12.08.2025**

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

**In the matter of:**

**Faridabad Industries Association,  
FIA House, BATA Chowk,  
Faridabad – 121001**

**...Appellant**

**Versus**

**1. Haryana Electricity Regulatory Commission,  
Bays No. 33-36, Sector 4,  
Panchkula, Haryana-134112**

**2. Dakshin Haryana Bijli Vitran Nigam Ltd.  
Vidyut Sadan, Vidyut Nagar,  
Hisar, Haryana-125005.**

**3. Uttar Haryana Bijli Vitran Nigam Ltd.  
Vidyut Sadan, Plot No. : C16,  
Sector-6, Panchkula  
Haryana (India)**

**...Respondent(s)**

**Counsel for the Appellant(s) : Mr. Vishal Sharma  
Ms. Shefali  
Ms. Priyanka Mondal**

**Counsel for the Respondent(s) : Mr. Justine George for R-1**

Mr. Samir Malik  
Ms. Nikita Choukse  
Mr. Tushar Mathur  
Ms. Himani Yadav  
Ms. Himangini Mehta  
Mr. Ravi Prakash  
Mr. Raheel Kohli  
Mr. Nitish Gupta for R-2&3

### **JUDGEMENT**

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

1. The Appeal No. 82 of 2017 has been filed by the Appellant, i.e., Faridabad Industries Association. The Appellant is challenging the Order in Petition No. HERC/PRO-35 and 33 of 2016, dated 01.08.2016, passed by the Haryana Electricity Regulatory Commission (in short "State Commission" or "HERC").

#### **Description of the Parties**

2. The Appellant Faridabad Industries Association (in short "FIA") is an association of industrial consumers representing the interests of the industries in the State of Haryana.

3. Respondent No. 1 is the Haryana Electricity Regulatory Commission, which was established under the provisions of the Haryana Electricity Reforms Act, 1998 (in short "HERA") to regulate the power sector in the State of Haryana and continues to exercise jurisdiction as the State Electricity Regulatory Commission

under Section 82 of the Act.

4. Respondent Nos. 2 & 3, Dakshin Haryana Bijli Vitran Nigam Limited (DHBVN) and Uttar Haryana Bijli Vitran Nigam Limited (UHBVN) are State Government-owned distribution licensees, incorporated under the Companies Act, 1956, engaged in the business of distribution and retail supply of electricity in the State of Haryana.

**Factual Matrix of the Case (as submitted by the Appellant)**

5. The Haryana Electricity Regulatory Commission (HERC) notified the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi-Year Tariff Framework) Regulations, 2012 on 05.12.2012.

6. Thereafter, HERC issued tariff orders for successive years:

- Order dated 29.05.2014 (for FY 2014-15) fixing:
  - Wheeling Charges: ₹0.74/kWh
  - Cross Subsidy Surcharge (CSS) for HT Industry: ₹2.02/unit
  - Additional Surcharge: ₹0.50/kWh
- Order dated 07.05.2015 (for FY 2015-16) fixing:
  - Wheeling Charges: ₹0.85/unit
  - CSS for HT Industry: ₹0.93/unit
  - No determination of Additional Surcharge in this order.

7. Subsequently, on 16.11.2015, through Order in HERC/PRO-05/2015, HERC determined the Additional Surcharge at ₹0.84/unit.
8. On 15.12.2015, Respondents No. 2 & 3 filed Tariff Petition No. 33/2015 seeking:
  - Truing-up for FY 2014-15,
  - Mid-year Performance Review for FY 2015-16, and
  - Revised ARR & retail tariff determination for FY 2016-17
9. Public notices under Section 64(2) of the Electricity Act, 2003 were issued first on 22.12.2015, and later reiterated on 06.02.2016, 24.02.2016, and 01.03.2016, inviting objections and indicating hearing dates.
10. Respondents No. 2 & 3 also filed a separate ASC Petition (HERC/PRO-14 of 2016) under Section 42 of the Electricity Act, read with Regulation 22 of the Open Access Regulations, seeking determination of Additional Surcharge.
11. The Appellant submitted objections to the ASC Petition on 30.01.2016 and also to the Tariff Petition on various dates, including additional submissions filed on 06.06.2016.
12. On 01.08.2016, HERC passed the Impugned Order in Tariff Petition and ASC Petition, determining the retail tariff and additional surcharge, respectively.

