

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

Appeal No. 259 OF 2018 & IA No. 300 of 2025

Dated: 12.09.2025

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

In the matter of:

**Manchukonda Agrotech Pvt Ltd.,
Settipalem, Miryalguda 508 217,
Telangana.**

...Appellant

Versus

**1 Karnataka Electricity Regulatory Commission,
No 16, C-1, Millers Bed Area, Vasanth Nagar,
Bengaluru 560 052 represented by its Secretary.**

**2 Gulbarga Electricity Supply Company Ltd.,
Station Main Road, Kalaburgi 585102,
represented by its Managing Director.**

....Respondent(s)

**Counsel for the Appellant(s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadri
Ms. Ritu Apurva
Mr. Amal Nair
Mr. Utkarsh Singh
Ms. Kriti Soni
Me. Karthikeyan M
Ms. Kritika Khanna
Ms. Sneha Singh Baghel**

Counsel for the Respondent(s) : Mr. Darpan K.M.
Mr. Rajat for R-1

Mr. Shubhranshu Padhi for R-2

JUDGEMENT

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

1. The Appeal no. 259 of 2018 has been filed by the Appellant, i.e., Manchukonda Agrotech Pvt Ltd. The Appellant is challenging the Order dated 30.01.2018 passed by the Karnataka Electricity Regulatory Commission in O.P. No. 97 of 2016.

Description of the Parties

2. The Appellant, Manchukonda Agrotech Pvt Ltd, owns and operates a 24 TPH rice mill at Raichur Growth Centre and has installed a co-located 5 MW rice husk-based cogeneration power plant with an exportable surplus capacity of 4 MW. The power plant is run as a cogeneration plant with extraction for process steam during the season, and thereafter the power plant is run in condensing mode using rice husk generated in the rice mill to the extent stocks are available, and thereafter by purchase of rice husk from market sources.

3. The Respondent No. 1 is Karnataka Electricity Regulatory Commission (in

short “KEREC” or “Commission”), established under Section 82 of the Electricity Act, 2003, inter alia, is the appropriate Commission to adjudicate the issue.

4. The Respondent No. 2, Gulbarga Electricity Supply Company Limited (in short “GESCOM”/ “Respondent No. 2”), is a distribution licensee in the state of Karnataka.

Factual Matrix of the Case

5. The Commercial Operation Date (COD) of the Appellant’s power plant was declared as 18.11.2016.

6. The Appellant entered into a Power Purchase Agreement dated 25.10.2016 with the Respondent No. 2 distribution licensee for a period of 20 years from the COD at the generic tariff determined by the State Commission for Rankine cycle-based biomass renewable energy projects by order dated 01.01.2015 with a fixed cost of Rs 2.02 per unit and variable cost of Rs 3.14 for FY 2016-17 and Rs 3.32 for FY 2017-18.

7. The said PPA was submitted to the State Commission for approval. As informed by the Respondent No. 2 by letter dated 02.12.2016, the State Commission returned the PPA by letter dated 14.11.2016, directing that the Appellant be advised to file a petition for the determination of a project-specific tariff on the ground that there was no generic tariff for a biomass-based cogeneration plant.

8. The Appellant filed O.P. No. 97 of 2016 on 26.12.2016 under section 62(1)(a) of the Electricity Act, 2003, before the State Commission as directed. The Appellant had also filed an application for an interim tariff of Rs 5.95 per unit.

9. The State Commission fixed an interim tariff of Rs 3.47 per unit by an order dated 05.01.2017 when the matter was first listed before the Commission for admission.

10. The State Commission directed advertisement of the Petition, conducted a public hearing on 14.09.2017, and further heard the parties. In the course of hearings, the Appellant filed additional information and documents from time to time, including those required by the Commission.

11. The State Commission passed the Impugned Order on 30.01.2018, determining the parameters of the power plant, the levelized fixed cost for the life of the project, and the year-wise variable cost for the period 2016-17 to 2020-21 with provision for reviewing the variable cost thereafter.

12. Thus, being aggrieved by the Impugned Order dated 30.01.2018 passed by the KERC in the Petition No. 97 of 2016, the Appellant has preferred the present Appeal.

