

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

**APPEAL No. 71 of 2022**

Dated : 15<sup>th</sup> September, 2025

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

**In the matter of:**

**M/s Celestial Solar Solutions Private Limited**

Having its Office at 5<sup>th</sup> Floor, Surya Towers,  
Sardar Patel Road, Secunderabad – 500 003

Registered Office at 91A/1,  
Park Street, Avani Signature,  
7<sup>th</sup> Floor, Kolkata – 700016

Represented by its Authorised Representative  
Shri Anirban Das,

Email: [anirban.das@athagroup.in](mailto:anirban.das@athagroup.in)

... Appellant(s)

*Versus*

**1. Mangalore Electricity Supply Company Limited**

MESCOM Bhavana, Kavour Cross Road,  
Bejai, 4<sup>th</sup> Floor, Mangalore – 575 004

Represented by its Managing Director

Email: [mdmescom@rediffmail.com/seeconl@rediffmail.com](mailto:mdmescom@rediffmail.com/seeconl@rediffmail.com)

**2. Karnataka Electricity Regulatory Commission**

No. 16, C-1, Millers Tank Bed Area,  
Vasanth Nagar, Bengaluru – 560 052

Represented by its Secretary

Email: [kerc-ka@nic.in](mailto:kerc-ka@nic.in)

**3. Karnataka Power Transmission Corporation Limited**

Kaveri Bhavan, K.G. Road, Bengaluru – 560 009  
Represented by its Managing Director  
Email: [md@kptcl.com](mailto:md@kptcl.com)

**4. Karnataka Renewable Energy Development Limited**

No. 39, “Shanti Gruha”  
Bharat Scouts and Guides Building  
Palace Road, Gandhi Nagar  
Bengaluru – 560 001  
Represented by its Managing Director  
Email: [kredlmd@gmail.com](mailto:kredlmd@gmail.com)

... Respondent (s)

Counsel for the Appellant(s) : Buddy A. Ranganadhan, Sr. Adv.  
Mahesh Agarwal  
Rishi Agarwala  
Shally Bhasin for App. 1

Counsel for the Respondent(s) : Shahbaaz Husain  
Fahad Khan  
V M Kannan for Res. 1 & 3  
Sharanagouda Patil for Res. 4

**J U D G M E N T**

**PER HON’BLE MR. VIRENDER BHAT, JUDICIAL MEMBER**

1. In this appeal, the Appellant has assailed the order dated 30<sup>th</sup> December, 2021 passed by 2<sup>nd</sup> Respondent – Karnataka Electricity Regulatory Commission (hereinafter referred to as “the Commission”) in Petition No. 39 of 2018 filed by the Appellant claiming following reliefs:-

- (a) *To approve the SPPA dated 15.12.2016 executed between MESCOM and petitioner company modifying the original PPA only to record the changed location to Channamanagathihalli village, Chellakere taluk, Chitradurga district, without altering the tariff and other terms and conditions contained therein;*
- (b) *To declare that tariff of Rs.7.12/- per unit is applicable in terms of PPA since tariff order dated 30.07.2015 is not applicable on those projects in respect of which the tariff is discovered through competitive bidding process and for the reasons that the tariff order dated 30.07.2015 excludes the projects which are commissioned between 01.09.2015 to 31.03. 2018 for which the PPAs have been entered into and submitted for approval to KERC prior to 01.09.2015;*
- (c) *To declare that on the basis of difficulties faced in terms of approval by KPTCL, land acquisition and change of location, MESCOM rightly extended the scheduled commissioning date to 11.02.2018;*
- (d) *To direct MESCOM to refund/release all amounts illegally deducted on account of applicable of lower tariffs along with Damages and Liquidated Damages illegally imposed on the company; and to*
- (e) *Provide sufficient opportunity of hearing in person.*

2. On the basis of the pleadings as well as contentions of the parties, the Commission had framed following issues for its consideration :-

***Issue No.1:*** *Whether the Petitioner proves that there was delay in evacuation approval by KPTCL, acquisition of land and change in location, due to which the delay was caused by respondents in terms of PPA?*

***Issue No.2:*** *Whether the grounds urged for extension of time for achieving the Conditions precedent and commissioning of the plant are within the provisions of Force Majeure conditions of PPA?*

***Issue No.3:*** *Whether the 1<sup>st</sup> Respondent is entitled to liquidated damage as per Articles 4.3 and 5.8 of the PPA?*

***Issue No. 4:*** *Whether the Supplemental Power Purchase Agreement dated 15.12.2016 requires the approval of the Commission or otherwise?*

***Issue No. 5:*** *Whether the petitioner is entitled for the Tariff of Rs. 7.12 per unit for the energy delivered or what should be the Tariff as per terms of the PPA?*

***Issue No. 6:*** *What order?*

3. Ultimately, the Commission disposed off the petition vide impugned order dated 30<sup>th</sup> December, 2021. It decided all the above issues against the Appellant. On issue No. 1, the Commission held that

there was no delay on the part of the 3<sup>rd</sup> Respondent – Karnataka Transmission Power Corporation Limited in according technical approvals as well as in acquisition of land.

4. In Issue No. 2, the Commission held that the extension of six months for achieving condition precedent and six months for Scheduled Commercial Operation Date by 1<sup>st</sup> Respondent – Mangalore Electricity Supply Co. Ltd. is not acceptable in terms of the relevant provisions of the Power Purchase Agreement (PPA) executed between Appellant and 1<sup>st</sup> Respondent.

5. On issue No. 3, the Commission has held 1<sup>st</sup> Respondent entitled to liquidate damages even in the absence of proof of actual damage or loss suffered by it.

6. On issue No. 4, the Commission has opined that the supplementary Power Purchase Agreement dated 15<sup>th</sup> December, 2016 does not require its approval.

7. On issue No. 5, the Commission has held that the Appellant's power project is entitled to tariff of Rs.6.51 per kwh for the term of the PPA as per generic tariff order dated 30<sup>th</sup> July, 2015.

8. Finally, the Commission dismissed the petition of Appellant while holding the Appellant entitled to tariff of Rs.6.51 per kwh as fixed by the Commission in the generic tariff order dated 30<sup>th</sup> July, 2015 for the term of PPA as per Article 12.2 of the PPA. The Commission also held Appellant liable to pay liquidated damages as provided under Article 4.3 & 5.8 of the PPA.