13. Aggrieved by the Impugned Order dated 01.08.2016, the Appellant has filed the present appeal.

**Our Observations and Analysis**

14. The Appellant has claimed the following relief in the Appeal before us:

*“(a) Allow the present Appeal and set-aside the Impugned Order dated 01.08.2016 passed by the Ld. Haryana Commission in HERC/PRO-35 and 33 of 2016 to the extent challenged in the present appeal; and*

*(b) Pass such other or further order (s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”*

15. The Appeal challenges the Impugned Order on the following counts:

- a) Determination of Tariff and Cross-Subsidy Surcharge without voltage-wise and consumer category-wise distribution and AT&C loss data.
- b) Determination of Additional Surcharge.
- c) Recovery of FSA.
- d) Erroneous levy of PLEC.
- e) O&M expenses
- f) Distribution losses.

16. However, during the oral arguments and filing the Written Submission, the Appellant has pleaded only the determination of voltage-wise and consumer

category-wise cross-subsidy surcharge

17. After hearing the Learned Counsel for the Appellant and the Learned Counsel for the Respondents at length and carefully considering their respective submissions, we have also examined the written pleadings and relevant material on record. Upon due consideration of the arguments advanced and the documents placed before us, we find that the Appellant has challenged the Impugned Order relying upon this Tribunal's judgment dated 28.02.2014 in Appeal No. 109 of 2012, titled ***Faridabad Industries Association & ors. vs. HERC & ors.***, and judgment dated 18.05.2015 in Appeal No. 16 of 2014 (***D.P. Chirania vs. RERC & Ors.***).

18. The Appellant vehemently argued that the State Commission and the Respondent Licensee have failed to comply with the directions passed by this Tribunal.

19. The Appellant also contended that the Licensee has failed to comply with the repeated directions of the Commission and the legal provisions stipulated in the Regulations, as well as the judgment of this Tribunal by not submitting voltage-wise CoS and consumer category-wise distribution and AT&C Losses.

20. It is, therefore, relevant to note the directions rendered by this Tribunal through judgment dated 28.02.2014 in Appeal No. 109 of 2012, as follows:

*“61.....The State Commission has to make a beginning for determination of voltage wise cost of supply. We accordingly direct*

*the State Commission to determine the voltage wise cost of supply and cross subsidy with respect to voltage wise cost of supply for the FY 2012-13. This would be used as a base for comparison of cross subsidy in future tariff determination. We are, however not inclined to set-aside the impugned Order on account of non-determination of voltage wise cost of supply in the circumstances of the present case. However, the State Commission should take immediate action with respect to carrying out the exercise for determination of voltage wise cost of supply. The Distribution licensees are also directed to submit to the State Commission the category wise/voltage wise cost of supply at the earliest. The issue is decided accordingly.”*

21. The Appellant further submits that the plea taken by the Respondent that they had followed NTP guidelines in their reply is completely erroneous and unsustainable because the NTP policy is a mere guiding factor and cannot override the order passed by this Tribunal, which is bound to be complied with by all the Respondents in the true spirit of law.

22. In the rejoinder filed by the Appellant, Para no. 2 clearly demonstrates that the increase in the losses is not due to the consumers, who are members of FIA, but due to the inability of the Respondents No. 2 and 3, which fail to adopt a strong and efficient mechanism.

23. The Respondent No. 1 had determined the additional surcharge for the said period on assumptions and presumptions and had overcharged the charges by

ignoring the order passed by the Tribunal in Appeal No. 109/2012.