Our Observations and Analysis

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

*“(a) allow the appeal setting aside the impugned order dated 30/01/2018 passed by the Karnataka Electricity Regulatory Commission in Petition No 97 of 2016 so far as impugned in the appeal; and
(b) allow all consequential reliefs including interest and/or carrying cost at the working capital rate of interest with monthly rests for the differential tariff determined pursuant to this Appeal; and
(c) to direct, in the case of any remand to the Commission, that the tariff determined in the impugned order be continued to be paid subject to the outcome of remand proceedings;
(d) and / or pass such other order as this Hon'ble Tribunal may deem fit and proper so that justice may be done.”*

14. 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, the following issue arises for determination in this Appeal:

i. Whether KERC determined the tariff based on the unique features of the Appellant's rice husk-based cogeneration plant, or impermissibly relied on generic parameters meant for other biomass/renewable energy projects?

ii. Whether deductions in capital cost, the adopted values for fuel cost, O&M expenses, and other operating parameters (such as Plant Load Factor, Specific Fuel Consumption, Auxiliary Consumption) were correctly made and supported by evidence, or were arbitrary/generic and inconsistent with actual project data and regulatory guidelines?

iii. Whether KERC's approach to calculating the levelised fixed cost, return on equity, depreciation, and related financial parameters was transparent, adequately reasoned, and in keeping with prevailing regulatory principles?

iv. Whether the tariff determination process was affected by procedural flaws or insufficient transparency, such as the failure to disclose key calculation methodologies, and whether the Appellant's acceptance of supplemental PPA payments and related settlements bars or constitutes a waiver of the right to raise further claims or seek appellate remedies?

15. The present matter is decided in the succeeding paragraphs on issue-wise basis.

Issue No. i: Whether KERC determined the tariff based on the unique features of the Appellant's rice husk-based cogeneration plant, or impermissibly relied on generic parameters meant for other biomass/renewable energy projects?

16. The thrust of the Appellant's case is that, acting upon the direction of the State Commission (KERC), it sought a project-specific tariff determination because no generic tariff existed for rice husk-based cogeneration plants in Karnataka. The Appellant emphasizes that the Impugned Order, though styled as a project-specific exercise, essentially defaulted to a selective adoption of parameters from the Commission's earlier generic tariff order for other biomass projects dated 01.01.2015, as well as CERC Regulations, 2012, picking whichever norm was lower or less favorable to the generator.

17. According to the Appellant, this resulted in neither a true project-specific process nor a consistent application of generic parameters, thereby undermining the viability of the Project. The Appellant further argues that the Commission's method was one of picking and choosing, applying the lower value from either the generic or project-specific claim, rather than evaluating the actual expenditure and operational realities.

18. The Appellant points out particular instances:

- Capital cost: The State Commission's deduction of ₹36 lakhs as attributable to process steam is said to misconstrue the plant's operating mode (condensing), and stands in contradiction to the approach of CERC, which, for condensing-mode cogeneration, does not direct such an allocation.
- Plant Load Factor (PLF): The Commission adopted a normative PLF of 75% based on generic norms, even though the Appellant, relying on real-world constraints like fuel availability, sought a lower PLF of 65%. The

Appellant argues that this directly ignores the seasonal constraints specific to rice husk procurement and project operation.

- O&M Expenses: Despite documentary support and evidence of actual costs exceeding those in the generic order, KERC applied a flat 5% of capital cost based on its old generic norm for biomass/Rankine cycle plants.
- Auxiliary Consumption, Specific Fuel Consumption, Fuel Cost, and other parameters were set at values drawn from the generic order, often ignoring detailed project-level submissions and data.

19. The Appellant's grievance is that this approach runs afoul of Section 62 of the Electricity Act, 2003, and established regulatory principles, which mandate a genuine project-specific exercise when generic norms are absent.

20. In the present Appeal, the Appellant is not challenging the fact that the project-specific determination itself, but only the methodology adopted by the State Commission in undertaking such determination, which involved picking and choosing the lesser parameters from the generic as well as the project-specific tariff. As an alternative, the Appellant is willing to accept the generic tariff determined by itself.

21. Per Contra, Respondent No. 2 (GESCOM) contends that the Appellant failed to furnish the requisite complete and credible documentation regarding actual expenses and operational data despite repeated directions by the State Commission during the proceedings. GESCOM submits that tariff determination

regulations permit and justify reliance on generic or normative parameters when necessary, and project-specific evidence is not produced by the generator.

