

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

APPEAL No. 168 of 2018

Dated: 14.11.2025

Present: **Hon'ble Mr. Virender Bhat, Judicial Member**
 Hon'ble Mr. Ajay Talegaonkar, Technical Member

IN THE MATTER OF:

Tata Power Delhi Distribution Ltd.
Through its CEO
NDPL House, Hudson Lines,
Kingsway Camp, New Delhi – 110 009.

....Appellant

Versus

Delhi Electricity Regulatory Commission
Through its Secretary
Viniyamak Bhawan, "C" Block,
Shivalik Malviya Nagar,
New Delhi – 110 017.

....Respondent

Counsel for the Appellant(s)	:	Mr. Amit Kapur Mr. Anupam Varma Mr. Rahul Kinra Mr. Adity Gupta Mr. Aditya Ajay Mr. Girdhar Gopal Khattar Mr. Isnain Muzamil
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Counsel for the Respondent(s)	:	Mr. Dhananjay Baijal for R-1
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JUDGEMENT

PER HON'BLE MR. AJAY TALEGAONKAR, TECHNICAL MEMBER

1. The present Appeal has been filed by Tata Power Delhi Distribution Limited ("Appellant" or "TPDDL") challenging Tariff Order dated 31.08.2017 ("Impugned

Order”) passed by the Delhi Electricity Regulatory Commission (“Respondent” or “DERC”) in Petition Nos. 17 of 2017 and 24 of 2017.

Description of the Parties

2. The Appellant is a joint venture between Tata Power Company Limited (“TPCL”) and Delhi Power Company Limited (“DPCL”) with 51% of shareholding and management control with TPCL. The balance 49% equity is held by DPCL, being a company wholly owned by the Government of NCT of Delhi (“Delhi Government”). The Appellant is a distribution licensee in terms of the Delhi Electricity Reforms Act, 2000 (“the Reforms Act”) read with Section 14 of the Electricity Act, 2003 (“the Act”) having been issued with the Distribution and Retail Supply License by DERC to undertake distribution and retail supply of electricity in the North and North West Circles of the National Capital Territory of Delhi.

3. The Respondent, i.e. DERC was established under the provisions of the Electricity Regulatory Commission Act, 1998 and continues to exercise jurisdiction as the State Regulatory Commission under Section 82 of the Act.

Factual Matrix of the Case

4. The present Appeal, being Appeal No. 168 of 2018, arises from the Tariff Order dated 31.08.2017 passed by the Delhi Electricity Regulatory Commission in Petition No. 17 of 2017 and Petition No. 24 of 2017 (“ARR Petitions”) filed by the Appellant for determination of Aggregate Revenue Requirement (ARR) and Tariff for FY 2017-18, and for True-up of expenses for FY 2014-15 and FY 2015-16.

5. Being aggrieved by the Impugned Order dated 31.08.2017 passed by the DERC in Petition Nos. 17 of 2017 and 24 of 2017, the Appellant has preferred the present Appeal.

6. The Appellant has prayed for the following relief before us:

“(a) Admit the Appeal;

(b) Set aside the Impugned Order dated 31.08.2017 to the extent challenged in the above paragraphs; and

(c) Allow carrying costs on the claims of the Appellant;

(d) Pass any such other or further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

Summary of the Issues brought out in the Appeal

7. The Appeal broadly raises issues concerning (a) alleged non-compliance with the Tariff Regulations framed by the DERC; (b) alleged non-implementation of directions issued by this Tribunal in earlier proceedings; and (c) alleged disallowances, clerical errors, and deviations from established methodologies and directives.

8. The above issues, as raised in the Appeal, pertain to the treatment of specific cost components, methodological applications, and the implementation of regulatory and judicial directions in the context of true-up and tariff determination undertaken by the DERC for the relevant financial years.

9. The Appellant has summarized the issues for adjudication as under:

	Issue
Issue No. 1	Incorrect consideration of Open Access Charges for FY 2014-15 and 2015-16
Issue No. 2	Disallowance of Financing Charges for FY 2014- 15 and 2015-16

Issue No. 3	Determination of SLDC Charges on ad-hoc basis for FY 2017-18
Issue No. 4	Non-Consideration of Carrying Cost as a component of ARR for computing Working Capital Requirement for FY 2017-18 [Regulation 116 of the MYT Regulations, 2017]
Issue No. 5	AT&C loss target to be re-fixed from 15.35% for second control period
Issue No. 6	Erroneous Consideration of 8% Inflation Factor instead of 8.04% Inflation Factor for A&G Expenses
Issue No. 7	Erroneous Consideration of 8% Inflation Factor instead of 8.04% Inflation Factor for Employee Expenses
Issue No. 8	Non-Implementation of judgment of this Hon'ble Tribunal in Appeal 171 of 2012 with respect to computation of 'I' factor
Issue No. 9	Erroneous consideration of Efficiency Factor of 3%, 4% and 4% for FY 2013-14, FY 2014-15 and FY 2015-16
Issue No. 10	Incorrect rate considered for Financing Cost of LPSC for FY 2014-15 and FY 2015-16
Issue No. 11	Disallowance of Expenditure incurred while implementing Schemes under Demand Side Management for FY 2015-16
Issue No. 12	Treating income from write back of excess provisions for doubtful debts of Rs. 17.45 Cr. as Non-Tariff Income
Issue No. 13	Efficiency Factor not considered properly on 6 th Pay Arrears
Issue No. 14	Erroneous adjustment of 8% Debt Recovery Surcharge against Revenue deficit/gap for the financial year
Issue No. 15	Financing Cost of Power Banking
Issue No. 16	SVRS for FY 2014-15 and FY 2015-16 not trued up as per Audited Financial Statement of the Appellant
Issue No. 17	Clerical error of not considering Consumer Contribution as per Financial Statements for FY 2014-15 and 2015-16