24. Therefore, this indicates that average fixed charges will come out to be 7.26, which is not possible and unbelievable; hence, the entire tariff order is nothing but a sheer abuse of the process of law and passed without application of mind.

25. The Appellant's prayer is to set aside the order dated 01.08.2016 passed by the Respondent Commission as unconstitutional /arbitrary and may be remanded back for fresh adjudication by giving appropriate relief of refunding the access charges charged by the Respondent Nos. 2 and 3.

26. Respondent Nos. 2 & 3, DHBVNV and UHBVN, have filed an identical Affidavit dated 07.04.2025 and stated as follows:

*“6. I state that, as per the distribution license granted to the Respondents, the distribution lines up to 11 kV and 33 kV levels fall within their control, and data regarding AT&C losses at these voltage levels is readily available with the Respondent and was submitted before the Commission. However, the electrical lines above the 33 kV level (i.e., 66 kV, 132 kV, and 220 kV) fall under the domain of Haryana Vidyut Prasaran Nigam Limited (“HVPNL”). Since the Respondents do not have control over these higher voltage lines, they do not possess the input-level data required for determining the AT&C losses at these levels. I state that consequently, while determining the CSS for the Respondents, the Commission calculates the CSS as the*



*difference between: (i) the average revenue realization per unit for each consumer category; and (ii) the voltage-wise cost of supply ("CoS") determined by grossing the average power purchase cost with distribution losses applicable at HT and LT levels. Accounting of higher distribution losses will result in under assessment of cross subsidy surcharge and accordingly will account for the interest of the Petitioner.*

*.....*

*9. I therefore state that the Respondent only possesses voltage-wise data for determining the cost of supply at the 11 kV and 33 kV levels, which had been provided to Respondent Commission while passing the impugned Order, and the Respondents have continuously been submitting the said data to the Respondent Commission for each of the financial years thereafter. Taking the said data into account, the Respondent Commission has been determining CSS for the Respondent for each FY."*

27. The Respondent No. 1, HERC, has submitted that the licensees file the tariff petitions in accordance with the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi-Year Tariff Framework) Regulations, 2012, as amended from time to time. These regulations provide the formats and the information to be filed by the licensees for tariff determination. In the event of data deficiencies, the Commission sought additional information from licensees through a letter.

28. The calculation of cross-subsidy surcharge has been made in accordance with the formula given in the National Tariff Policy and has been restricted to 20% of the tariff. Whether the open access power is costly or not has no relevance to the matter of determining cross-subsidy surcharge, though it is true that the cross-subsidy surcharge and additional surcharge should not be onerous.

29. It is submitted that as per the provisions of the Electricity Act, 2003, the distribution licensees have an obligation to supply power to all the consumers under the respective areas of supply, and correspondingly, they have to enter into long-term agreements for the purchase of power from various generating stations. As such, when these embedded consumers draw power from elsewhere apart from the licensee under open access, the fixed cost of the supply taken by these consumers from elsewhere is still payable by the licensee, making it a stranded capacity for the distribution licensee. The additional surcharge is payable for the stranded capacity of the distribution licensee.

30. It is undisputed that the present challenge is primarily focused on the absence of detailed voltage-wise and consumer-category data and its effect on the CSS calculation methodology adopted by HERC.

31. The Appellant's submissions are succinctly summarized by its reliance upon the directions of the Tribunal in Appeal No. 109 of 2012, which not only required a beginning towards voltage-wise cost of supply determination but went further to direct both HERC and the licensees to act at the earliest. The Appellant further

underscores that these directions were not honored in their true spirit and that adherence to the broader policy of the National Tariff Policy cannot absolve the authorities from strict compliance with APTEL's binding order.