22. GESCOM further asserts it is not open to the Appellant to claim KERC should have opted for project-specific values in the absence of full actuals; regulatory practice, it is argued, requires parity among similar renewable projects when no reliable project-level data are presented. In this context, the Commission's decision to refer to its own 2015 generic tariff order and CERC norms was a justifiable and prudent regulatory response.

23. On the issue of PLF, GESCOM underlines that the Appellant's own DPR and other submissions gave inconsistent PLF values in the range of 70%-89% for various years, which called into question the reliability of the lower value later claimed by the generator.

24. With respect to capital cost and O&M expenses, GESCOM points to discrepancies in the figures and a lack of audited accounts or detailed segregation as a barrier to project-specific assessment.

25. GESCOM, therefore, submits, not only was the approach correct under the circumstances, but the Appellant cannot now seek to benefit from or challenge the very methodology apparently necessitated by its own lack of cooperation and evidentiary inadequacy. The appeal, therefore, deserves dismissal on this ground alone.

26. It is a regulatory practice that the tariff for a generating station is determined either through cost-plus methodology or adopted through a competitive process. However, in case a generic tariff for a particular technology or configuration exists, the tariff must preferably be adopted under the generic tariff regime or otherwise be determined by the State Commission specifically for that project, based on its unique operational, financial, and technical circumstances.

27. Best regulatory practice, inter alia, this Tribunal's own precedents, recognizes recourse to generic norms only where project-level data is materially incomplete, unreliable, or patently inflated. However, the purpose of such a fallback is to ensure regulatory discipline, not to defeat the principle of individualized, just, and reasonable determination.

28. This Tribunal in ***Assam Power Distribution Company Limited vs. Assam Electricity Regulatory Commission & Anr.***, Appeal No. 378 of 2018, dated 19.12.2024, has held as follows:

“22. It is a settled principle of law that date of commission of a power project is material for determination of tariff particularly in case of solar power plants where there is no variable cost associated with the generation of power and the fixed cost incurred depends on the date & year of commissioning. Therefore, if the Commission was not satisfied with the data/information/documents furnished by the 2nd Respondent, it ought to have determined the capital cost on the basis of market benchmark norms prevailing during the relevant period in which the

power project of the 2nd Respondent was commissioned.

23. In view of the above discussion, we are unable to sustain the impugned order of the commission. The same being erroneous is hereby set aside. Accordingly, the appeal stands allowed. The case is remanded back to the commission for fresh tariff determination for the solar PV power project of 2nd Respondent on the basis of market Benchmark norms prevailing during the relevant period in which the power project of 2nd respondent was commissioned. The Commission shall conclude the fresh exercise in this regard within two months from the date of this order positively.”

29. In ***M/S Greenyana Solar Private Limited vs. HERC & Ors.***, Appeal No. 302 of 2024, dated 23.04.2025, it was held:

“15. In our considered view, the project-specific tariff determination under Section 62 of the Electricity Act is to arrive at a tariff that is uniquely tailored to the economic and operational realities of a particular project, while being subject to stringent checks for transparency, fairness, and policy consistency; such an approach not only helps secure return on investment but also ensures that tariff levels remain in line with consumer protection goals and broader market efficiency. The project specific tariff reflects actual costs incurred subject to prudence check.”

30. Having perused the Impugned Order, we find that for at least PLF, auxiliary consumption, and several other parameters, the Impugned Order refers to and finally adopts the norms from the 01.01.2015 generic tariff order for other biomass/RE projects. Even where the Appellant submitted alternate data and justifications such as PLF at 65% due to seasonality, higher O&M expenses based on actual contract/running costs, and lower auxiliary consumption due to improved design, the Commission disregarded these submissions on the ground that they lacked audited, year-round confirmation or were inconsistent with the DPR.

31. In the aforementioned judgment, it is a settled principle that “***the project-specific tariff determination under Section 62 of the Electricity Act is to arrive at a tariff that is uniquely tailored to the economic and operational realities of a particular project, while being subject to stringent checks for transparency, fairness, and policy consistency; such an approach not only helps secure return on investment but also ensures that tariff levels remain in line with consumer protection goals and broader market efficiency.***”

32. We find the approach of the State Commission highly unjust, arbitrary, and unreasonable; the project parameters should be determined by market-based approach and strictly adhering to the technology and configuration of a project. In the absence of such information or the availability of cost parameter matching to a project, it does not mean that the State Commission can adopt parameters that are related to different technologies and configurations.