Issue No. 18	Clerical Error of considering receivables on the revenue collected for purpose of computation of Working Capital instead of correctly considering on the Revenue Billed Amount
Issue No. 19	Clerical Error regarding Consumer Contribution of Rs. 50 Crs for FY 2017-18
Issue No. 20	Non-Consideration of impact of increase in Rate of Service Tax for FY 2014-15 and FY 2015-16
Issue No. 21	Disallowance of expenditure incurred under the Head 'Corporate Social Responsibility' for FY 2014-15 and FY 2015-16
Issue No. 22	Disallowance of Foreign Exchange Gain of Rs. 8.16 Crs
Issue No. 23	Erroneous consideration of an arbitrary figure of Rs. 264.66 crores as base year Employee Expenses
Issue No. 24	Additional Return on Equity due to AT&C overachievement
Issue No. 25	Disallowance on account of overlapping in Banking Transaction
Issue No. 26	Wrongful computation of RoE/WACC for FY 2014-15 and FY 2015-16
Issue No. 27	Disallowance of Additional Unscheduled Interchange charges of Rs. 4.85 Crores for FY 2014-15 and Rs. 2.39 Crores for FY 2015-16
Issue No. 28	Disallowance of power purchase cost for Anta, Auriya and Dadri gas stations for FY 2014-15 and FY 2015-2016
Issue No. 29	Erroneous direction to provide Funding for Liability of the Retired Employee/to be Retired FRSR employees in the ARR filing

10. In the Revised Brief Submissions dated 30.09.2025 on Categorisation of Issues, the Appellant has classified the aforesaid twenty-nine (29) issues into three (3) broad categories:

Category	Particulars
A	Ten (10) issues covered by judicial precedents: A.1: Two (2) issues allowed in favour of the Appellant and are already implemented. A.2: Five (5) issues allowed in favour of the Appellant and are yet to be implemented. A.3: Three (3) issues allowed against the Appellant and pending
B	Fifteen (15) issues not being pressed.
C	Four (4) issues requiring consideration.

Category A: Ten (10) Issues Covered by Judicial Precedents

11. This category comprises issues already adjudicated upon by this Tribunal or the Hon'ble Supreme Court.

(A.1)- Two (2) issues, namely Issue No. 2 (Disallowance of Financing Charges) and Issue No. 20 (Non-consideration of increased Service Tax rate), have already been implemented by the DERC in subsequent True-up Orders in compliance with the Tribunal's earlier judgment dated 30.09.2019 in TPDDL vs. DERC, 2019 SCC OnLine APTEL 106. Civil Appeal No. 1762 of 2020 preferred by DERC against the said judgment are presently pending before the Hon'ble Supreme Court.

(A.2)- Five (5) issues, namely Issues Nos. 5, 12, 24, 25, and 26 have been decided by this Tribunal in favour of the Appellant in Appeal No. 301 of 2015 and Appeal No. 246 of 2014; however, the same are yet to be implemented by the DERC. Despite the lapse of considerable time, the Appellant has stated that DERC has failed to comply with the binding findings of this Tribunal, compelling the Appellant to file Execution Petition No. 08 of 2025, which is presently pending consideration.

It is further submitted that no stay has been granted by the Hon'ble Supreme Court on the said judgments.

(A.3)- Three (3) issues, namely Issues Nos. 14, 15, and 27 have been decided against the Appellant by this Tribunal in TPDDL vs. DERC, 2019 SCC OnLine APTEL 106 (Issue No. 14 and 27) and in NDPL vs. DERC, 2013 SCC OnLine APTEL 140 (Appeal No. 14 of 2012) (Issue No. 15) and are presently sub judice before the Hon'ble Supreme Court in Civil Appeal Nos.12 of 2020 and 4343 of 2014.

Category B: Fifteen (15) Issues Not Being Pressed

12. The Appellant has stated that fifteen (15) issues, namely Issues Nos. 3, 6 to 13 (except 12), 16, 17, 19, 21, 23, 28, and 29 are not being pressed in the present Appeal. However, the Appellant has sought liberty to raise these issues in future proceedings subject to the outcome of related pending appeals before this Tribunal and the Hon'ble Supreme Court. The withdrawal of these issues has been made without prejudice to the Appellant's rights and contentions.

Category C: Four (4) Issues Requiring Adjudication by this Tribunal

13. The Appellant has identified the following four issues as requiring consideration and adjudication in the present Appeal:

Issue No. 1: Incorrect consideration of Open Access Charges for FY 2014-15 and FY 2015-16.

Issue No. 4: Non-consideration of Carrying Cost as a component of ARR for computation of Working Capital as per Regulation 116 of the MYT Regulations, 2017.

Issue No. 18: Clerical Error of considering receivables on the revenue collected for purpose of computation of Working Capital instead of correctly considering on the Revenue Billed Amount.

Issue No. 22: Disallowance of Foreign Exchange Gain of Rs. 8.16 Crores.

14. These four issues form the substantive part of the present Appeal and are pressed by the Ld. Counsel for the Appellant for adjudication before us and are dealt with in the succeeding paragraphs on an issue-wise basis.

Issue No. 1: Incorrect consideration of Open Access Charges for FY 2014-15 and FY 2015-16

Submissions of the Appellant

15. The Appellant submits that the primary issue pertains to the incorrect consideration of open access charges for FY 2014-15 and FY 2015-16 by the DERC in the Impugned Order. The Appellant contends that as per Regulation 5.2 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 ("DERC Regulations"), only actual receipts on account of cross-subsidy surcharge and additional surcharge from open access consumers are to be deducted as Non-Tariff Income (NTI) from the Aggregate Revenue Requirement (ARR) of the Appellant.

16. For the relevant years, the Appellant had submitted figures on the basis of actual collection, amounting to Rs. 0.18 Cr. for FY 2014-15 and Rs. 0.57 Cr. for FY 2015-16 (net of Electricity Tax) both in its True Up Petitions and Annual Audited Form 2.1a. It claims that this information was submitted to the DERC by letter

dated 14.01.2016, prior to the passing of the Impugned Order and is referenced specifically in Paragraphs 3.515-3.516 of the Impugned Order.

17. The Appellant provides a reconciliation in tabular form which is as follows:

(in Rs. Cr.)