32. It is important to note the consideration and decision taken by this Tribunal in Appeal No. 109 of 2012, titled **Faridabad Industries Association & ors. vs. HERC & ors**, the relevant extracts are quoted as under:

*“1. Faridabad Industries Association and Others are the Appellants. Aggrieved by the Impugned Order dated 31.3.2012 passed by the Haryana State Commission in the Petitions filed by the Distribution Licensees approving the Annual Revenue Requirements and determining the Retail Supply Tariff for the consumers in the State of Haryana, the Appellants have filed this Appeal.*

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*45. We feel that even though there is large scope of improvement with respect to metering and reduction of distribution losses, the State Commission has decided the ARR based on its own computation of agriculture consumption considering the metered drawal on the 11 KV rural feeders, fixed loss reduction targets of 3% for FY 2012-13 and passed on the loss due to non-achievement of the loss reduction target to the Distribution licensees and allowed addition in capital cost after prudent check. Therefore, we are not inclined to set aside the impugned order on this account.*

*However, the Distribution licensees are directed to step up their efforts to reduce losses on the feeders having high distribution losses, metering of unmetered consumers and replacement of electro mechanical and defective meters by correct meters. The State Commission is also directed to set targets for the Distribution licensees in respect of these aspects.*

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61. *Considering the tariffs of the Appellants' categories at the tariffs prevailing before the revision were below the average overall cost of supply, we cannot find fault with the State Commission to increase in tariff for their categories. However, the State Commission should have also determined the category wise/voltage wise cost of supply to transparently determine the cross subsidy. This Tribunal in Tata Steel Case (Appeal No.102 of 2010) has given a simple method of determining voltage wise cost of supply. The State Commission has to make a beginning for determination of voltage wise cost of supply. We accordingly direct the State Commission to determine the voltage wise cost of supply and cross subsidy with respect to voltage wise cost of supply for the FY 2012-13. This would be used as a base for comparison of cross subsidy in future tariff determination. We are, however not inclined to set-aside the Impugned Order on account of non-determination of voltage wise cost of supply in the circumstances of the present case. However, the State Commission should take immediate action with respect to*

carrying out the exercise for determination of voltage wise cost of supply. The Distribution Licensees is also directed to submit to the State Commission the category wise/ voltage wise cost of supply at the earliest. This issue is decided accordingly.

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#### **91. Summary of Our Findings**

- i) Non Compliance of the provisions of the Electricity Act and the directions issued by the State Commission and inefficiencies of the Distribution Licensees:** We have noticed the gradual improvement in reduction of distribution losses, metering, etc, but more efforts are needed particularly by the respondent No.3. We have given some directions in this regard to the Distribution licensees and the State Commission.
- ii) The Voltage Wise Cost of Supply Not Implemented by the State Commission:** The State Commission has been directed to determine the voltage wise cost of supply for FY 2012-13 to transparently determine the cross subsidy and to use it as a base for future tariff determination as per the principles laid down by this Tribunal.

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33. From the above, it is seen that clear and specific directions were issued by this Tribunal; however, we find that neither the Commission nor the distribution licensee has complied with such directions.

34. Both the Respondents, through their Affidavits and as reflected in the HERC's order, do not deny the lack of full data at higher voltages; instead, they trace this directly to the structural separation between the distribution licensees and the State transmission utility, HVPNL. It is their case, repeated as above literally, that all 11 kV/ 33 kV voltage-specific data available is submitted and used each year, and there is no practical or legal delinquency in relying only upon such data, so long as there is procedural honesty and regulatory transparency.

35. The HERC likewise reiterates that the calculation is strictly as per the formulas under the National Tariff Policy, and in the absence of more granular data, the approach is reasonable and not arbitrary.

**36. We find the above approach completely lacking in conviction and action, in complying with the directions issued by this Tribunal.**

37. The State Commission was bound to comply with the directions of this Tribunal in ensuring compliance; however, as seen, it has failed, such an action can neither be appreciated nor allowed.

38. The State Commission has been alive to the problem, and it has regularly required progress and reporting, but the fundamental organizational limitation persists; only voltages up to 33 kV are within the network and metering control of the distribution licensees.