9. Accordingly, the Appellant is in appeal before us against the said order of the Commission.

10. It appears that the Appellant had initially approached the High Court of Karnataka by way of Writ Petition 53060 of 2017 challenging therein the letters dated 15<sup>th</sup> March, 2017, 16<sup>th</sup> March, 2017 and 10<sup>th</sup> April, 2017 issued by 2<sup>nd</sup> Respondent i.e. Commission to 1<sup>st</sup> Respondent directing it not to allow extension of time for the power project of the Appellant beyond Scheduled Commercial Operation Date. The High Court directed the Appellant to file its reply to the letter dated 15<sup>th</sup> March, 2017 within a period of two weeks and further directed the Commission to consider the same in accordance with the law and after providing an opportunity of hearing to the Appellant. Accordingly, the Appellant submitted its representation dated 19<sup>th</sup> April, 2018 to the Commission

which has been treated as OP No. 39 of 2018 and was disposed off vide impugned order, as noted hereinabove.

11. The facts and circumstances of the case leading to the filing of the instant appeal are summarized in the below given table :-

SR. NO.	DATE	PARTICULAR
1.	30.05.2014	RFP issued by Karnataka Renewable Energy Development Limited (" <b>KREDL</b> ").  Surana Telecom & Power Ltd. participated in the bid for development of 500 MW of solar power project.
2.	18.11.2014	KREDL issued a Letter of Award (" <b>LOA</b> ") to Surana Telecom & Power Limited approving the tariff bid of Rs. 7.12 per unit for 10 MW capacity solar project.
3.	19.12.2014	Surana Telecom & Power Limited formed a Special Purpose Vehicle (" <b>SPV</b> ") named Celestial Solar Solutions Private Limited (the Appellant herein) for execution of the Project and informed KREDL.
4.	12.02.2015	PPA under Section 63 of the Electricity Act, 2003 was executed by the Appellant and the Respondent No.1 for a 10 Mw Solar Project at Tumkuru District.  As per Article 12.1 of the PPA, the tariff was Rs.7.12 per kwh.
5.	04.05.2015	MESCOM submitted the PPA for approval of KERC on 23.02.2015. PPA was approved by KERC, subject to

		<p>certain changes to the PPA to be effected by MESCOM by way of a Supplemental PPA.</p> <p>These included modifications to clause 17.2.1 related to third party claims, removal of references to arbitration in clause 18.3.1 and 18.5.1 for dispute resolution and modification of the force majeure definition to make the same inclusive under clause 14.3.1.</p>
6.	03.06.2015	MESCOM for the first time communicated KERC approval of the PPA and intimation for signing of addendum to PPA to the Appellant.
7.	09.06.2015	Faced with the challenges of land acquisition issues Appellant requested the KREDL for a change of location from the originally allotted location to another location in Koppal District, KRDEL permitted by its letter dated 09.06.2015 for change in location.
8.	22.06.2015	The Appellant submitted all necessary documents such as NOC copy from KREDL for change of location as well as the shareholding pattern of the SPV with KPTCL for approval of the tentative evacuation scheme on 03.08.2016.
9.	06.07.2015	Addendum to PPA executed by MESCOM in favour of the Appellant in view of the modifications directed by KERC.
10.	17.07.2015	Appellant made an Agreement to sell with Mr. Ravindra to procure lands, comprising Agricultural land measuring 7 Acres 14 guntas at Survey no. 74 of Kudrikotagi village, Yelbugra Taluk, Koppal District.
11.	27.08.2015	Tentative Evacuation Scheme Approval by KPTCL for Koppal District.
12.	12.01.2016 02.02.2016	Appellant wrote multiple letters requesting MESCOM to allow an extension of time by six months to fulfil the



	08.02.2016	PPA Conditions Precedent. This was on account of <i>“challenges in acquisition, obtaining a clear title, possession and conversion of Land required for execution of the Project”</i> .
13.	12.02.2016	Considering the genuine difficulties, MESCOM extended the extension of time up to 11.08.2016 for compliance of Conditions Precedent. This was subject to clause 4.3 of the PPA (conditions precedent) and clause 5.8 (liquidated damages).
14.	03.05.2016	Appellant, having faced acute difficulties in project implementation due to the land acquisition problem requested KREDL for change of location to Chitradurga District.  Appellant also requested KPTCL on 03.05.2016 for approval of Evacuation Plan to the changed location at Chitradurga to record the change of location.
15.	18.05.2016	The request for change in location to Chitradurga District was approved by KREDL.
16.	27.07.2016	Supplemental Power Purchase Agreement (“ <b>SPPA</b> ”) was executed to record the change in location.
17.	18.06.2016	Appellant requested MESCOM for extension of time by four months till 11.12.2016 for commissioning the project in the new location due to issues in obtaining clear title, possession resulting in delays in financial closure.
18.	03.08.2016	The Appellant submitted last of all necessary documents (Supplementary PPA dated 27.07.2016) with KPTCL for approval of the tentative evacuation scheme.

19.	08.08.2016	MESCOM accorded its approval to extend the period for commissioning the project by four months up to 11.12.2016, subject to the condition that the validity of all the Bank Guarantees furnished to MESCOM shall be extended up to 12 months from the revised commissioning date and extended Bank Guarantees shall be submitted to MESCOM. It was also subject to clause 12.2 (Tariff) and 5.8 (liquidated damages) of the PPA.
20.	25.08.2016	KPTCL asked the Appellant to remit process fee for the Project at Chitradurga District. On 07.09.2016 the Appellant paid the processing fee.
21.	20.10.2016	Appellant got permission to purchase land measuring 44 Acres 32 Guntas at Channamangathihalli village, Challekere Taluk, Chitradurga District from the Deputy Commissioner, Chitradurga District.
22.	November, 2016	The Appellant's project work was impeded during November 2016 and onwards due to the demonetization decision by the Central government.
23.	22.10.2016	Tentative Evacuation Scheme was approved by KPTCL.
24.	28.10.2016	Regular Evacuation Scheme was approved by KPTCL subject to fulfilling various conditions. As per the Scheme, Appellant was required to carry out necessary modification/alteration/repairs/replacement/rectification for putting up 66 kV terminal Bay to facilitate termination of the 66 kV evacuation line at 66/11 kV Dyavaranhalli Sub-station as per the directions and approval of KPTCL along with payment of necessary supervision charges.