33. However, in doing so, KERC did not attempt to situate the actual figures

within a reasoned, context-specific assessment; it simply relied on the availability and prior acceptance of other standard values of absolutely different technology.

34. The record demonstrates that in several instances, the Commission did not uniformly follow either the Appellant's or its own generic parameters, but at times adopted the lower of the two (from the generator or the generic), in effect suppressing the allowed cost/tariff. This approach, as correctly argued by the Appellant, is in contrast to a genuine project-specific process.

35. This Tribunal in ***Assam Power Distribution Company Ltd.*** has held that, *"if the Commission was not satisfied with the data/information/documents furnished by the 2nd Respondent, it ought to have determined the capital cost on the basis of market benchmark norms prevailing during the relevant period in which the power project of the 2nd Respondent was commissioned."*

36. **Therefore, in the absence of data not furnished by the Appellant, the State Commission ought to have determined the 'Capital Cost' based on the market benchmark norms to secure return on investment, but also ensuring that tariff levels remain in line with consumer protection goals and broader market efficiency.**

37. Even if we agree with the submission of GESCOM that the incompleteness or late production of some project-level records is a failure on the part of the Appellant, nevertheless, the Commission's process did not reflect a good-faith effort to resolve or clarify the gaps or contradictions. The order does not record

any effort to call for further details, seek production of supporting documents, or undertake independent site verification.

38. Resort to generic norms may be acceptable where project data is patently unreliable or unavailable, but regulatory fairness demands more than mere citation of lack of audited accounts, especially so soon after project commissioning. Further, any assumption of data, so considered, must be justified with reasons. It cannot be considered arbitrarily.

39. The Appellant's main submission, that rice husk procurement and plant operation have distinct economics (e.g., due to fuel seasonality and price fluctuations differing from other biomass/cogeneration types), finds some support in the record and is not addressed in KERC's rationale. By failing to recognize or inquire into these unique operational difficulties and simply borrowing parameters for bagasse-based or standard Rankine cycle biomass plants, the Commission missed the statutory objective of tailoring tariff norms to actual circumstances.

40. Upon balancing the submissions and the law, this Tribunal finds that the Impugned Order amounts to an impermissible default to generic norms and a selective picking of whichever value was lowest or most advantageous for the distribution licensee, without corresponding care for the particularities of the Appellant's project. The process falls short of the project-specific determination contemplated under the Electricity Act.

41. While we acknowledge that it is reasonable for a commission to apply norms

as a last resort, here the record demonstrates an absence of substantive effort (post-receipt of project details) to engage with project-specific claims, costs, and evidence meaningfully. Notably, the Commission did not consistently apply even its own generic tariff order but opted for lower, non-uniform values for different parameters, further detracting from the fairness of the determination.

42. We also do not find merit in the Respondent's claim that the Appellant ought to be non-suited for any alleged default in timely documentation. The extensive submissions, invoices, contracts, and operational data placed on record, although not ideal in terms of completeness or auditability, provided a foundation for at least a partial, contextually reasoned inquiry. The obligation to conduct such an enquiry rest squarely with the Regulatory Commission.

43. **This Tribunal, therefore, accepts the challenge of the Appellant on this first issue. The project-specific determination was not correctly or adequately determined in accordance with the law. The Impugned Order deserves to be set aside for want of a genuine, project-tailored exercise, and recourse to a proper project-specific redetermination is warranted.**

Issue No. ii: Whether deductions in capital cost, the adopted values for fuel cost, O&M expenses, and other operating parameters (such as Plant Load Factor, Specific Fuel Consumption, Auxiliary Consumption) were correctly made and supported by evidence, or were arbitrary/generic and inconsistent with actual project data and regulatory guidelines?

44. The Appellant challenges the KERC's approach to nearly all cost and operational parameters, asserting that the methodology adopted not only deviates from project-specific realities but was also unsupported by the application of regulatory principles and disregard of the documentation and explanations provided.

Capital Cost

45. The State Commission admitted a net project cost of ₹25.31 Crore, but based on additional information by the Appellant, arbitrarily deducted ₹36 lakhs, citing allocation to process steam.

