IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

Review Petition No. 14 of 2025
In
Appeal No. 133 of 2021

Dated : 17th November, 2025

Present: Hon'ble Ms. Seema Gupta, Technical Member
Hon'ble Mr. Virender Bhat, Judicial Member

In the matter of:

1. **Southern Power Distribution Company of Telangana Limited**
Represented by Authorized Representative
Occ: Chief General Manager (IPC), TSSPDCL,
Office at 6-1-50, Mint Compound,
Hyderabad – 500063, Telangana State
Email: office.abhinavrao@gmail.com

2. **Chief General Manager (IPC & RAC)**
Represented by Authorized Representative
Occ: Chief General Manager (IPC), TSSPDCL,
Office at 6-1-50, Mint Compound,
Hyderabad – 500063, Telangana State
Email: office.abhinavrao@gmail.com … Petitioner(s)

Versus

1. **M/s Kranthi Ediffice Private Limited**
Through its Managing Director
H. No. 3-5-784/8/A, Sri Sai Sri Heights,
King Koti, Opposite Pardha Gate, Hyderabad,
Telangana – 500029
Email: info@kranti.co.in

2. **Telangana State Electricity Regulatory Commission**
Through Secretary
11-4-660, 5th Floor, Singareni Bhavan,

Red Hills Road, Khairatabad, Red Hills,
Hyderabad – 500004, Telangana State
Email: secy@tserc.gov.in … Respondent (s)

Counsel for the Petitioner(s)	:	D. Abhinav Rao
Counsel for the Respondent (s)	:	Mani Gupta Aman Choudhary Akshat Goyal Sreemantini Mukerjee Sonali Jain Abhishek Tripathi Garima Sharma Shrijiet Roy Chowdhary Pranav Malhotra for Res. 1 Somanadri Goud Katam Rajat Srivastava For Res. 2

ORDER

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. Vide this petition, the petitioner – Southern Power Distribution Company of Telangana Ltd. is seeking review of judgement dated 24th January, 2024 of this Tribunal in Appeal No. 133 of 2021 filed by the petitioner assailing therein the order dated 19th December, 2018 passed by 1st Respondent – Telangana State Electricity Regulatory Commission (hereinafter referred to as "the Commission") in OP No. 64 of 2018 filed by 2nd Respondent – M/s. Kranthi Ediffice Private Limited.

2. The 2nd Respondent was a successful bidder through open competitive bidding 2012 and open offer route 2013 to setup the solar photovoltaic power project of 10 MW capacity at Nagarkurnool village in Mahabubnagar Dist., Telangana State. It entered into PPA with the Appellants on 8th January, 2015 in this regard for sale of power to the Discom at a tariff of Rs.6.49 per unit. The project was to be commissioned by 7th January, 2016 and with penalties upto May, 2016. The Government of Telangana State, vide letters of 8th May, 2015 and 4th December, 2015 had extended the Scheduled Commercial Operation Date (SCOD) of the solar power project upto 31st March, 2016 on agreed tariff of Rs.6.45 per unit and further vide letter dated 26th July, 2016, the SCOD was extended upto 31st December, 2016 as a last chance for the solar power projects which had concluded PPAs under competitive bidding, 2012 and open offer route, 2013 at the same agreed price of Rs.6.45 per unit. The First Respondent, i.e. the Commission accorded approval to such extension of SCOD vide letter dated 14th October, 2016. Accordingly, a supplementary PPA dated 3rd December, 2016 came to be executed between the Appellants and the 2nd Respondent hereby extending the SCOD till 31st December, 2016 with further conditions that there shall not be any further extension of SCOD. However, on account of certain stated difficulties, that had

allegedly arisen owning to the demonetization of high value currency by the Govt. of India, the 2nd Respondent could not complete the project by 31st December, 2016. It submitted a representation dated 31st December, 2016 to the Appellants seeking extension of time by 2 months to complete the project but there was no response from the Respondents. Thereafter, the 2nd Respondent approached the Hon'ble High Court of Hyderabad through Writ Petition No. 24 of 2017 which was disposed off vide order dated 3rd January, 2017 while granting liberty to the 2nd Respondent to re-submit the representation dated 31st December, 2016 within one week of the order with further direction to the Appellants to examine the same in right perspective and not to initiate any coercive steps in this behalf pending its consideration. Accordingly, the 2nd Respondent submitted a representation dated 7th January, 2017 afresh to the Appellants seeking extension of SCOD. The Appellants vide order dated 19th January, 2017, refused to extend the COD on the ground that the reasons stated therein do not attract the Force Majeure clause of the PPA.