25.	03.11.2016	Immediately, the Appellant vide letter dated 03.11.2016 submitted the drawings of the 66 kV terminal bay with metering and control equipment to KPTCL.
26.	11.11.2016	The Appellant submitted a comprehensive set of documents, including land details, permission to purchase land for industrial use, Regular Evacuation Scheme, loan sanction letter, etc. as proof of compliance of conditions precedent to MESCOM.
27.	11.11.2016	<p>The Appellant requested the KPTCL for approval to start the Bay Construction work at the Sub-Station immediately as it was most critical to Commission the Project by Scheduled COD i.e., 11.12.2016. However, the permission was not granted and it was informed that the work can only be started after receipt of required approvals and payment of fees.</p> <p>The payment of fees could be made only upon receipt of estimate of supervision charges from KPTCL which was unnecessarily delayed. Such issues were also raised by the Appellant before MESCOM vide letter dated 29.11.2016.</p>
28.	18.11.2016	Appellant issued 20 days advance final notice for notifying the intended date synchronization of the project as required under Clause 8.1 of the PPA.
29.	29.11.2016	<p>A <i>Force Majeure</i> Notice was by the Appellant to Respondent No.1 narrating the Force Majeure events encountered by the Appellant and requesting a further extension of the scheduled date of commissioning.</p> <p>It was stated,</p> <p><i>“We are now awaiting the following to commence the Bay Construction activity:</i></p>

		<p>1. Bay Allotment Letter  2. Estimate for Payment of Supervision Charges  3. Drawing Approvals  4. Permission to start Bay Construction  (....)</p> <p><i>You are aware that the Project cannot be commissioned unless the Bay charging is done which can happen only after construction of bay is completed. The construction of Bay is allowed only after receipt of approval and payment of necessary fees. The delay in commencement of the Bay Construction activity is solely attributable to the procedural time required for obtaining the approval from the concerned departments as evident from the communications stated above. The evacuation was applied on 3<sup>rd</sup> may, 2016 and thereafter there has been a series of communications and requirements from the KPTCL authorities which we have complied.</i></p> <p><i>However, the Bay Construction approval is yet to be received and the above delay in issuance of the Bay Construction approval is a Force Majeure condition affecting us under the PPA. The Bay Construction activity and charging the Bay shall require minimum 3 months time from the receipt of approval for Bay Construction from the KPTCL authorities and the said period may please be considered under Force Majeure”</i></p> <p>This letter was responded to by MESCOM vide their letter dated 07.12.2016 whereby extension of time was granted.</p>
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30.	05.12.2016 – 06.12.2016	<p>KPTCL granted approval for the adoption of Sub-Station structure and the Equipment Mounting Structure Drawings in connection with Evacuation Scheme.</p> <p>On 06.12.2016, the KPTCL granted approval to the single line diagram layout and consequently approved the layout drawings in connection with the Evacuation Scheme.</p>
31.	07.12.2016	In recognition of the genuine delays encountered by the Appellant, MESCOM, in the bona fide exercise of its contractual discretion, extended the commissioning deadline to 11.02.2017, subject to compliance with clause 4.3 (conditions precedent), clause 12.2 (tariff) and 5.8 (liquidated damages)
32.	09.12.2016	Appellant again wrote a letter to KPTCL for getting the estimate letter and the Bay extension work permission letter. The Appellant stated that to expedite the commissioning of the project, the said permission was absolutely essential and after such permissions the company would be able to order the equipment which will be then be delivered and installed.
33.	14.12.2016	<p>Appellant issued a letter to MESCOM to inform the subsistence of <i>Force Majeure</i>.</p> <p>Despite follow ups, the KPTCL did not issue the requisite permission letter, as a result of which the Appellant company could not carry out the Bay extension work, the delay in commissioning the project was fully on account of KPTCL's inaction in giving the Bay extension work approval to the company.</p>
34.	15.12.2016	The Supplemental PPA dated 15.12.2016 was executed between MESCOM and the Appellant

		modifying the original PPA only to record the changed location and did not make any reference to the applicability of new tariff and/or the issue of revision of tariff.
35.	19.12.2016	Appellant received a letter from KPTCL regarding the Bill of Material for the proposed Terminal Bay of the Appellant.
36.	09.01.2017	KPTCL extended the evacuation approval till 11.02.2017.  <u>The Appellant completed the project and it was commissioned on 11.02.2017.</u>
37.	11.01.2017	KPTCL permitted the Appellant to construct the 66 KV Terminal Bay. KPTCL also directed the Appellant to complete the work within 11.02.2017.
38.	11.02.2017	Appellant's project was successfully commissioned subsequent to the grant of approval by the Chief Electrical Inspectorate to the Government of Karnataka on 07.02.2017.
39.	16.02.2017	Appellant issued a letter dated 16 <sup>th</sup> February, 2017 to Respondent No.1 intimating it of the successful commissioning of the Appellant's project on 11 <sup>th</sup> February, 2017.
40.	02.03.2017	MESCOM wrote a letter to the KERC requesting approval of the KERC to the SPPA dated 15.12.2016. In its letter, Respondent No.1 has elaborately explained various project events and enabling provisions for change of location by the Appellant. Respondent No.1 has also enclosed a letter of Respondent No.3 granting approval to the changed location.

		It is to be noted that though the time for commissioning and compliance of conditions precedent was extended by Respondent No.1 itself, knowing fully well the Supplemental PPA, as forwarded by Respondent No.1 to the KERC, contained only reference to the change of location and the said Supplemental PPA excluded any reference to the applicability of new tariff and/or reference to the issue of revision of tariff.
41.	16.03.2017 And 05.04.2017	KERC wrote two letters to MESCOM wherein KERC directed MESCOM not to allow any extension of time beyond the SCOD.
42.	18.05.2017	The Appellant received a letter from MESCOM which contained two letters dated 16.03.2017 and 05.04.2017 written by the KERC to MESCOM. By way of these letters, KERC directed MESCOM not to allow any extension of time beyond the SCOD if any, as per the original PPA without obtaining the prior approval of the KERC.
43.	02.06.2017	<p>MESCOM informed the Appellant that Articles 4.3 and 5.8 of the PPA provides to collect damages and liquidated damages for non-complying of the 'Conditions Precedent' and non-achievement of COD within the scheduled dates.</p> <p>It was also stated that as per KERC's letter dated 16.03.2017, MESCOM could not allow extension of time granted for commissioning of the project.</p> <p>MESCOM has since raised an alleged demand of Rs. 6,00,000/- towards damages under Article 4.3 of the PPA for delayed compliance of the 'Conditions Precedent' and Rs. 5,55,00,000/- towards liquidated damages under Article 5.8 of the PPA for delayed achieving of COD.</p>