46. The Appellant disputes this deduction, contending that the plant operated in condensing mode for tariff purposes with no power evacuated when steam is extracted. The deduction, Appellant asserts, is inconsistent with the methodology of the Central Electricity Regulatory Commission, which, for bagasse cogeneration, allocates the full capital cost to power generation under condensing mode.

47. There was no proper consideration of the actual cost structure or the manner in which operational realities of extraction and evacuation interact, specifically, that the Appellant is not compensated for periods when steam is extracted for milling.

Fuel Cost

48. KERC fixed the fuel (rice husk) cost at ₹1,200/MT, ignoring invoices and records provided by the Appellant showing actual purchase prices in the range of ₹3,200-₹3,400/MT.

49. The Commission's view, relying on the DPR assumption that all required husk would be from internal rice processing, is described as factually erroneous. The Appellant highlights that its 24 TPH mill produces about 115 MT husk/day (over eight months), whereas daily requirements under KERC's adopted SFC/PLF exceed this, necessitating market purchases throughout, especially during the off-season.

50. The Commission's assumption that external procurement is minimal is thus not only wrong on facts but also structurally at odds with the seasonal realities of rice and plant operation.

O&M Expenses

51. Appellant provided contracts (including with ENMAS O&M Services) and operation statements evidencing higher O&M expenses (averaging over ₹17 lakhs/month), which translates to over ₹40 lakhs/MW/year.

52. The Commission, however, applied a flat 5% of the capital cost with 5.72% escalation, as done in historic generic orders, and disregarded the project-specific evidence, claiming the absence of audited accounts and inferring that part of the

O&M is shared with the rice mill.

PLF, SFC, Auxiliary Consumption

53. The PLF was fixed at 75% (generic), though the Appellant claimed 65% (citing fuel seasonality), and earlier DPRs showed a range of values, all explained as evolving estimates as the project stabilized.

54. For SFC (Specific Fuel Consumption), auxiliary, and SHR (Station Heat Rate), similar generic values were imposed.

55. The Appellant, while acknowledging some inconsistency in its own historical numbers (arising out of the practicalities of a new plant), maintains that it produced data on operational realities and market procurement which should have been at least partially recognized; instead, defaults were made to lower norms.

56. In all cases, the Appellant asserts that the adopted values by the Commission were not properly supported by evidence or a reasoned process, and were either chosen from the generic order or selectively drawn from the least-cost options.

57. GESCOM argues that reliance on generic or normative values was justified given the incomplete and at times contradictory project data presented by the Appellant. The Appellant's documentation, including the DPR, showed different PLF and operational values than those later claimed before KERC.

58. On capital cost, GESCOM underscores that the deduction for process steam came from the Appellant's own submissions, and that no audited plant-level segregation was provided.

59. On fuel cost, GESCOM references the DPR's figures, which projected adequacy of in-house husk for most requirements, rendering external purchases marginal and overstating the impact of high-priced market procurement.

60. Regarding O&M, the Respondent supports KERC's practice of setting the expense at 5% of capital cost, because no full-year audited costings were provided, and shared plant functions complicate allocation.

61. Overall, GESCOM maintains that KERC followed sectoral benchmarks and that deviations by KERC from generic norms in select parameters were warranted either by the lack of reliable and documentary evidence or because submissions made by Appellant lacked authenticity or demonstrated inconsistency.

62. A careful review of the submissions, records, and the Impugned Order compels us to examine both the justifications given by KERC and the adequacy of the Appellant's evidence.

Capital Cost

63. The Commission's deduction of ₹36 lakhs attributed to process steam arises

from a technical assumption that, as steam is sometimes extracted, a portion of the boiler cost should not be included in the power tariff. However, the Appellant has consistently maintained that power is only paid for when actually delivered to the grid, meaning that when steam is extracted, the capacity is not paid for or included in the units sold.

64. The CERC's approach for cogeneration using condensing mode is clear that when the tariff is calculated for condensing operation, no allocation is made for process use, as the fixed cost realization will itself reduce to the extent the plant is used for non-power purposes. The Tribunal finds this deduction by KERC to be without sound technical or regulatory rationale and unsupported by the realities or accepted methodologies.