Particulars	FY 14-15	FY 15-16	Remark
Sales as per Note 25 of Audited financial statements	0.23	0.75	Accrual amount (including billed and Unbilled revenue)
Less: Closing unbilled sales	0.04	0.19	
Add: Opening unbilled sales	0	0.04	
Calculated Billed Sales as per accounts	0.19	0.60	Amount of Billed Revenue
Billed sales as per Form 2.1	0.19	0.60	
Less E tax on Billed sale	0.01	0.03	
<u>Open access Billed sales (net of E tax)</u>	0.18	0.57	
Open access to be considered in ARR	0.18	0.57	Amount actually collected for consideration as NTI

18. The Appellant states that the DERC instead considered Rs. 0.23 Cr. and Rs. 0.75 Cr. for FY 2014-15 and FY 2015-16, respectively, as NTI; these being accrual-based figures including both billed and unbilled income as per the audited financial statements (Note 25). This, according to the Appellant, is contrary to the regulatory requirement of considering only actual receipts.

19. The Appellant further submits that previous practice and subsequent True Up Orders (for FY 2016-17 onward) accepted actual collected figures from Form 2.1a, exposing inconsistency and arbitrariness in the treatment for years under

appeal. The Appellant emphasizes that, if any inconsistency between audited accounts and Form 2.1a figures existed, prudence check procedures required DERC to provide an opportunity for clarification which was not done prior to reducing the ARR and this led to perversity in the Impugned Order.

20. Thus, the Appellant seeks setting aside of the Impugned Order with a direction to DERC to consider Rs. 0.18 Cr. and Rs. 0.57 Cr. for FY 2014-15 and FY 2015-16, respectively, as NTI on a collection basis and allowance of the financial impact and carrying cost accruing from this adjustment.

Submissions of the Respondent Commission

21. On the other hand, the Respondent, DERC, maintains that the disputed figures were correctly drawn from Note 25 of the Appellant's audited accounts at Rs. 0.23 Cr. and Rs. 0.75 Cr. for FY 2014-15 and FY 2015-16. The Respondent Commission submits that the Appellant did not provide any explanation or calculation for the figures it now seeks (Rs. 0.18 Cr. and Rs. 0.57 Cr.) in its original tariff proceedings nor did it reconcile the difference between the audited account entries and claimed collection figures.

22. The Respondent Commission highlights that the Appellant's request for adjustment at this appellate stage represents a supplementary explanation absent from the original proceedings before the Commission. The Appellant was free to raise any clerical or numerical issue before DERC during the tariff determination but opted not to clarify or dispute the figures until the Appeal.

23. The principle underlying Section 61 of the Electricity Act, 2003 mandates regulatory efficiency. Accepting the Appellant's late submission would result in passing an unjustified regulatory burden and carrying cost on to retail consumers, something DERC considers detrimental and procedurally improper.

24. DERC further contends that the claimed figures in the Appellant's submissions are inconsistent with the audited records and should be disallowed in its entirety.

Our Analysis and Conclusion on Issue No. 1

25. Before, we proceed with our analysis, it is worthwhile to look at Regulation 5.2 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 ("DERC Regulations") reproduced below:

"ARR for Retail Supply Business

5.2 The Aggregate Revenue Requirement for the Retail Supply Business of the Distribution Licensee, for each year of the Control Period, shall contain the following items;

- (a) Cost of power procurement;*
- (b) Transmission & Load Dispatch charges;*
- (c) Operation and Maintenance expenses;*
- (d) Return on Capital Employed;*
- (e) Depreciation;*
- (f) Income Tax;*
- (g) Interest on Consumer Security Deposit;*
- (h) Less: Non-Tariff Income;*
- (i) Less: Income from Other Business; and*
- (j) **Less: Receipts on account of cross subsidy surcharge and additional surcharge from open access customers"***

(emphasis supplied)

26. In order to analyse rival contentions on this issue, we are required to probe following questions:

- (a) What should be construed as meaning of word “receipts” in the Regulation 5.2 in the context of netting of income received as *cross subsidy surcharge and additional surcharge from open access customers* – is it on “actual collection basis” as claimed by the Appellant or on “accrual basis”?
- (b) If the answer to the Question (a) is in favour of the Appellant, was income from *cross subsidy surcharge and additional surcharge from open access customers* on “actual collection basis” supplied by the Appellant by way of submission to the DERC?
- (c) If reply to question (b) is affirmative, did DERC failed to take note of this information and wrongly proceeded for netting based on audited accounts which are on “accrual basis”.

27. The DERC Regulations do not define term “receipts”, neither does the Electricity Act, 2003. In ordinary sense, the term “receipt” is used for acknowledgement of having received something and “receipts” is used to denote money received. **Advanced Law Lexicon by P Ramanatha Aiyar (3rd Edition 2005)** inter-alia assigns following meaning:

“Receipts. *Payments received (as opposed to expenditure). (Banking)”*

28. However, since the term in the Regulations has been used in the context of revenue, it will be prudent to look at following term from above reference:

“Revenue receipts. *Moneys obtained in the normal course of business are called revenue receipts, e.g. sale proceeds, interest on deposits, and dividends on investment. Revenue receipts are normally of recurring nature and are not meant for any specific purpose. (Taxation)*

In accounting, revenue that has been collected in cash for a given period of operations. (Commerce)” (emphasis supplied)

29. We note Appellant's claim that the Respondent Commission as previous practice and subsequent True Up Orders (for FY 2016-17 onward) accepted actual collected revenue figures; a claim not contested by the Respondent Commission.

30. In view of the forgoing, we can draw conclusion on question (a) of para 26. We are convinced that meaning of word "receipts" in the Regulation 5.2 of the DERC Regulations in the context of netting of income from *cross subsidy surcharge and additional surcharge from open access customers* is to be construed as actual cash collection, and not accrued amount as reflected in the audited accounts.

31. This leads us to question (b) of para 26. In para 3.515 and 3.616 of the Impugned Order, the values supplied by the Appellant namely Rs 0.18 Cr. Rs 0.57 Crs. for 2014-15 and 2015-16 have been recorded. Even if we accept the contention of the Respondent Commission that the explanation for difference from audited accounts was furnished late by the Appellant, this cannot be ground for not considering the claim. In any case, the details were available in the format 2.1a specified by the Respondent Commission and could have been referred to before drawing any conclusion. Therefore, it cannot be said that in the absence of relevant information, the Respondent Commission was forced to use values from audited accounts.