		<p>The aggregate demand raised is to the tune of Rs. 5,61,00,000/- which has been stated to be adjusted against the energy bills raised by the Appellant. A sum of Rs. 2,00,00,000/- has been adjusted with the energy bills for the months of March, 2017 and April, 2017 and remaining Rs. 3,61,00,000/- was subsequently done. These adjustments were vehemently opposed by the Appellant herein, vide letter dated 28.06.2016.</p>
44.	28.06.2017	<p>Appellant responded to MESCOM stating that MESCOM itself had granted repeated extensions for compliance of the Conditions Precedent and achieving of the COD under Article 5.7 of the PPA after considering the circumstances affecting the Developer and delay by KPTCL in providing approval for Bay Construction.</p> <p>The Appellant requested MESCOM to override, amend and/or withdraw the letter dated 02.06.2017 as the same is not applicable on the Appellant and issue necessary instructions to release the amounts which were incorrectly deducted from the energy bills.</p>
45.	2017	<p>However, on not receiving any reply from Respondent No.1 to its requests, the Appellant had filed Writ Petition No. 53060 of 2017 before the Hon'ble High Court of Karnataka, making KERC one of the Respondents to the said Petition.</p> <p><i>“The Appellant sought the following reliefs –</i>  <i>a. QUASH the 3<sup>rd</sup> Respondent's communication bearing number KERC/S/F-3.Vol-49/16-17/2746 dated 15<sup>th</sup> March, 2017 is produced herein as ANNEXURE-A; b. QUASH the 4<sup>th</sup> Respondent's communications bearing number SEE(Coml)/EE(EBC)/AEE(EBC)/F-528/2017-</i></p>



		<p>18/368 dated 10<sup>th</sup> April, 2017 is produced herein as ANNEXURE-B; c. QUASH the 4<sup>th</sup> Respondent's communication dated 02<sup>nd</sup> June, 2017 bearing No. SEE/C&amp;RP/DCNEBCI/AC/EBCI/F224/2016-17/1910-913 is produced herein as ANNEXURE-C; e QUASH the 4<sup>th</sup> Respondent's communication dated 18<sup>th</sup> May, 2017 bearing No. SEE(Coml)/EE(EBC)/AEE(EBC)/2017-18/1437 produced herein as ANNEXURE E; f. QUASH the 3<sup>rd</sup> Respondent's Communication dated 05<sup>th</sup> April, 2017 bearing No. KERC/S/F-31 No.1-All/16-17/55 produced herein as ANNEXURE-F;</p> <p>g. Direct the 4<sup>th</sup> Respondent to honour the tariff and make payments as per the Power Purchase Agreement and all subsequent Supplemental Agreements executed from time to time;</p> <p>h. Direct the 3<sup>rd</sup> Respondent to approve the Supplemental Power Purchase Agreement dated 15<sup>th</sup> December, 2016 produced herein as ANNEXURE-AU, without altering the tariff and terms and conditions contained therein</p> <p>i. Direct the 4<sup>th</sup> Respondent to make payment to the Petitioner as per tariff rate of Rs. 7.12 per unit and make payment of Rs. 3,98,65,802/- to the Petitioner which is the amount due as on 08.11.2017 along with Interest or Late Payment Surcharge as per PPA including the pendente lite;</p> <p>j. Direct the 4<sup>th</sup> Respondent to refund the Liquidated damages wrongly deducted from the Petitioner.</p> <p>k. Issue such other writ or order as this Hon'ble Court may deem fit in the circumstance of the case; and</p> <p>l. Award costs of the writ petition and pass such other and incidental orders as deemed</p>
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		<i>appropriate under the facts and circumstances of the case.”</i>
46.	05.04.2018	<p>The Hon’ble High Court vide its order dated 05.04.2018 disposed of the Petition and directed the Appellant to file its Petition before KERC and instructed KERC to consider the same in accordance with law and then take appropriate decision. It was observed that,</p> <p><i>“Prima Facie, it may be apparent that in terms of the clauses of the PPA, The Respondent No.4 has to resubmit the SPPA but even in such circumstances, the rights of the Petitioner, if affected, no unilateral decision can be taken by Respondent No.3 which would obviously affect the interest of the Petitioner.”</i></p>
47.	18.04.2018	Pursuant to the order of the Hon’ble High Court of Karnataka in Writ Petition No. 53060 of 2017, the Appellant filed a detailed representation before the KERC, registered as OP 39 of 2018.
48.	30.12.2021	KERC has erroneously disallowed the Petition of the Appellant and held that the Appellant was entitled to a tariff of lower Rs.6.51 per kWh under the Generic Tariff Order of KERC for 2015 instead of Rs.7.12 per kwh and was also liable to pay liquidated damages as provided under Article 4.3 and 5.8 of the PPA dated 12.02.2015. The Appellant’s claim of force majeure was also rejected.
49.	30.01.2023	<p>A detailed Interim Order was passed by this Hon’ble Tribunal, directing MESCOM to pay the Appellant tariff at the rate of Rs.7.12 per kwh.</p> <p>This Hon’ble Tribunal placed reliance on the decision in “Azure Photovoltaic Private Limited v. Gulbarga Electricity Supply Company Limited and Anr.”, (Order in</p>

		<p>Appeal No. 89 of 2018 dated 12.08.2021) (2021 SCC Online APTEL 70) and held that,</p> <p><i>“Prima facie, we are of the view that the order of this Tribunal dated 12.08.2021, passed in “Azure Photovoltaic Private Limited v. Gulbarga Electricity Supply Company Limited and Anr.”, squarely applies to the facts of the present case and, consequently, <b>it is the earlier Tariff Order of 2013 which must be applied as it is the applicable tariff on the date the PPA was entered into on 12.02.2015.</b> The tariff prescribed in the 2013 tariff order is Rs.8.40/kWh. As the tariff in terms of the PPA of Rs.7.12 per unit is lower than the said tariff of Rs. 8.40, it is the lower tariff as per the PPA of Rs. 7.12/unit which the Appellant is entitled to, and not the tariff determined in terms of the 2015 Tariff Order by the Commission, in the impugned Order, at Rs. 6.51/kWh.”</i></p>
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12. We have Mr. Buddy Ranganadhan, Learned Senior Counsel appearing on behalf of the Appellant and Mr. V.M. Kannan, Learned Counsel appearing for Respondent Nos. 1 & 3.