3. Thereafter, the 2nd Respondent again approached the Hon'ble High Court of Hyderabad by way of fresh Writ Petition No. 2490 of 2017 challenging the above noted order dated 19th January, 2017 which was dismissed as withdrawn on the ground that only 1st Respondent i.e. the

Commission was empowered to extend the SCOD. While granting the permission to the 2nd Respondent to withdraw the Writ Petition, the Hon'ble High Court directed the Appellants not to take coercive action for a period of three weeks within which the Commission was mandated to pass appropriate orders on the interim application filed by the 2nd Respondent.

4. Subsequently, the 2nd Respondent filed OP No. 64 of 2018 of the Commission seeking direction to M/s. Telangana Southern Power Distribution Company Ltd. to extend the SCOD of the solar power project in question beyond the time stipulated under the PPA dated 8th January, 2015 as well as the supplementary PPA dated 3rd December, 2016 and to permit a period of six months from the date of the order of the Commission for completing the power plant and consequential commercialization.

5. The petition was disposed off by the Commission vide order dated 19th December, 2018 thereby concluding that the 2nd Respondent is not entitled to any relief based on Force Majeure clause in the PPA as it had completed only a part of the project even by the date of filing of the petition on 10th December, 2018. However, the commission felt inclined to grant the reliefs to the 2nd respondent on the ground that the State Government vide letter dated 5th September, 2018 had given similar

reliefs to another similarly placed project i.e. M/s Oberoi Power Corporation Ltd. as a one time measure. Accordingly, the Appellant was directed to amend the PPA with 90 days for achieving SCOD from the date of signing of the PPA with fixed tariff of Rs.5.52/- per unit for a period of 25 years.

6. Aggrieved by the said order of the Commission, the Appellant/Review Petitioner had approached this Tribunal by way of Appeal No. 133 of 2021, which was disposed of vide judgement dated 24th January, 2024 which is under review. This Tribunal did not find any error or infirmity in the impugned order dated 19th December, 2018 of the Commission and thus, dismissed the appeal. Consequently, the direction given by the Commission to the Appellant to amend the PPA with 2nd Respondent thereby extending the SCOD of the project in question for a further period of 90 days from the date of signing of the amended PPA was affirmed and upheld by this Tribunal.

7. It is submitted by the Learned Counsel for the petitioner that review of the said judgement dated 24th January, 2024 is being sought on the ground that some material facts were discovered by the petitioner subsequent to passing of the said judgement by this Tribunal which concerns the 2nd Respondent but were concealed by the 2nd Respondent from this Tribunal. It is submitted that a petition under section 7 of

Insolvency and Bankruptcy Code, 2016 in short (IBC) was admitted against the 2nd Respondent vide order dated 27th June, 2022 passed by National Company Law Tribunal, Hyderabad in C.P. (IB) No. 109/7/HBD/2020, an Insolvency Resolution Professional was appointed. It is submitted that moratorium was imposed against the 2nd Respondent by NCLT in the following terms :-

> *"19. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-*
>
> ***(A) Corporate Debtor, M/s Kranthi Edifice Private Limited is admitted in Corporate Insolvency Resolution Process under section 7 of the Insolvency & Bankruptcy Code, 2016,***
>
> ***(B) <u>The Bench hereby prohibits the institution of suits or continuation of pending suits of proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, Tribunal, arbitration panel or other authority;</u>*** *transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction*

of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

…

…

(H) That this Bench hereby appoints Ms. Kalpana G., having Registration No.IBBI/IPA-001/IP-P00756/2017-2018/11288, having address: H.No.16-1119/4, G-1, Sri Laxmi Nilayam, Saleem Nagar Colony, Malakpet, Hyderabad, West Marredpally, Telangana, 500036, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

8. Learned Counsel further pointed out that this Tribunal had reserved the judgement in this appeal on 13th December, 2023 on which date the insolvency proceedings were continuing against the 2nd Respondent in NCLT, Hyderabad but the factum of the pendency of the proceedings and the moratorium imposed under section 14 of the IBC was not brought to the notice of this Tribunal even till the judgement pronounced on 24th January, 2024.