32. In view of the foregoing, we conclude that the Respondent Commission had erred in using accrued amount as reflected in the audited accounts, and not the cash collected as cross subsidy surcharge and additional surcharge from open access customers for netting to arrive at the ARR while truing up for the FY 2014-15 and FY 2015-16.

Issue No. 4: Non-consideration of Carrying Cost as a component of ARR for computation of Working Capital as per Regulation 116 of the MYT Regulations, 2017.

Submissions of the Appellant

33. The Appellant challenges the computation of Working Capital requirement for FY 2017-18 in the Impugned Order, alleging that the DERC failed to consider Carrying Cost as a component of the Aggregate Revenue Requirement (ARR). This, it argues, contravenes Tariff Regulations 2017, including Regulations 116 and 84(4).

34. The Appellant has pointed out that the Regulation 116(f) of the Tariff Regulations 2017 mandates that ARR for the control period shall inter alia contain Carrying Cost on Revenue Gap/ Regulatory Asset as one of the items. Further, as per Regulation 84 (4) of the Tariff Regulations, 2017, working capital shall inter alia include two months ARR. It is argued that since as per Regulation 116(f), carrying cost forms a mandatory component of ARR, it must also be reflected in the working capital. Excluding carrying cost from ARR while computing working capital denies the utility legitimate compensation for the delayed recovery of costs accumulated through the creation of regulatory assets.

35. The Appellant submits that interest on working capital must be recognized as transition financing to bridge the gap arising from unrecovered receivables under the ARR till such time as the same are realized from consumers. The said receivables represent actual dues for electricity supplied and their funding necessarily entails either short-term borrowings or depletion of operational liquidity.

36. It further submits that the distribution licensees, including the Appellant, are compelled to borrow working capital to manage cash flow gaps resulting from the

credit period extended to consumers. Therefore, the computation of working capital should comprehensively include all components of receivables and any arbitrary exclusion; such as of the carrying cost distorts the financial position and results in under-compensation. The carrying cost is not merely an interest element; it is a regulatory entitlement designed to offset the impact of deferred recovery of legitimate costs.

37. The Appellant submits that the timely and cost-reflective tariff determination would have obviated such deferment. The persistent delay in recovery of approved costs has caused severe cash flow mismatches, compelling the Appellant to resort to borrowings or to overstretch its working capital for sustaining operations and financing both the Regulatory Asset and the corresponding carrying cost.

38. The Appellant contends that due to the recurring creation of Regulatory Assets by the DERC, contrary to law, the carrying cost has become an essential component of the ARR, as duly recognized under Regulation 116(f) of the Tariff Regulations, 2017.

Submissions of the Respondent Commission

39. On the other hand, the DERC submits that it has made no error in the computation of working capital for FY 2017-18 and that exclusion of carrying cost from the ARR calculation for working capital purposes is fully consistent with the regulatory framework.

40. The Respondent Commission states that Regulation 129 of its Tariff Regulations, 2017 explicitly specify that recovery of ARR consists of a fixed charge (capacity, transmission, depreciation, O&M) and variable charge (energy purchase, trading margin, open-access charges). There is no mention of Carrying cost in this Regulation.

41. The Respondent Commission argues that Carrying cost is an interest component booked in the ARR to compensate past cash deficits; it is not a current operational outlay requiring fresh compensation in the working capital base.

42. The Respondent Commission further submits that the inclusion of Carrying cost within working capital would lead to a situation of “interest on interest,” causing consumers to pay layered interest; once as carrying cost and again as interest on the inflated working capital base. This double recovery is not allowed by the tariff framework which avoids compounding charges for the same expense.

43. It further argues that allowing the Appellant’s formulation would escalate the regulatory asset every year, causing the carrying cost to be recalculated on ever-inflating balances (a self-reinforcing loop), contrary to the intent of the regulations and the protection of consumer interest enshrined in Section 61 of the Electricity Act, 2003.

44. The Respondent Commission prays for rejection of the Appellant’s claim, holding that the Impugned Order conforms to statutory regulations and that including carrying cost as a component of ARR for the purpose of computing working capital is both technically and legally flawed.

Subsequent Submissions of the Appellant

45. The Appellant submits that the DERC, in its Reply dated 09.10.2018 did not raise any of the grounds now sought to be urged. Consequently, the new grounds are untenable and liable to be disregarded for the following reasons:

- (a) The said grounds are not only erroneous but constitute an afterthought, as they were never pleaded in the original Reply filed in the present Appeal. It is a settled principle of law, as laid down in *Ram Sarup Gupta vs. Bishun Narain Inter College*, (1987) 2 SCC 555, that a party cannot travel beyond its pleadings and must specifically set out all material facts relied upon in support of its case.
- (b) The reasoning now advanced did not form part of the Impugned Order nor was it ever urged before this Tribunal in the pleadings of the DERC. Therefore, such contentions are impermissible in view of the judgment of the Hon'ble Supreme Court in *Mohinder Singh Gill vs. Chief Election Commissioner*, (1978) 1 SCC 405, wherein it was held that an order must stand or fall on the reasons contained therein and new grounds cannot subsequently be introduced through affidavits or otherwise.
- (c) The belated grounds now raised are clearly an afterthought, intended merely to justify the arbitrary and erroneous approach adopted by the DERC in dealing with the issue under consideration and are therefore liable to be rejected outright.

46. The Appellant contends that DERC has adopted piecemeal interpretation, selectively quoting from Regulation 129 ("Recovery of ARR comprises Fixed and Variable Charges"). It is argued that Regulations 129-131 do not give an exhaustive list of all ARR components and must be read with Regulation 116 and Regulations 154-156 (concerning regulatory assets and carrying cost).

47. It submits that the Regulation 116 of the Tariff Regulations, 2017 specifies the components of the Annual Revenue Requirement (ARR) of distribution licensees for each year of the control period. The use of the word "*shall*" in

Regulation 116 denotes a mandatory obligation to include Carrying cost as a component of the ARR which directly influences the determination of working capital requirements.