### **Our Analysis**

13. The Government of Karnataka intended to undertake development of 500 MW of solar and/or solar PV power plants in the State of Karnataka through Karnataka Renewable Energy Development Limited

(in short KREDL), decided to carry out competitive bidding process for selection of bidders to whom projects may be awarded. The bidders were required to bid for one or more projects based on the eligibility criteria stipulated in the Request for Proposal dated 30<sup>th</sup> May, 2014. The bidding process was conducted by KREDL in which M/s Surana Telecom & Power Limited, emerged successful bidder for development of 10 MW capacity of Solar Power Project at Village Tingloor, Madhugiri taluk, District Tumkuru, Karnataka. Accordingly, KREDL issued a Letter of Award (LOA) to the said company on 19<sup>th</sup> November, 2014 for sale of energy at Rs.7.12 per unit for 10 MW capacity solar project as per the tariff bid submitted by the Company.

14. In pursuance to the directions given by 3<sup>rd</sup> Respondent, KPTCL, M/s Surana Telecom and Power Limited constituted the Appellant M/s Celestial Solar Solutions Private Limited as Special Purpose Vehicle (SPV) and informed KPTC about the same vide letter dated 19<sup>th</sup> December, 2014.

15. A Power Purchase Agreement (PPA) came to be executed on 12<sup>th</sup> February, 2015 between the Appellant and 1<sup>st</sup> Respondent – MESCOM with respect to the power to be generated in the said 10 MW solar power

project. The PPA was submitted for approval to the Commission on 23<sup>rd</sup> February, 2015 and was approved by the Commission on 4<sup>th</sup> May, 2015 subject to certain changes to be effected by way of supplemental PPA. The Commission had directed modifications to clauses 17.2.1, 18.3.1 & 18.5.1 of the PPA. Accordingly, addendum to the PPA was executed between Appellant and MESCOM on 6<sup>th</sup> July, 2015.

16. The Appellant is stated to have faced difficulties in implementation of the project on account of delay in land acquisition in Tingloor Village and accordingly requested KPTCL on 3<sup>rd</sup> May, 2016 for change of location of the project to Chitradurga District. The said request was approved by KREDL on 18<sup>th</sup> May, 2016 and supplementary PPA was executed on to record the change in location for the power project.

17. Another supplementary PPA dated 16<sup>th</sup> December, 2016 is stated to have been executed between MESCOM and the Appellant modifying the original PPA in order to record the changed location without making any reference to applicability of new tariff and/or the issue of revision of tariff.

18. As per article 4 of the PPA dated 12<sup>th</sup> February, 2015, the conditions precedent were required to be made by the Appellant within

365 days from the effective date of the PPA. The effective date, as per Article 3.1 of the PPA, would be the date of execution of the PPA i.e. 12<sup>th</sup> February, 2015. Therefore, the conditions precedent ought to have been achieved before 12<sup>th</sup> February, 2016. As per Article 21.1. of the PPA, the power project ought to have been commissioned within 18 months from effective date. Thus, the Scheduled Commercial Operation Date for the project was 11<sup>th</sup> August, 2016. However, the project was commissioned on 11<sup>th</sup> February, 2017 with a delay of 6 months.

19. Article 5.7, 5.8, 12.1 & 12.2 of the said PPA dated 12<sup>th</sup> February, 2015 are material for our discussion and are reproduced hereinbelow.

*“5.7 Extensions of Time*

*5.7.1 In the event that the Developer is prevented from performing its obligations under Clause 5.1 by the Scheduled Commissioning Date due to:*

- a) any MESCOM Event of Default; or*
  - b) Force Majeure Events affecting ESCOM; or*
  - c) Force Majeure Events affecting the Developer,*
- the Scheduled Commissioning Date and the Expiry Date shall be deferred, subject to the limit prescribed in Clause 5.7.2 and Clause 5.7.3 for a reasonable period but not less than 'day for day' basis, to permit the Developer or MESCOM through the*

*use of due diligence, to overcome the effects of the Force Majeure Events affecting the Developer or MESCOM or till such time such Event of Default is rectified by MESCOM.*

*5.7.2 In case of extension occurring due to reasons specified in clause 5.7.1(a), any of the dates specified therein can be extended, subject to the condition that the Scheduled Commissioning Date would not be extended by more than 6(six) months.*

*5.7.3 In case of extension due to reasons specified in Article 5.7.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of 3 (three) months, any of the Parties may choose to terminate the Agreement as per the provisions of Article 16.*

*If the Parties have not agreed, within 30 (thirty) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred by, any Party may raise the Dispute to be resolved in accordance with Article! 8.*

*5.7.4 As a result of such extension, the Scheduled Commissioning Date and the Expiry Date newly determined shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.*

*5.8 Liquidated Damages for delay in commencement of supply of power to ESCOM*

*5.8.1 If the Developer is unable to commence supply of power to MESCOM by the Scheduled Commissioning Date other than for the reasons specified in Clause 5.7.1, the Developer shall pay to MESCOM Liquidated Damages for the delay in such commencement of supply of power and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:*

- a. For the delay up to one month an amount equivalent to 20% of the Performance Security.*
- b. For the delay of more than one (1) month and upto two months an amount equivalent to 40% of the total Performance Security in addition to the 20% deducted above*
- c. For the delay of more than two and upto three months an amount equivalent to 40% of the Performance Security in addition to the 20%+40% deducted above*

*For avoidance of doubt, in the event of failure to pay the above mentioned damages by the Developer entitles the MESCOM to encash the Performance Security.*

*5.8.2 In case the Developer delays the achievement of Commercial Operation Date beyond 3 (three) months, the Developer shall pay to MESCOM the Liquidated Damages at*



*rate of INR 50,000/- (Rupees Fifty Thousand only) per MW per day of delay for the delay in such commissioning. Provided that the Developer shall be required to make such payments to MESCOM in advance on a week to week basis for the period of delay.*