39. It is well established from Appeal No. 109 of 2012 itself, that this Tribunal,

even while issuing mandatory directions for progress toward voltage-wise data and cost segregation, has on occasion noted, “...*We are, however, not inclined to set-aside the impugned Order on account of non-determination of voltage wise cost of supply in the circumstances of the present case...*”. This, coupled with the repeated legal principle that regulatory practice must accommodate the realities of the data, metering, and network structure during transition, indicates that in the interim, and subject to continued vigilance and progress.

40. At the same time, it must be said with clarity that the present situation cannot continue indefinitely. The Tribunal expects that, once initial practical impediments have been documented by the distribution licensees, the obligation to actively liaise with HVPNL in pursuit of data-sharing, organizational integration, or metering enhancements consistent with the investment schedules approved annually remains squarely upon the State’s regulated entities, as a matter of both regulatory obedience and consumer equity. The Tribunal cannot accept that persistent inaction is justified simply on the grounds of structural constraints.

41. However, it is incumbent on both HERC and the licensees to institute a documented plan with concrete timelines and public reporting obligations for moving toward complete voltage and consumer-wise data, in collaboration with HVPNL and any relevant state agencies.

42. We agree with the Appellant that the Respondents’ compliance with statutory and regulatory mandates requires detailed, voltage-wise and consumer category-wise data on cost of supply (CoS) and Aggregate Technical and

Commercial (AT&C) losses, as also their failure to adhere to repeated directives from the Commission and prior binding judgments of this Tribunal in Appeal No. 109 of 2012, inter-alia, the Respondents have failed to furnish the requisite granular data fully and timely.

43. The Appellant also submits that this non-compliance significantly undermines the transparency, accuracy, and equity of tariff determinations, perpetuates arbitrary cross-subsidization, and should attract regulatory consequences, including possible suspension or remand of tariff orders.

44. The Respondents concede partial non-compliance but submit an explanation by reiterating that the data availability is restricted by the structural division of the electricity network: distribution licensees' control and thus have data for voltage levels up to 33 kV, while higher voltages (66 kV and above) lie within the transmission licensee's (HVPNL) domain, whose data is not entirely accessible to the Discoms.

45. The licensees underline ongoing and substantial efforts to improve data granularity through consumer and feeder indexing projects, presentations to the Commission, and IT upgrades, though these initiatives remain works in progress. They further stress that lack of full category-wise data has not prevented the Commission from exercising its regulatory powers, including suo-motu tariff determinations using best available data.

46. The Commission acknowledges the incomplete data submission in respect



of voltage-wise and consumer-wise loss and cost accounting as stipulated under Regulation 57.1(f) of the MYT Regulations, 2012. It states that while such data is required and sought, the obligations are ongoing, and the absence of full data does not constitute an absolute bar to tariff and surcharge determination. The Commission regularly issues directives to improve data reporting and incorporates the best available data in its orders, while clearly recording residual deficiencies.

47. It is evident that the Respondents have made partial but incomplete progress in meeting the mandated data submission requirements. The structural impediment regarding data above 33 kV is acknowledged, but should not be a shield against proactive and documented coordination with HVPNL. Similarly, projects such as consumer indexing and feeder indexing must achieve full fruition within reasonable, monitored timelines.

48. The Tribunal recognizes that the statutory and regulatory framework, as well as prior judicial pronouncements, contemplate an evolutionary approach. While complete, granular data is ideal for precision and fairness, regulatory processes must pragmatically rely on the best available data to avoid paralysis. Non-submission of finer data does not per se invalidate tariff orders, provided that the Commission actively directs improvement, transparently records limitations, and, where feasible, coordinates across entities for data acquisition.

49. At the same time, the Tribunal stresses that continued, unexplained non-compliance is unacceptable. Going forward, the Commission and licensees are directed to:

- Prepare and make public comprehensive timelines and action plans for data adequacy;
- Document all efforts at coordination with HVPNL and other stakeholders to acquire missing voltage-wise data;
- Conduct and report annually on progress in consumer and feeder indexing projects and metering enhancements;
- Consider regulatory sanctions or adverse inferences in utility filings for unjustified non-compliance.

