

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
NEW DELHI  
(APPELLATE JURISDICTION)**

**APPEAL NO.122 OF 2019**

**Dated: 14.07.2022**

**Present: Hon'ble Mr. Justice R.K. Gauba, Officiating Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

**In the matter of:**

**ULTRATECH CEMENT LIMITED**

Unit: Awarpur Cement Works,  
PO: Awarpur, Tal- Korpana  
Dist- Chandrapur- 442917

..... Appellant

**VERSUS**

**1. MAHARASHTRA ELECTRICITY  
REGULATORY COMMISSION**

*[Through its Secretary]*  
World Trade Centre No.1  
13th Floor, Cuffe Parade  
Mumbai – 400005

**2. MAHARASHTRA STATE ELECTRICITY  
DISTRIBUTION COMPANY LIMITED**

*[Through its Managing Director]*  
Prakashgad, 4th Floor, Bandra (East),  
Mumbai – 400051

..... Respondents

Counsel for the Appellant (s) : Mr. Pradeep Dahiya  
Ms. Mahima Benipuri

Counsel for the Respondent (s) : Mr. Ravi Prakash  
Mr. Varun Aggarwal  
Mr. Manoj Kaushik  
Mr. Sahil Sood R-2

## **J U D G M E N T (Oral)**

### **PER HON'BLE MR. JUSTICE R.K. GAUBA, OFFICIATING CHAIRPERSON**

1. The appellant is an open access consumer and had approached the first respondent, Maharashtra Electricity Regulatory Commission (hereinafter referred to as “the Commission”) by petition registered as case no.218/2018, praying, *inter alia*, for direction to the second respondent, Maharashtra State Electricity Distribution Company Limited (MSEDCL) to pay Power Factor Incentives (PFI) claimed due unto it, in terms of the extant regulations read with section 142 and 143 of Electricity Act, 2003. By its order dated 28.11.2018 while disposing of the said petition and certain other similarly placed petitions, the Commission took the view that such relief could not be granted, the Commission having followed an earlier dispensation on similar lines by previous orders rendered by it.

2. One of the orders on similar lines passed in the case of a similarly placed entity viz. ‘*Jindal Poly Films Limited v. Maharashtra Electricity Regulatory Commission and Anr.*’, was challenged before this Tribunal by appeal no.70/2019, which was decided by this Tribunal by judgment dated 12.08.2021. It is fairly conceded by the respondent MSEDCL that the said decision covers the issues raised in the appeal at hand, though, it is submitted, the judgment of this Tribunal is presently under challenge by Civil Appeal no.6291/2021 before Hon’ble Supreme Court, concededly, however, there being no stay granted therein.

3. We have gone through the judgment dated 12.08.2021 in appeal no.70/2019 and note that this Tribunal has followed the same view as prevailed with it in the judgment dated 12.08.2021 in a series of such decisions including judgment dated 20.10.2020 in the matter of

'*MIAL/HPCL v. TPC & Ors.*, the ratio being that PFI/penalty has to be made applicable to all classes of consumers whether sourcing power from discom or open access.

4. Following the view taken by this Tribunal in the aforementioned judgment dated 12.08.2021, we allow the appeal at hand and set aside the impugned order dated 28.11.2018 of the first respondent, thereby dismissing the petition of the appellant for the necessary reliefs.

5. The matter arising out of the petition of the appellant registered as case no.218/2018 shall stand revived on the file of the State Commission for further consideration of the reliefs as granted in light of the above observations. The parties are directed to appear before the State Commission for further proceedings on **13.09.2022**.

6. The appeal is disposed of in above terms.

**(Sandesh Kumar Sharma)**  
Technical Member

*pr/tp*

**(Justice R.K. Gauba)**  
Officiating Chairperson