*5.8.3 The maximum time period allowed for achievement of Commercial Operation Date with payment of Liquidated Damages shall be limited to 22 (twenty two) months from the Effective Date. In case, the achievement of COD is delayed beyond 22 (twenty two) months from the Effective Date, it shall be considered as an Developer's Event of Default and provisions of Article 16 shall apply and the Power Project shall be removed from the list of selected projects in the event of termination of this Agreement.”*

#### *ARTICLE 12: Applicable Tariff and Sharing of CDM Benefits*

*12.1 The Developer shall be entitled to receive the Tariff of Rs. 7.12/kWh of energy supplied by it to MESCOM in accordance with the terms of this Agreement during the period between COD and the Expiry Date.*

*12.2 Provided further that as a consequence of delay in Commissioning of the Project beyond the Scheduled Commissioning Date, subject to Article 4, if there is a change*

*in KERC applicable Tariff, the changed applicable Tariff for the Project shall be the lower of the following:*

- i. Tariff of in Clause 12.1 above*
- ii. KERC applicable Tariff as on the Commercial Operation Date.*

20. Vide letter dated 12<sup>th</sup> January, 2016 addressed to MESCOM, the Appellant sought extension of six months for fulfillment of conditions precedent for the solar power project in question on the ground that they have been facing a lot of challenges in acquisition, obtaining a clear title, possession and conversion of land required for the project etc. due to which they are not in a position to fulfil the conditions precedent within the time specified in the PPA. The request was reiterated by Appellant vide subsequent communications dated 2<sup>nd</sup> February, 2016 and 8<sup>th</sup> February, 2016. Vide reply dated 12<sup>th</sup> February, 2016 to all these communications of Appellant, MESCOM sought certain documents from the Appellant and at the same time granted six months extension of time for fulfillment of conditions precedent subject to condition that scheduled commercial date as per PPA dated 12<sup>th</sup> February, 2015 remains un-

altered meaning thereby that project ought to be commissioned on or before 11<sup>th</sup> August, 2016.

21. Vide letter dated 18<sup>th</sup> June, 2016, the Appellant requested for extension of the Commercial Operation date of the power project by four months citing the same challenges encountered in acquisition, obtaining clear title as well as possession and conversion of land required for implementation of the project. Vide response dated 4<sup>th</sup> July, 2016, MESCOM informed Appellant that extension of scheduled date of commissioning of the project can only be considered under circumstances envisaged in Clause 5.7 of the PPA i.e. where there has been any event of default on the part of the MESCOM or Force Majeure event affecting MESCOM or Force Majeure event affecting the project developer. However, vide subsequent letter dated 8<sup>th</sup> August, 2016, MESCOM accorded extension of time for commissioning of the power project in question of the Appellant by four months i.e. up to 11<sup>th</sup> December, 2016. The extension was subject to condition that validity of all the bank guarantees furnished to MESCOM shall be extended upto 12 months from the revised commissioning date as well as subject to compliance of clause 5.8 & 12.2 of the PPA.

22. Vide letter dated 29<sup>th</sup> November, 2016, the Appellant sought further extension of time for commissioning of the power project on the following grounds:-

*“a) the evacuation approval application was applied with KPTCL vide our letter no. CSSPL/KPTCL/16-17/1 dated 03.05.2016.*

*b) As per KPTCL letter no. CEE(P&C)/SEE(Plg)/EE(PSS)/KCO-96/34261/F-835/1969 dated 12.05.2016 it was advised to furnish the NOC from KREDL and Supplemental PPA for change of location.*

*c) The supplementary PPA for change of location was signed with MESCOM on 27-07-2016 and a copy of the same along with the NOC from KREDL, was submitted to KPTCL vide our letter no. CSSPL/KPTCL/16-17/2 dated 03-08-2016.*

*d) KPTCL vide their letter no CEE(P&C)/SEE (Plg)/EE (PSS)/KCO-96/64271/F-835/6732-33 dated 25-08-2016 advised to remit processing fees of Rs.50,000/- + applicable Service tax to process the application.*

*e) The required processing fees was submitted vide our Letter dated 03-09-2016.*

*f) The Tentative Evacuation Scheme was communicated by KPTCL vide their Letter no. CEE(P&C)/SEE (Plg)/EE (PSS)/KCO-96/64271/F-835/9418-22 dated 22-10-2016 and*

*the acceptance of the same was submitted to KPTCL vide our letter dated CSSPL/KPTCL/16-17/3 dated 22-10-2016.*

*g) The Regular Evacuation Scheme was issued by KPTCL vide their Letter no. CEE(P&C)/SEE (Plg)/EE (PSS)/KCO-96/64271/F-835/10122-40 dated 28-10-2016. As per the scheme, it was asked to carry out necessary modification/alteration/repairs/replacement/rectification for putting up 66 kV terminal bay to facilitate termination of the 66kV evacuation line at 66/11 kV Dyavaranhalli S/s as per the directions and approvals of KPTCL along with payment of necessary supervision charges.*

*h) The drawings of the 66kV Terminal Bay with Metering and Control equipments was submitted to KPTCL at both the ends of the line vide our letter dated 03-11-2016.*

*i) We requested the Chief Engineer, KPTCL, Transmission Zone, Tumakuru vide our letter dated 11-11-2016 to start the Bay Construction work at the Substation immediately as it was most critical to commission the Project by Scheduled COD i.e., 11-12-2016. However, the permission was not granted and it was informed that the work can only be started after receipt of required approvals and payment of fees.*

*j) The Chief Engineer (Ele), Planning and Co-ordination, KPTCL Bangalore vide their Letter no. CEE(P&C)/SEET/KCO-103/EET2/AEE-6/16-17/11064 dated 16-11-2016 advised us to re-submit the Terminal Bay SLD, Layout and Sectional*

*Diagrams of 66/11 KV Dyavaranhalli S/s after getting the same verified by EE, MWD/TL&SS, Davangere for the correctness of the proposal.*

*k) The revised diagrams and layouts were submitted with AEE & EE, KPTCL Major Works Division, Chitradurga on 25-11-2016 for comments and finalization.”*

23. It was further stated in the said letter dated 29<sup>th</sup> November, 2016 that the Appellant is awaiting Bay Allotment Letter, estimate for payment of supervision charges, drawing approvals and permission in order to commence the bay construction activity. Thus, it was further stated in the said letter;

*“Even after receipt of the Bay allotment approvals, the equipment for Construction of Bay at 66/11 kV Dyavaranhalli S/s shall be inspected by the KPTCL. Equipment Inspection Division before commencement of the Construction activity.*