50. **We direct the State Commission to ensure the same within strict timelines, but in no way to exceed two years from now.**

51. This Tribunal, in Appeal No. 303 of 2019 (Titled: ***M/s Jayaswal Neco Industries Ltd. vs CSERC & ors.***), after examining the previous judgments, has decided as under:

*“86. We agree that each tariff order is independent; however, failure to comply with the directions issued by the Commission and also failing to follow the principle laid down by this Tribunal continuously from one tariff order to another cannot be allowed, as it has been continuing for more than ten years now.*

*87. We also noted the list of important dates; however, nothing supports the arguments as put forth by the Respondent.*

88. *We find merit in the contentions of the Appellant as noted as part of its Written Submissions.*

89. *Undisputedly, as per Section 61(g) of the Electricity Act, 2003, the tariff applicable to a consumer has to reflect the amount of actual cross subsidies built into the said tariff. This Tribunal in judgment dated 08.02.2022 in Appeal No. 248 of 2018 (Abhijeet Ferrotech Limited Vs. Andhra Pradesh Electricity Regulatory Commission & Anr) has held as under:*

*“26. Further, as per Section 61(g) of the Electricity Act, 2003, the tariff applicable to a consumer has to reflect the amount of actual cross subsidies in built in the said tariff. The same is for the reason that the Act contemplates progressive reduction in cross subsidies. For the purposes of effecting progressive reduction in cross subsidies, it is necessary that actual cross subsidies can be ascertained from the tariff of a consumer. The same can only happen in the event separate consumer tariff for each voltage levels, is determined by the Commission.*

*27. We are inclined to record here that State Commission has miserably failed in complying with the directions passed by this Tribunal in various Judgements but also failed to implement the provisions of the Tariff Policy,2016 which clearly mandates that:*  
*“Clause 8.3(2)*

- a) *Separate consumer tariff at each voltage level has to be determined in order to fulfil the mandate of Section 61(g) of the Electricity Act 2003, which is to reflect actual cost of supply;*
- b) *Separate consumer tariff at each voltage level is required in order to ascertain the actual cross subsidies in built in a consumer's tariff;*
- c) *Without specifying a separate consumer tariff for consumers connected at each voltage level, a progressive reduction in actual cross subsidies is not possible as the said component is not known;*
- d) *The retail/ effective tariff or average billing rate at a particular voltage level cannot exceed more than 20% of the actual cost of supply of a distribution licensee at the said voltage level."*

*28. We, further, reject the submission of the Respondent No. 2 for not determining the tariff voltage wise that the transmission system in the State operates in a ring mode comprising of 400kV, 220kV and 132kV system and as such, it is only the transmission loss for the entire transmission network which can be determined.-----*

*29. In the light of the foregoing paragraphs, **it is clear that this Tribunal has, time and again, been consistently held that the State Commissions have to necessarily determine voltage wise tariff depending upon different category of consumers, and the principle of which has also been upheld by the Hon'ble Supreme Court in Punjab State Power Corpn. Ltd. v.***

***Punjab State Electricity Regulatory Commission, (2015) 7  
SCC 387 as stated above.”***

90. *In the light of the above, the Impugned Order dated 28.02.2019 passed in Petition No. 05/2019(T) by Chhattisgarh State Electricity Regulatory Commission cannot be sustained.*

91. *Additionally, CSPDCL has requested an additional year to complete the final report, as also mentioned in the Compliance Affidavit dated 07.01.2025, because a large area is involved and various factors need to be considered for a proper study, we find it appropriate to issue necessary and binding direction to CSPDCL to complete the report within one year from the date of this judgment.*

92. *We also direct the State Commission to monitor the progress of the completion of the study to be carried out by CSPDCL regularly.*