9. It is further argued by the Learned Counsel for the Petitioner that in terms of Article 10.1.2(a) of the PPA, in case the solar power developer i.e. the 2nd Respondent becomes voluntarily or involuntarily subject of

any bankruptcy or insolvency or any bankruptcy or insolvency order was passed against the developer, the same constitutes an event of default on the part of the solar power developer entitling the Discom i.e. the Appellant to terminate the PPA by following the procedure as prescribed in Article 10.3. Learned Counsel would argue that in view of the judgement under review passed by this Tribunal thereby directing the Appellant to amend the PPA with the 2nd Respondent extending the SCOD of the power project in question for a further period of 90 days, the Appellant is precluded from terminating the PPA despite the existence of an event of default on the part of the solar power developer i.e. 2nd Respondent as envisaged in Article 10.1 of the PPA.

10. Learned Counsel for the 2nd Respondent did not dispute the fact that insolvency proceedings have been initiated against the 2nd Respondent wherein order dated 27th June, 2022 was passed by the NCLT, Hyderabad imposing moratorium under Section 14 of IBC. However, he would submit that these insolvency proceedings had no bearing on the outcome of this Appeal and hence it was not found necessary to apprise this Tribunal about the same.

11. We have considered the rival submissions of the learned counsels and have also perused the judgment under review. We have also gone through the contents of the review petition.

12. What can be gathered from the perusal of the review petition as well as from the submissions of the learned counsel for the petitioner is that the insolvency proceedings concerning the 2nd Respondent are still going on before the National Company Law Tribunal (NCLT), Hyderabad, in which order dated 27.06.2022 was passed imposing moratorium under Section 14 of IBC. There is no final order passed by the NCLT, Hyderabad declaring the 2nd respondent bankrupt or insolvent. Nothing has been produced on record by the appellant/petitioner to show or suggest that the insolvency proceedings have culminated in taking over of 2nd respondent by some other company.

13. So far as the order dated 27.06.2022 passed by NCLT, Hyderabad is concerned, it only prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitral panel or other authority. Manifestly, the said order does not relate to pendency of the Appeal No.133/2021 before this Tribunal in which the judgment under review has been rendered.

14. We may note that the purpose of moratorium under Section 14 of IBC is to protect the value of the estate of the corporate debtor against diminution by the actions of any of the parties to the insolvency proceedings. This Tribunal, vide judgment under view dated 24.01.2024

has upheld the order dated 19.12.2018 passed by the Commission which had allowed the prayer of the 2nd respondent seeking extension of 90 days for achieving the SCOD of its 10MW capacity power project. The appeal was filed by the review petitioner and therefore, it is inexplicable as to how the continuation of this appeal before the Tribunal and its final disposal has prejudiced any of the rights of review petitioner. The judgment under review of this Tribunal has not effected any change in the status of the 2nd respondent which existed prior to the order dated 27.06.2022 passed by NCLT, Hyderabad.

15. In so far as the arguments of the learned counsel for review petitioner with regards to entitlement of the petitioner to terminate the PPA under Article 10.1.2(a) of the PPA on account of event of default on the part of 2nd respondent, is concerned, we do not find any force in the same. Perusal of the said provision in the PPA would reveal that to constitute an event of default on the part of the solar power developer, there should be bankruptcy or insolvency proceedings against it which remain uncontested for a period of 30 days or any bankruptcy/insolvency order having been passed against it. That is not the case herein. It is nowhere the contention of the review petitioner that the insolvency proceedings against the 2nd respondent have remained uncontested for a period of 30 days. It is also not the case of the petitioner that any

insolvency or bankruptcy order has been passed against the 2nd respondent.

16. We find it necessary to note that the 2nd respondent ought to have disclosed the pendency of insolvency proceedings to this Tribunal during the hearing of the appeal. However, we hasten to add that disclosure of those details would not have changed the outcome of this appeal which is manifest from the foregoing discussion.

17. Hence, we do not find any cogent ground to exercise the power of review in this case. The review petition is devoid of any merit and is accordingly dismissed.

Pronounced in the open court on this 17th day of November, 2025.

(Virender Bhat) Judicial Member	(Seema Gupta) Technical Member (Electricity)

✓
REPORTABLE / ~~NON REPORTABLE~~

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