48. Reliance is placed on the judgment of the Hon'ble Supreme Court in State of Mysore vs. V.K. Kangan, (1976) 2 SCC 895 and on this Tribunal's judgment dated 05.03.2025 in Rane Polymers Private Ltd. vs. HERC & Ors., Appeal Nos. 61 & 62 of 2022, both of which affirm that the use of "*shall*" denotes a mandatory statutory command.

49. Further, Regulations 154 to 156 of the Tariff Regulations, 2017 govern the treatment of Regulatory Assets. In particular, Regulation 155 explicitly provides that "*carrying cost on the average balance of accumulated revenue gap shall be allowed to the utility at the carrying cost rate approved by the Commission in the ARR of the relevant financial year.*" Accordingly, Carrying Cost must be recognized as an integral component of the ARR in terms of Regulation 116.

50. The Appellant contends that the DERC, in its Written Submissions, has disregarded the fact that the Tariff Regulations were framed to operate under a business-as-usual scenario, which has been fundamentally disturbed due to the DERC's repeated actions and omissions resulting in the continuous creation of Regulatory Assets.

51. Specifically, carrying cost represents the time value of money, i.e., compensation payable to the Appellant for the delayed recovery of amounts legally due and operates as a principle of restitution. Clause 8.2.2(b) of the National Tariff Policy, 2006 provides that Regulatory Commissions may permit the creation of Regulatory Assets under exceptional circumstances while mandatorily allowing carrying cost to utilities to finance the resultant cash gap.

52. In the present case, the DERC has, year after year, determined non cost-reflective tariffs and failed to amortize the accumulated Regulatory Assets, contrary to Section 61 of the Electricity Act, 2003, the Tariff Policy and Rule 23 of the Electricity Rules, 2005.

53. Consequently, the Appellant has been compelled to bear the additional financial burden of funding the Regulatory Assets which rightfully ought to have been recognized and compensated through the allowance of carrying cost as part of the ARR.

54. The Appellant seeks direction to DERC to re-compute Working Capital for FY 2017-18 by including carrying cost in ARR and to revise the calculation of carrying cost per subsequent Tariff Orders.

Our Analysis and Conclusion on Issue No. 4

55. Before we proceed with analysis, we would like to bring out relevant part of Tariff Regulations, 2017 of DERC which have been cited by the parties:

“84. The Commission shall calculate the Working Capital requirement for:

...

(4) Distribution Licensee as follows:

(i) Working capital for wheeling business of electricity shall consist of ARR for two months of Wheeling Charges.

(ii) Working Capital for Retail Supply business of electricity shall consist of:

(a) ARR for two months for retail supply business of electricity;

(b) Less: Net Power Purchase costs for one month;

(c) *Less: Transmission charges for one month;*”

“116. *The Aggregate Revenue Requirement for the Retail Supply and Wheeling Business of the Distribution Licensees for each year of the Control Period, shall contain the following items:*

...

(f) *Carrying Cost on Revenue Gap/Regulatory asset;*

...”

“129. *The recovery of ARR for supply of electricity to be billed by the Distribution Licensees shall comprise of:*

(1) *Fixed Charge, and*

(2) *Variable Charge. “*

“130. *Fixed Charge of the Distribution Licensee*

The Fixed Charge shall consist of the following components:

(a) *Capacity Charges of Generating Stations as approved/adopted by the appropriate Commission;*

(b) *Capacity Charges of the Transmission Licensee, including Load-Dispatch charges, as approved/adopted by the appropriate Commission; and*

(c) *Fixed Cost of the Distribution Licensee, comprising—*

(i) *Return on Capital Employed;*

(ii) *Depreciation; and*

(iii) *Operation and Maintenance expenses.*

“131. *Variable Charge of the Distribution Licensee*

The Variable Charge shall consist of the following components:

- (a) Energy Charges – Power-purchase cost excluding Capacity Charges;*
- (b) Trading Margin, if any; and*
- (c) Open-Access Charges, if any.*

“132. *Design of Tariff Schedule The Commission shall design the Tariff Schedule, indicating tariff for various categories of consumers in the area of the Distribution Licensee, in the relevant Tariff Order, in order to enable recovery of ARR.”*

56. After carefully examining the relevant portions of the Tariff Regulations, 2017, we agree with the contention of the Appellant. A combined reading of Regulation 84 (4) (ii) (a), which prescribes that ARR shall inter-alia include two month's ARR and Regulation 116 (f), which prescribes that ARR shall inter-alia contain Carrying Cost can only lead to a logical conclusion that for the purpose of computing working capital, the carrying cost cannot be excluded from the ARR. The Regulations do not seem to provide a different definition of ARR for computation of Working Capital. If that was the intent, the Regulation 116 (f) would have had a proviso to the effect that for the purpose of this clause ARR would not include Carrying Cost.

57. We also do not find merit in the contention of Respondent Commission that neither fixed cost (Regulation 130) nor variable cost (Regulation 131), mention Carrying cost as one of the components, and since these two costs together give ARR (Regulation 129), the Regulation do not provide for inclusion of Carrying cost in ARR. However, we find that the Interest on Working Capital, which no doubt should form part of fixed cost, is also not listed as one of the components of fixed cost in Regulation 130. Thus, we tend to agree with the Appellant that the list of

components of fixed cost as appearing in the Regulation 130 does not seem to be exhaustive.

58. We can also look at this issue based on the first principles. Working capital represents the funds a utility must deploy to sustain its normal operating cycle i.e. the period between incurring operating expenses and receiving payment for billed amounts. It is the capital required to finance all operating costs and obligations incurred during the billing and collection period until such costs are recovered through customer payments. This time lag creates a funding gap that must be bridged through internal accruals or borrowings, which is allowed in the fixed costs as interest on working capital. When regulatory assets are created, recovery of prudently incurred costs is deferred, widening the revenue–expenditure gap. To maintain uninterrupted operations, the utility must deploy funds; often borrowed — thereby incurring interest or carrying cost. Thus, the carrying cost also arises during the billing and collection period as a direct consequence of the operational funding gap. Carrying cost on such borrowings is functionally no different from interest on long-term loans taken for capital expenditure, which forms part of the Annual Revenue Requirement (ARR). Both represent necessary financing costs incurred to ensure continuity of service. It is therefore logical that carrying cost should be included as an element of working capital, consistent with the principles of prudence, cost causation, and financial neutrality.