Fuel Cost

65. The fixation of ₹1,200/MT as the value of rice husk, without substantive engagement with the documentary evidence, including seasonality, mill output, and actual fuel procurement bills provided by the Appellant (which consistently showed much higher acquisition costs), demonstrates a significant disconnect between regulatory assumption and actual operation.

66. KERC's reliance on projections in the DPR for in-house sufficiency ignores actual plant operating cycles (which inevitably require significant market purchases, especially off-season).

67. In a project-specific tariff determination, the State Commission is bound to consider the actual cost data supported by genuine invoices and then to determine the final cost after a prudent check. It cannot adopt a figure that is submitted as an estimated figure part of the DPR, as against the actual/ realistic cost data.

68. Therefore, we find that the exclusion of market rates and real purchase prices, and the presumption that own-produced fuel is both costless and sufficient, are not grounded in the factual substrate and are inconsistent with regulatory best practices requiring that inputs with a demonstrable market value (and for which purchase is routinely required) be valued on a basis reflecting market reality and experience.

69. Consequently, the adopted fuel cost value is found to be unsupported by the record.

O&M Expenses

70. The Appellant placed on record monthly statements/ invoices documenting O&M costs significantly above those assumed by KEREC. The Commission nonetheless defaulted to the prior 5% of capital cost norm used for other plants, largely on the ground that the Appellant's figures were not fully audited or that some O&M was conceivably shared with the rice mill.

71. The Tribunal finds that where at least partial project-level documentation has been placed, and it demonstrably exceeds prior generic costs, the regulatory

obligation is to make a contextual and reasoned estimate rather than fallback entirely on outdated and inapplicable norms. The wholesale rejection by the Commission lacks adequate justification and appears arbitrary, particularly given the contemporaneous, if unaudited, nature of the Appellant's documentation.

72. The Tribunal therefore rejects that the O&M parameter, as determined, lacks an evidentiary and regulatory foundation.

Plant Load Factor (PLF), SFC & Auxiliary Consumption

73. The record reflects that the Appellant did present data indicating a lower PLF (65%) due to seasonal fuel constraints, but the Commission highlighted that different (higher) PLF values appeared in various DPR versions and subsequent submissions. Similarly, specific fuel consumption and auxiliary numbers evolved as commissioning stabilized.

74. While inconsistency in projections and actual figures was present, the Commission did not adopt a method aimed at reconciling or investigating these differences (e.g., by calling for further short-term operational data or industry benchmarking for the earliest years of a plant's life). Instead, it simply imposed conventional norms.

75. Regulatory fairness requires that, when material but not ideal data is on record, there should be a best judgment estimate based on a blend of supplied documentation and sectoral knowledge. The application of generic values,

especially when those are at clear variance with the seasonality argument that uniquely affects rice mill-based cogeneration, is not justified.

76. The Tribunal finds that the adopted values for operational parameters do not sufficiently account for the actualities of the plant's performance and constraints.

77. On the whole, the Tribunal finds that KERC's deductions in capital cost, adoption of generic or arbitrarily fixed values for fuel cost, O&M, and other operational norms were not properly supported by either the evidence on record or any documented regulatory principle. The process fell short of the project-specific, reasoned determination required for unique biomass plants like that of the Appellant.

78. **Accordingly, the Tribunal allows the Appellant's challenge under Issue No. ii, remanding the matter to determine the cost parameters on project-specific, evidence-based, and thoroughly justified adjustments.**

Issue No. iii: Whether KERC's approach to calculating the levelised fixed cost, return on equity, depreciation, and related financial parameters was transparent, adequately reasoned, and in keeping with prevailing regulatory principles?

79. Tariff determination under Section 62 of the Electricity Act, 2003, and the applicable regulations, must be based upon a transparent, reasoned process. Every element of the computation should be open both to parties and to public and

judicial scrutiny. Orders should provide not only the result, but also a clear account of how each parameter is arrived at, the assumptions made (such as life of project, discount rates, depreciation methods), and the calculations underlying the tariff.

80. In the present case, the impugned order simply states the resulting levelised fixed cost for the life of the project (₹1.90/unit), without any discussion or disclosure of:

- The life of the project assumed for levelisation;
- The discount rate applied (such as the weighted average cost of capital or any other method);
- The detailed calculation sheet demonstrating how annual fixed costs over the project life yield the stated levelised figure.