*You are aware that the Project cannot be commissioned unless the Bay charging is done which can happen only after construction of bay is completed. The construction of Bay is allowed only after receipt of approval and payment of necessary fees. The delay in commencement of the Bay Construction activity is solely attributable to the procedural*

*time required for obtaining the approval from the concerned departments as evident from the communications stated above. The evacuation was applied on 3rd May, 2016 and thereafter there has been a series of communications and requirements from the KPTCL authorities which we have complied.*

*However, the Bay Construction approval is yet to be received and the above delay in issuance of the Bay Construction approval is a Force Majeure condition affecting us under the PPA. The Bay Construction activity and charging the Bay shall require minimum 3 months time from the receipt of approval for Bay Construction from the KPTCL authorities and the said period may please be considered under Force Majeure.”*

24. Accordingly, request was by the Appellant to MESCOM for grant of time extension for achieving scheduled commercial operation date of the project till subsistence of the Force Majeure conditions detailed in the letter as per clause 5.7.3 of the PPA. It has been specifically mentioned in the letter that the delay in issuance of bay construction approval is a Force Majeure condition affecting the completion of the project under the PPA and, therefore, the period of delay on this ground needs to be considered under Force Majeure clause of the PPA.

25. Thus, it is manifest that the said letter dated 29<sup>th</sup> May, 2016 of the Appellant was in the nature of Force Majeure notice claiming extension of SCOD of the project due to Force Majeure event mentioned in the letter.

26. MESCOM, vide its letter dated 7<sup>th</sup> December, 2016 allowed another two months time extension i.e. upto 11<sup>th</sup> February, 2017 for commissioning of the project subject to compliance of the clauses 4.3, 5.8 & 12.2 of the PPA. We find it apposite to extract the contents of the said letter hereunder :-

*“M/s Celestial Solar Solutions Pvt. Ltd.,  
5<sup>th</sup> Floor, Surya Towers,  
Sardar Patel Road,  
Secunderabad – 500 003.*

*Sir,*

*Sub : Request for extension of time for commissioning of the 10 Mw Solar PV Project at Chennammanagathihalli Village, Challakere Taluk, Chitradurga District – reg.*

*Ref : 1. PPA dated 12.02.2015.*

*2. Letter No. SCCPL/MESCOM/16-17/3 dated 18.06.2016 of the developer.*

*3. This Office letter No. SEE(C&RP)/EE(EBC)/AEE(EBC)/F-224/2016-17/260-263 dated 08.08.2016.*

*4. Your letter No. CSSPL/MESCOM/NOV/16-17/2 dated 29.11.2016.*



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*In the letter cited under reference (4) above, you have sought for extension of time for another three (3) months for commissioning of the project. In this office letter cited under reference (3) you have already been given extension of time for commissioning of the project by four (4) months i.e. upto 11.12.2016.*

*However, as per your request I am directed to state that, in order to avoid frustration of the contract MESCOM is allowing another two (2) months time i.e. upto 11.02.2017 for commissioning of the project subject to compliance of the clauses 4.3, 5.8 and 12.2 of the PPA.”*

27. It is vehemently contended on behalf of Respondent Nos. 1 & 3 i.e. MESCOM & KPTCL that extension of SCOD of the project granted to the Appellant has never been as per Article 5.7 of the PPA as the events projected by the Appellant for delay in commissioning of the project never qualified as Force Majeure event. It is submitted that no extension was granted on account of any Force Majeure event as contended by the Appellant.

28. We are unable to accept these arguments on behalf of the Respondents. The contents of the letter/notice dated 29<sup>th</sup> November,

2016 served upon MESCOM by the Appellant have been extracted hereinabove. The Force Majeure events, which according to the Appellant were responsible for delay in achieving SCOD of the power project, have been stated in detail in the said letter and it was specifically stated that period of delay may be considered under the Force Majeure clause of the PPA. The response dated 7<sup>th</sup> December, 2016 of the MESCOM has also been reproduced herein above. It has nowhere been stated in the said response that the events mentioned by Appellant in letter/notice dated 29<sup>th</sup> November, 2016 were not responsible for delay in commissioning of the project and do not constitute Force Majeure event as per clause 5.7.1 of the PPA. It is also not stated in the said response of MESCOM that the extension is not being granted on account of any Force Majeure event. Therefore, the argument of the Learned Counsel for the Respondents that the extension of SCOD was never granted as per Article 5.7 of the PPA on account of any Force Majeure event vanishes in thin air.

29. Same can be said with regards to the communication dated 8<sup>th</sup> August, 2016 of MESCOM also vide which the SCOD of the power project was extended by six months. Even if it is assumed for the sake

of arguments that MESCOM did not accord extension of SCOD of the power project on these two occasions on account of Force Majeure event, in that case it was obligatory for MESCOM to state and explain the ground on which the SCOD of project was extended twice. There is nothing in this regard in any of the communications addressed by MESCOM to Appellant or in the pleadings of MESCOM before the Commission and before this Tribunal. Even nothing relating the same has been stated in the written submission by the Learned Counsel for the Respondents.

30. The tone and tenor of the communications dated 8<sup>th</sup> August, 2016 and 7<sup>th</sup> December, 2016 addressed by MESCOM to Appellant goes on to indicate that the extensions of SCOD were accorded by MESCOM upon considering the Force Majeure events put forward by the Appellant that were hampering the completion and commissioning of the project within stipulated time. What is stated in these communications by MESCOM is that the extension of SCOD would be subject to compliance of the clauses 5.8 & 12.2 of the PPA.

31. Clause 5.8 has already quoted hereinabove. It specifies liquidated damages payable by the power generator in case of delay in

commencing of supply of power to MESCOM by the scheduled commissioning date as per the PPA. Having extended the SCOD of the project twice on the request of the Appellant due to Force Majeure events put forward by the Appellant, MESCOM cannot be permitted to turn around and take a different stand to the effect that the events mentioned by the Appellant did not constitute Force Majeure events and the Appellant was not entitled to extension of SCOD of the power project. In case, according to the MESCOM, there was no such event which constitute Force Majeure thereby delaying the commissioning of the power project, there was no justification for extension of initial SCOD twice and the MESCOM ought to have refused to extend the SCOD.