59. We do not find merit in the contention of the Respondent Commission that inclusion of carrying cost is inadmissible since it leads to a situation of “interest on interest,” resulting in consumers bearing layered interest. As analysed in the preceding paragraph, the Annual Revenue Requirement (ARR) already includes interest on long-term borrowings for capital expenditure, which forms part of the cost base considered for working capital. Consequently, interest on working capital inherently includes an element of interest (albeit at a normative rate) on interest. This, however, is not impermissible; it is a normal outcome of the financing

structure recognized in tariff determination and is fully consistent with established regulatory and accounting principles.

60. We also find no merit in the submission of the Respondent Commission that accepting the Appellant's formulation would lead to an annual escalation of the regulatory asset, resulting in the carrying cost being recalculated on ever-increasing balances (a self-reinforcing loop), and that such an approach would contravene the intent of the regulations and the consumer protection mandate under Section 61 of the Electricity Act, 2003. We are of the opinion that an error in the computation of any tariff component, when subsequently detected, necessarily affects the level of regulatory assets and must be corrected, as Section 61(f) of the Act not only emphasizes safeguarding consumer interests but lays equal thrust on ensuring recovery of the cost of electricity.

61. In view of the forgoing, we conclude that the Respondent Commission has erred in not including carrying cost in the working capital base for FY 2017-18.

Issue No. 18: Clerical Error of considering receivables on the revenue collected for purpose of computation of Working Capital instead of correctly considering on the Revenue Billed Amount.

Submissions of the Appellant

62. The Appellant submits that the DERC in the Impugned Order erroneously considered Revenue Collected instead of Revenue Billed for truing up the Working Capital calculation for FY 2014-15 and 2015-16. This, the Appellant contends, is contrary to both DERC's established practice in prior years as well as binding

findings of the Tribunal in its Judgment dated 20.07.2016 in TPDDL vs. DERC (2016 SCC OnLine APTEL 156, Appeal No. 271 of 2013).

63. The Appellant further submits that the use of Revenue Collected artificially lowers the working capital base, produces an inaccurate fiscal picture and systematically under-compensates the Discom for actual receivables that remain outstanding but are fully billed within the year.

64. The Appellant points out that DERC has not actively disputed the substance of their claim regarding the methodological error, nor has DERC supplied a substantive rebuttal to the Appellant's assertions for over seven years since the issue was raised.

65. The Appellant invokes the doctrine of non-traverse; since DERC has not expressly controverted or traversed the submissions made on this issue, they are deemed admitted.

66. The Appellant contends that DERC's delay in addressing the correction has resulted in undervaluing working capital needs, ultimately inflating regulatory assets and negatively impacting both the Appellant's fiscal health and its consumers.

67. The Appellant prays that the Impugned finding be set aside regarding working capital true-up for FY 2014-15 and 2015-16 and DERC be directed to rectify the computation of working capital for these years, using Revenue Billed instead of Revenue Collected and to do so within a fixed, time-bound period.

Submissions of the Respondent Commission

68. Respondent Commission, in its reply, has acknowledged the Appellant's contention that the Commission inadvertently considered Revenue Collected instead of Revenue Billed while truing up working capital for FY 2014-15 and 2015-16. The Commission submits that it will address the issue in accordance with the provisions of the MYT Regulations, 2011.

69. As per the reply dated 09.10.2018 and submissions dated 30.09.2025, the Respondent Commission submits that no further orders would be required by the Tribunal in this matter.

Our Analysis and Conclusion on Issue No. 18

70. **We note that the Respondent Commission admits that there has been a deviation from the manner prescribed under the Regulations and has agreed to undertake the necessary correction.**

Issue No. 22: Disallowance of Foreign Exchange Gain of Rs. 8.16 Crores.

Submissions of the Appellant

71. The Appellant contends that the DERC erred in the Impugned Order by treating gains earned from the generation business, specifically related to the Rithala Combined Cycle Power Plant (Rithala CCPP) on account of a foreign exchange refund as Non-Tariff Income (NTI) to arbitrarily reduce the Aggregate Revenue Requirement (ARR) of the Appellant's licensed distribution and retail supply business.

72. The Appellant emphasizes that the generation business (Rithala CCPP) is a distinct business segment and not part of the licensed distribution and retail supply business of the Appellant. The foreign exchange gain of Rs. 8.16 Cr. arose from an advance payment of USD 5.96 million made by the Appellant towards a take or pay liability under the Gas Supply Agreement with Reliance Industries Limited (RIL) and associated parties for which no funding or working capital cost was claimed from DERC.

73. The refund and resulting gain pertain solely to the generation business and, as such, should not impact the ARR of the distribution business. The Appellant submits that the accounting is prepared on a consolidated basis as per the Companies Act, 1956 which does not require separate audited accounts for different segments but it does provide segment-wise audited certificates to the Commission for tariff purposes.

74. Appellant submits that there is no non-compliance with DERC's Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee Regulations, 2005 (Other Business Regulations). DERC was aware of the generation business since 2009 and the tariff for Rithala CCPP was determined in Petition No. 06/2013, confirmed by DERC's order dated 31.08.2017.

75. The Appellant clarifies that the foreign exchange gain does not form part of power purchase cost for the distribution business and, therefore, it rightly deducted the Rs. 8.16 Cr. from other income, excluding it from revenue available for distribution ARR.

76. The Appellant has annexed the following table demonstrating the gain calculation and audited financial statements for Rithala CCPP for FY 2011-12 to FY 2015-16 in their Brief Submission dated 04.04.2025.

Particulars	Amount paid by TPDDL (in USD)	Avg. Exchange Rate (original)	Avg. Exchange Rate (Realisation)	Amount Realised (in Cr)	Forex Gain/(Loss) (in Cr)
	(A)	(B)	(C)	(D) = (A)*(C)	(E) = (A)*(C-B)
Advance against Rithala Gas purchase (realised in April' 14)	53,55,434	46.28	60.97	32.65	7.87
Advance against Rithala Gas purchase (realised in July' 13)	6,02,780	54.29	59.35	3.58	0.31
Total Gain/(Loss)					8.17

Note: The above amount was paid in advance by Appellant to RIL and other associated parties during FY 2010-11 and 2011-12 as part of Gas Supply Agreement and was never claimed from Ld. DERC against Tariff for Rithala CCPP.