81. The documentary record, including the Appellant's letter dated 24.03.2018 and subsequent application for directions, reveals that the Appellant was not provided with these workings, despite explicit requests. The absence of such details directly contravenes the obligation to adopt a fair, open process. It is immaterial that regulatory practice might support certain default values; what is essential is that the parties be able to verify and, if necessary, contest the computations.

82. Likewise, while the order sets out that the RoE assumed is 16% and the method of depreciation is to apply 8.75% for the first eight years, with the remainder spread over the life of the plant, it provides no rationale for these specific choices. For instance, it is unclear whether straight-line or another method

is used in the later years, what salvage value is assumed, and how projected cash flows are discounted.

83. The Appellant has shown that even if these might be sectoral norms, their application must nevertheless be explained and justified in the context of the specific plant under consideration.

84. A lack of transparency frustrates not only the interests of the generator but also the reviewing authority's ability to ascertain that the law has been followed. Where the very calculation underpinning the tariff order is not available, neither a party nor this Tribunal can meaningfully confirm, or improve upon, the Commission's decision-making. This is not a mere technical or procedural irregularity but a substantive flaw that strikes at the heart of regulatory fairness.

85. The Appellant's submissions regarding non-transparency, inability to scrutinize, and lack of reasoned justification for the levelised fixed cost, or depreciation, are fully accepted.

86. The defence of GESCOM, namely, that final values are enough for regulatory purposes, cannot be sustained, especially when the Appellant was refused access to key computation details after a formal request. Established regulatory and judicial principles require openness for purposes of legal challenge and future review; absence of any such record-keeping, or its non-supply, is a fatal flaw.

87. For all the foregoing reasons, the Tribunal finds that the approach adopted by KERC in calculating the levelised fixed cost, RoE, depreciation, and related financial parameters was opaque, inadequately reasoned, and not in conformity with applicable regulatory principles of transparency and accountability. This is a clear violation of the right of the parties to contest and understand the process by which critical financial rates are determined. The issue is decided in favour of the Appellant.

Issue No. iv: Whether the tariff determination process was affected by procedural flaws or insufficient transparency, such as the failure to disclose key calculation methodologies, and whether the Appellant's acceptance of supplemental PPA payments and related settlements bars or constitutes a waiver of the right to raise further claims or seek appellate remedies?

88. The Appellant alleges the entire process of project-specific tariff determination before the State Commission suffered from procedural unfairness and serious non-transparency.

89. It is submitted that the State Commission, even when requested, failed to provide crucial documents such as detailed calculation worksheets, underlying methodologies, or key discounting and levelisation assumptions, making it impossible for the Appellant to fully understand, challenge, or verify the derived tariff parameters.

90. The Appellant points to repeated written requests for such detail during and after the proceedings, all of which, according to the Appellant, were systematically ignored or denied without sufficient reason.

91. The Appellant also highlights the lack of reasoned discussion in the Commission's order; there were no explanations given for the adoption or rejection of competing project data, nor was there an analysis of why sectoral generic norms had to be applied where project-specific information, albeit imperfect, was available.

92. The Appellant maintains that, notwithstanding the process adopted post-order, including signing of a supplemental PPA and acceptance of the resulting payments, these were done in circumstances where the Appellant had explicitly reserved its legal rights to challenge the tariff. The Appellant contends that its statutory right of appeal under the Electricity Act was never waived, and the supplemental agreement and acceptance of sums were subject to, and expressly without prejudice to, its appellate remedies.

93. GESCOM contends that the Appellant was provided adequate opportunity and continuous directions to provide all relevant documents and clarify its operational and financial claims. The Commission's findings regarding missing or contradictory data are, according to GESCOM, fully justified, and any procedural defects were the result of the Appellant's own omissions.

94. On the allegation of lack of transparency, GESCOM submits that the

absence of detailed calculation sheets or explanatory notes does not rise to the level of a violation warranting appellate intervention, particularly where numeric results and parameter values were consistent with prevailing norms.

95. Most crucially, GESCOM places reliance on the post-order conduct of the Appellant; the parties executed a supplemental PPA, and the Appellant accepted the payment of the differential sums calculated as per the order. On GESCOM's view, these actions, whether or not there were any prior objections, amount to a binding waiver, bar, or accord and satisfaction. It is argued, therefore, that the Appellant can no longer legitimately pursue appellate proceedings contesting a matter which it has accepted through its subsequent conduct.