32. In the event of extension of SCOD by MESCOM not once but twice by six months (which is the maximum period of extension provided under clause 5.7.2 of the PPA), the provisions of clause 5.8 and 12.2 become inapplicable. We find it preposterous on the part of MESCOM to state that extension of SCOD is subject to clauses 5.8 & 12.2 of PPA. These clauses come into play only where there is no extension of SCOD and the project is delayed beyond SCOD. The extension of SCOD can't be subject to these two clauses. In other words, there can't be any

conditional extension of SCOD. In case MESCOM was satisfied that the delay in completion of project by Appellant is not on account of any Force Majeure event and the Appellant's case does not fall under clause 5.7.1 of the PPA, it ought to have refused the extension of SCOD. The fact that SCOD was extended twice by MESCOM clearly indicates that it was satisfied about the occurrence of Force Majeure events put forward by the Appellant and the case was covered under clause 5.7.1 of PPA ruling out the applicability of clause 5.8.

33. The Commission, in the impugned order, after noting that in the role of regulator which is the custodian of the interests of the consumers and has powers to scrutinize the correctness as well as validity of extension of time granted by MESCOM, has rejected the extension of time granted by MESCOM to Appellant for fulfillment of conditions precedent and scheduled commissioning date on the following reasons:-

*“(9) In the instant case, the Commission notes that the respondent sought details from the petitioner for providing/to furnish monthly progress report in compliance of Article 4.2.2 and the requisite documentary evidence for achieving the conditions precedent (Annexure O in WP) but the petitioner has not submitted any progress report on monthly basis as*

*mandated under Article 4.2.2 of the PPA. Despite this, the Respondent No.1 has extended time for achieving Conditions precedent for six months in addition to 365 days as provided under PPA vide letter dated 12.02.2016 (Annexure-W in WP) and Extension of Time for SCOD vide letters dated 08.08.2016 & 07.12.2016 for a period of four (4) and two (2) months respectively (Annexure-AF in WP and Annexure AR in WP). It could be seen from the said letters of the Respondent No.1 wherein, without cogent reasons they have extended the time of six (6) for achieving Conditions precedent, the Respondent No.1 has extended Scheduled Commissioning Date initially four months and subsequently, two months in a routine manner without citing any substantial evidence for commissioning the power project of the 10 MW Solar PV Project at Channammanagathihalli Village, Challakere Taluk, Chitradurga District. Therefore, we hold that the extension six (6) months for achieving Condition precedent and six (6) months for SCOD by the Respondent No.1 is not acceptable and therefore liable to be rejected. Hence, we reject the extension of time granted for fulfilment of Conditions precedent and the Scheduled Commissioning Date. Facts of the instant petition is totally different from the case relied on by the petitioner in Appeal No. 351/2020. For the foregoing reasons, the judgment relied upon by the petitioner passed by the Hon'ble Appellate Tribunal for Electricity in*

*Chennammanagathahalli Solar Power Project LLP vs. Bangalore Electricity Supply Company & another, Appeal No.351 of 2018. Order dated 14.09.2020 is not applicable to the case on hand.”*

34. Intriguingly, the Commission has only referred to letter dated 12<sup>th</sup> February, 2016 of MESCOM vide which time for achieving conditions precedent was extended for six months as well as the letters dated 8<sup>th</sup> August, 2016 and 7<sup>th</sup> December, 2016 of MESCOM vide which the commissioning date of the project was extended by four months and two months respectively saying that the extensions have been granted in routine manner without citing any substantial evidence. However, the Commission has erroneously ignored the communications of the Appellant vide which the Appellant had sought these extensions and in which the Force Majeure events necessitating seeking of extension of timelines were mentioned in detail. The Commission has miserably failed to take note of these events/circumstances put forward by the Appellant which were hampering the completion/commissioning of the power project within the stipulated time. There is no finding of the Commission that the events cited by the Appellant for seeking these

extensions did not constitute Force Majeure event as envisaged under Article 41 of the PPA. Therefore, the findings of the Commission in this regard patently appear to be baseless and devoid of any justification. In fact, it is the Commission which has rejected the time extensions granted by MESCOM to the Appellant for fulfillment of conditions precedent and commissioning date of the project, in a cavalier manner and without any substantial evidence.

35. Since the Appellant has commissioned the power project on 11<sup>th</sup> February, 2017 i.e. the date up to which the SCOD of the project was extended by virtue of letter dated 7<sup>th</sup> December, 2016 by MESCOM, it can safely be said that there has been no delay on the part of the Appellant in achieving the SCOD of the project. Therefore, provisions of the Clause 5.8.1. of the PPA are not triggered and the Appellant is not liable to pay any liquidated damages to MESCOM.

36. So far as Articles 12.1 & 12.2 of the PPA are concerned, these provide that in case there is delay in achieving the commissioning of the project, the lower of the tariff as stated in clause 12.1 of the PPA or the Commission's applicable tariff as on the date of commercial operation of the project, would be applicable. Since we have come to the conclusion



that there has been no delay on the part of the Appellant in achieving SCOD of the power project as the delay had been condoned by the MESCOM twice on account of Force Majeure events by extending the SCOD firstly by four months i.e. till 11<sup>th</sup> December, 2016 vide communication dated 8<sup>th</sup> August, 2016 and thereafter by further two months i.e upto 11<sup>th</sup> February, 2017 by virtue of letter dated 7<sup>th</sup> December, 2016 and the project having been commissioned by the Appellant on 11<sup>th</sup> February, 2017, Article 12.2 is not applicable at all. The Appellant is entitled to tariff for the power project as stated in Article 12.1 of the PPA i.e. Rs.7.12 per kwh.

### **Conclusion**

37. Accordingly, in our opinion, the impugned order of the Commission suffers from palpable error and cannot be sustained. The same is hereby set aside. The appeal stands allowed.

38. The Appellant is held entitled to tariff of Rs.7.12 per kwh for supply of energy to 1<sup>st</sup> Respondent from the date of commercial operation of the power project. MESCOM shall pay the differential tariff between Rs. 6.51 per kwh (as fixed by the Commission vide impugned order) and Rs.7.12

per kwh from the date of commercial operation of the project alongwith carrying cost within three months from the date of this judgement and continue paying tariff of Rs.7.12 per kwh in future also.

Pronounced in the open court on this 15<sup>th</sup> day of September, 2025.

(Virender Bhat)  
Judicial Member

(Sandesh Kumar Sharma)  
Technical Member (Electricity)

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*REPORTABLE / NON-REPORTABLE*

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