77. The Appellant has sought to set aside the Impugned Order's finding on this issue and direct DERC to deduct Rs. 8.16 Cr. foreign exchange gain from the NTI of the Appellant's distribution business.

Submissions of the Respondent Commission

78. On the other hand, the Respondent Commission submits that the Appellant failed to comply with the mandate of the DERC (Treatment of Income from Other Business of Transmission Licensee & Distribution Licensee) Regulations, 2005 ("Other Business Regulations") which require:

"4. Account:-

(1) The Licensee shall;

(a) maintain for Other Business activities, separate accounting records, such as amounts of any revenue, cost, asset, liability, reserve, or provision which has been charged from or to any Other Business together with a description of the basis of that charge or determined by apportionment or allocation between the various business activities together with a description;

(b) prepare on a consistent basis from such records accounting statements for each financial year comprising a profit and loss account, a balance sheet and a statement of source and application of funds;

(c) provide in respect of the accounting statements prepared, a report by the Auditors in respect of each Financial Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenue, costs, assets, liabilities, reserves reasonably attributable to the business to which the statements relate;

(d) submit to the Commission such information that is required to review the additional cost incurred by the licensee for Other Business;

(e) submit copies of the accounting statements and Auditor's report not later than six months after the close of the financial year to which they relate; and

(f) also comply with other statutory requirements under the Companies Act 1956, or any other Acts/ Rules as may be applicable.

(2) The Licensee shall establish to the satisfaction of the Commission that the Other Business duly bear an appropriate share of overhead costs and other common costs."

5. Prohibitions and Financial Implications:-

1) The Licensee shall not in any manner utilize the assets and facilities of the Licensed Business or otherwise directly or indirectly allow the activities to be undertaken in a manner that it results in the Licensed Business subsidising the Other Business in any manner.

2) The Licensee shall not in any manner, directly or indirectly encumber the assets and facilities of the Licensed Business for the

other Business or for any activities other than the Licensed Business.

3) The Licensee shall duly pay for all costs accounted for in the Licensed Business which have been incurred for Other Business and in the event of such cost being incurred commonly for both the Licensed Business and Other Business, apportion such cost and ensure due payment of apportioned costs to the Licensed Business from the Other Business.

4) The revenue derived from the Other Business shall commensurate with prevailing market condition for such similar business activities.

5) In addition to the sharing of costs under sub-clause (3) above, the Licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues from the other Business. As a general principle, the Licensee shall retain 20% of the revenues arising on account of Other Business and pass on the remaining 80% of the revenues to the regulated business. Provided that in case a change in the above provision regarding sharing of revenues is considered by the licensee, he may approach the Commission for change of the aforesaid sharing formula, with proper justification, for approval of the Commission.”

79. The above regulation states that the Distribution Licensee shall maintain a separate accounting records for other business activities, including revenue, costs, assets, liabilities, reserves and provisions associated with those businesses. Also to prepare accounting statements annually for each business segment with auditors' reports confirming that statements give a true and fair view of the revenue and costs attributable to each business and submission of these accounting statements and auditors' reports to the Commission within six months of each financial year. Also, to ensure that costs incurred for other business are duly paid

and apportioned if shared with the licensed business and not allowing the licensed business to subsidize the other business.

80. The Respondent Commission submits that the Appellant has admittedly not maintained such separate accounts and has not provided the mandatory documents even in the appeal proceedings. The Appellant's justification that consolidated financial statements under the Companies Act are sufficient is to be rejected as the Other Business Regulations impose additional and distinct requirements.

81. The Counsel for DERC also relied on Regulation 5 of the Other Business Regulations which imposes an 80-20 revenue-sharing principle whereby 80% of revenue from other business must be passed to the regulated business, ensuring no subsidization or cross-utilization.

82. Further, in light of the Appellant's failure to comply with these regulatory requirements and to provide requisite documents, the only remaining recourse is to treat the foreign exchange gain as revenue of the regulated business and reduce the same as NTI from the Appellant's ARR. This approach aligns with statutory mandates and the Electricity Act, 2003 (Section 51), which requires licensees to maintain separate accounts and limits the ability to cross-subsidize.

83. In view of the aforesaid contentions, the Respondent Commission submits that the Appellant's contentions are baseless in law and fact, and that non-compliance cannot be excused and accordingly, the Appellant's claim to be dismissed and to uphold the treatment of the Rs. 8.16 Cr. foreign exchange gain as NTI reducing ARR.

Our Analysis and Conclusion on Issue No. 22

84. For the purpose of analyzing the issue at hand, it would be worthwhile to go through the Section 51 of the Electricity Act, 2003:

“Section 51. (Other businesses of distribution licensees): A distribution licensee may, with prior intimation to the Appropriate Commission, engage in any other business **for optimum utilisation of its assets:**

Provided that a proportion of the revenues derived from such business shall, as may be specified by the concerned State Commission, be utilised for reducing its charges for wheeling :

Provided further that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business.

Provided also that nothing contained in this section shall apply to a local authority engaged, before the commencement of this Act, in the business of distribution of electricity.”

(emphasis supplied)

85. In the DERC’s Other Business Regulations, the relevant definitions are as under:

2(d) *“Licensed Business” shall mean the function and activities, which the Licensee is required to undertake in terms of the License granted or being a deemed Licensee under the Act.*

2(f) *“Other Business” means any business of the Licensee other than the licensed business;*

86. Further the relevant part of the Regulation 3 of DERC Other Business Regulations provides as under:

“3. Intimation of other business:

(1) In the event a Licensee engages in any Other Business for optimum utilization of the assets, he shall give prior intimation in writing to the Commission of such Other Business including the following details:

- a) The nature of the Other Business;*
- b) (i) the proposed capital investment in the Other Business;
(ii) the proposed capital investment in the Licensed Business for supporting the Other Business;*
- c) the nature and extent of the use of assets and facilities of the Licensed Business for the Other Business;*
- d) the impact of the use of assets and facilities for the Other Business on the Licensed Business and on the ability of the Licensee to carry out obligations of the Licensed Business; and*
- e) the manner in which the assets and facilities of the Licensed Business shall be used and justification that it will be used in an optimum manner without affecting maintenance of the activities of the Licensed Business.”*

(emphasis added)

87. From the Combined reading of the Section 51 of the Electricity Act, 2003 as well as the aforesaid Regulations of DERC Other Business Regulation, we are of the view that the term “Other Business” has to be construed as a business, which fully or partly uses assets for which license is granted. It has been contended by the Appellant, and not denied by the Respondent Commission that the separate tariff was being determined for Rithala CCPP (the plant seems to be dysfunctional now).