96. The law is unambiguous that a tariff determination process is not only required to be substantively correct, but must also be procedurally fair, transparent, and capable of scrutiny by affected stakeholders. As observed in both regulatory and appellate jurisprudence, this means that parties must have meaningful access to the reasoning, assumptions, and methodologies underlying a decision, particularly where those decisions involve highly technical and long-term financial implications for power generators.

97. The Appellant's record shows that explicit requests for the Commission's underlying calculation methods, including levelisation approaches, discount factors, and other critical workings, were made and not responded to. The order itself, while stating broad norms and ultimate values, does not contain the requisite detailed calculation bases, impeding not just the Appellant's but also this

Tribunal's ability to objectively review the regulatory result.

98. While GESCOM rightly points out that the Appellant was at times unable to provide fully audited project documentation, the inverse obligation of the regulator to demonstrate its own logic and workings when rejecting project claims or defaulting to generic parameters is not diminished. The regulatory record provided demonstrates that the Commission failed to do so. This amounts to both a procedural irregularity and a substantive denial of fairness and transparency.

99. GESCOM's argument that the Appellant's execution of the supplemental PPA and acceptance of payment bars this appeal requires careful analysis.

100. The record shows that the supplemental PPA and acceptance of tariff differential were actions taken after the impugned order came into force. However, there is no credible evidence that these actions were accompanied by any clear or specific waiver of legal rights, or that the Appellant abandoned its pending challenge to the tariff in doing so.

101. On the contrary, the Appellant maintains that its actions were expressly subject to and without prejudice to its appellate rights. The statutory right of appeal under Section 111 of the Electricity Act is not easily displaced; jurisprudence in regulatory fields holds such rights may be lost only by explicit, informed, and unequivocal contractual waiver, not by mere acquiescence or compliance with an order under protest.

102. Moreover, the necessity for the Appellant to continue operations and mitigate ongoing financial loss justifies, in equity and law, the acceptance of amounts payable even while statutory remedies are being pursued. This conduct, absent explicit waiver language or other conclusive documentary evidence, cannot be treated as a bar, accord and satisfaction, or legal estoppel against further claims.

103. The Appellant's charge of procedural irregularity and lack of transparency is supported by both the record (including the impugned order itself, letters to the regulator, and evidence of requests) and the prevailing standards of regulatory fairness. The Tribunal accepts these submissions in their entirety.

104. GESCOM's defence regarding waiver through supplemental agreement and payment acceptance cannot succeed. There is no conclusive proof of waiver; the right to appellate relief is preserved by both law and the evidence of the record.

105. The Tribunal finds that the tariff determination process before the State Commission was indeed marred by procedural irregularities and significant lapses of transparency, most notably the repeated failure to disclose calculation methodologies essential for meaningful scrutiny.

106. Further, the Appellant's execution of supplemental PPA documents and acceptance of tariff-related payment cannot be construed as accord, satisfaction, or waiver of statutory rights; the appeal is lawfully maintainable. All of the Appellant's major submissions are accepted.

ORDER

For the foregoing reasons as stated above, we are of the considered view that the captioned Appeal No. 259 of 2018 has merit and is allowed.

The Impugned Order dated 30.01.2018 of the Karnataka Electricity Regulatory Commission, insofar as it determines tariff and operational parameters for the Appellant's rice husk-based cogeneration plant, is hereby set aside.

The matter is remanded to KERC for a fresh, project-specific tariff determination in respect of the Appellant's plant, strictly in accordance with the following directions:

- Each parameter-capital cost, fuel cost, O&M expenses, operational norms, and financial assumptions must be exhaustively examined with reference to actual project data, properly substantiated documentation, and transparent, reasoned justification for acceptance or rejection of any value.
- The Commission shall provide complete calculation sheets and disclose all methodologies, including discount rate, project life, escalation rates, and precise details of levelisation.
- All parties shall be afforded a full and effective opportunity to present data, documentation, and additional evidence for each parameter.
- The redetermination process must be completed within 6 months 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 12th DAY OF SEPTEMBER,
2025.**

(Virender Bhat)
Judicial Member

(Sandesh Kumar Sharma)
Technical Member

pr/mkj/kks