93. *The State Commission during the interregnum period shall determine the tariff based on VCoS following the methodology suggested by this Tribunal in **M/s Tata Steel Limited & Ors. Vs. Orissa Electricity Regulatory Commission & Ors.**, (“Tata Steel”) case, as referred to in the foregoing paragraphs.*

**ORDER**

*For the foregoing reasons as stated above, we are of the considered view that the Appeal No. 303 of 2019 has merit and is allowed to the extent as concluded herein above.*

*The Impugned Order dated 28.02.2019 passed in Petition No. 05/2019(T) by the CSERC is set aside to the limited extent as concluded herein.*

*The Captioned Appeal is disposed of in the above terms.*

*The State Commission shall determine the tariff based on VCoS based on the methodology suggested by this Tribunal in the Tata Steel case, till the completion of the Study Report by the CSPDCL and accepted by the CSERC.”*

52. The same has been examined and ordered by this Tribunal, after examining various judgments, including that of the Hon’ble Apex Court, and this Tribunal in a catena of judgments:

- a) M/s Siel Limited Vs. The Punjab State Electricity Regulatory Commission & Ors., judgment dated 26.05.2006 passed by the Full Bench of this Tribunal in Appeal Nos. 4, 13, 14, 23, 25, 26, 35, 36, 54 & 55 of 2005;
- b) Punjab State Power Corporation Limited Vs. Punjab State Electricity Regulatory Commission & Ors., judgment dated 10.02.2015 passed by the Hon’ble Supreme Court in Civil Appeal No. 4510 of 2006;
- c) M/s Tata Steel Limited & Ors. Vs. Orissa Electricity Regulatory Commission & Ors., judgment dated 30.05.2011 passed by this Tribunal in Appeal Nos. 102, 103 & 112 of 2010;
- d) Byrnihat Industries Association Vs. Meghalaya State Electricity Regulatory

Commission & Anr., judgment dated 01.12.2015 passed by the APTEL in Appeal No. 146 of 2014; and

- e) Abhijeet Ferrotech Limited Vs. Andhra Pradesh Electricity Regulatory Commission & Anr., judgment dated 08.02.2022 passed by this Tribunal in Appeal No. 248 of 2018.

53. Thus, it is evident that the State Commission has not fully adhered to its statutory responsibilities. Despite explicit directions issued earlier by this Tribunal requiring the determination of voltage-wise cost of supply and a reasoned justification for the levies imposed, the Respondent Commission has failed to address the anomalies in tariff structuring highlighted by the Appellant.

54. In light of the foregoing, it is imperative for the State Commission to undertake an effective and robust exercise of determining the category-wise and voltage-wise cost of supply.

55. We, however, direct that the Cross Subsidy Surcharge as decided in the Tariff Order shall be paid for the disputed period, subject to final determination based on category-wise and voltage-wise determination.

56. We also direct that in case of failure to determine category-wise and voltage-wise Cross Subsidy Surcharge, the Cross Subsidy Surcharge paid by the Appellant shall be adjusted on the basis of the Cross Subsidy Surcharge paid immediately before the disputed period.

## **ORDER**

For the foregoing reasons as stated above, we are of the considered view that the Appeal No. 82 of 2017 has merit and is allowed on the aforesaid terms.

The Impugned Order dated 01.08.2016 passed by the Haryana Electricity Regulatory Commission is hereby set aside to the extent indicated above. The matter is remanded back to the Haryana Electricity Regulatory Commission with a direction to undertake a fresh adjudication after obtaining and analyzing complete, category-wise and voltage-wise data on cost of supply and AT&C losses from the distribution licensees and to pass a speaking order with proper rationale and justification for fixing the cross-subsidy surcharge and additional surcharge, that reflects a fair, transparent, and data-driven approach, expeditiously but in no way later than 2 years from the date of this judgment..

The Captioned Appeal and pending IAs, if any, are disposed of in the above terms.

**PRONOUNCED IN THE OPEN COURT ON THIS 12<sup>th</sup> DAY OF AUGUST, 2025.**

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

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

pr/mkj/kks