88. This leads us to believe that Generation Business of TPDDL was regulated by the DERC in accordance with the provisions of the Electricity Act, 2003 though obviously it did not form part of licensed business of TPDDL.
89. It also seems logical that since tariff for Rithala CCPP was being determined by the Respondent Commission, they were made available relevant details of Costs and Revenue, etc. carved out from the combined audited accounts of the Appellant which includes business of distribution as well as generation of electricity. Even at that point of time, the Respondent Commission had option to initiate proceedings for non-compliance to its regulations, which required maintenance of separate account for “other business”.
90. The Appellant has also claimed that the advance paid to the Gas supplier was not part of the tariff claimed against tariff for Rithala CCPP and therefore when this gas supply did not materialize and the advance paid was returned to the Appellant in USD terms, the resultant gain in terms due to Foreign Exchange Rate Variation should also not be taken away from them.
91. **We are not inclined to get into these issues which ought to have been considered by the Respondent Commission while deducting the above-mentioned gain due to foreign exchange rate variation for Rithala CCGP from the ARR of the distribution business of the Appellant and therefore would prefer that the Respondent Commission may have fresh holistic view in the matter.**

Parting Thoughts

92. Before parting with this matter, we deem it appropriate to observe that certain legal issues were raised during the proceedings. However, since the matter stands concluded on other substantive grounds, we do not consider it necessary to examine those aspects in detail. These legal issues were raised by the Appellant citing:
- (i) Ram Sarup Gupta vs. Bishun Narain Inter College, (1987) 2 SCC 555 to support their argument that the grounds raised by DERC constitute an afterthought, as they were never pleaded in the original Reply filed in the present Appeal, and that It is a settled principle of law that a party cannot travel beyond its pleadings and must specifically set out all material facts relied upon in support of its case.
 - (ii) Mahinder Singh Gill Vs. Chief Election Commission, (1978)1SCC, 205 to buttress their arguments that the order must stand or fall on the reasons contained therein and new grounds cannot subsequently be introduced. This is because, in any case we have generally found merit in the contentions of the Appellant, even if Respondent Commission has put forward new arguments, which were not part of their order.
93. We also note that the Respondent Commission could have provided more elaborate reasoning in the Impugned Order. In this context, we would like to emphasize that Regulatory Commissions must strive to pass well-reasoned and speaking orders, as such reasoning forms the foundation of transparency and accountability in regulatory decision-making. We are mindful that tariff petitions, especially those relating to distribution tariffs, involve a plethora of complex issues. Be that as it may, this cannot justify the absence of clear reasoning for the principal determinations made in the order. In this context, we would like to refer to the Hon'ble Supreme Court's

judgement in *Kranti Associates Private Limited v. Masood Ahmed Khan*, (2010) 9 SCC 496, which stressed upon the importance of reasoned judicial orders and elaborated on why “reason is the soul of justice.” This judgement summarized the following points:

- “a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- b. A quasi-judicial authority must record reasons in support of its conclusions.*
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
- g. Reasons facilitate the process of judicial review by superior Courts.*
- h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.*

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

94. We direct Registry of this Tribunal to let a copy of this order be sent to Secretary, Forum of Regulators, particularly drawing attention to paragraph 92 and 93 of this order with the advice that this be brought to the notice of all the members of the Forum of Regulators.

ORDER

For the foregoing reasons as stated above, we allow the appeal on the following two issues, out of the four issues pressed by the Appellant out of list of 29 issues brought out in the captioned Appeal No.168 of 2018:

- (i) Issue No. 1: Incorrect consideration of Open Access Charges for FY 2014-15 and FY 2015-16.
- (ii) Issue No. 4: Non-consideration of Carrying Cost as a component of ARR for computation of Working Capital as per Regulation 116 of the MYT Regulations, 2017.

The Impugned order, to the extent it relates to the above-mentioned issues is set aside. Accordingly, the Respondent Commission shall make necessary adjustments in the true up exercise for FY 2014-15 and 2015-16 and rework interest on working capital for FY 2017-18 and allow Carrying Cost on the additional amount arising due to aforesaid exercise.

The issue No 18 pertains to "Clerical Error of considering receivables on the revenue collected for purpose of computation of Working Capital instead of

correctly considering on the Revenue Billed Amount”. Respondent Commission has acknowledged that it had inadvertently considered Revenue Collected instead of Revenue Billed while truing up working capital for FY 2014-15 and 2015-16 and has agreed that it will address the issue in accordance with the provisions of the MYT Regulations, 2011. Recording the said assurance, we are refraining from issuing any direction on this issue. After correcting the error, Carrying Cost shall be allowed on the additional amount arising due to aforesaid exercise.

As regards issue 22 which pertain to disallowance of Foreign Exchange Gain of Rs. 8.16 Crs., we remand the issue to the Respondent Commission to consider it afresh with due attention to the factors discussed in paragraph 84 to 89 of this order and other relevant factors, if any. If Respondent Commission makes any adjustment after undertaking this exercise, Carrying Cost shall be allowed on the same.

As sought by the Appellant, we grant them the liberty to raise the fifteen (15) issues, namely Issues Nos. 3, 6 to 13 (except 12), 16, 17, 19, 21, 23, 28, and 29 of the table in the paragraph 9 of the order, which are not being pressed in the present Appeal.

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

PRONOUNCED IN THE OPEN COURT ON THIS 14th DAY OF NOVEMBER, 2025.

(Ajay Talegaonkar)
Technical Member

(Virender Bhat)
Judicial Member

REPORTABLE / NON-REPORTABLE

kns/mkj/kks