

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

APPEAL NO. 28 OF 2021

Dated: 05.05.2022

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

In the matter of:

Merino Industries Limited

44 KM Stone, Delhi-Rohtak Road, Village Rohad,
Bahadurgarh, Distt. Jhajjar, Haryana- 124501
Email:rameshku@merinoindia.com

... Appellant

VERSUS

- 1. Haryana Renewable Energy Development Agency,**
Through its Director General,
AkshayUrja Bhawan, Plot No-1, Sector 17,
Opp. Agarwal Bhavan, Panchkula – 134109
Email: hareda@chd.nic.in
- 2. Uttar Haryana Bijli Vitran Nigam Limited,**
Through its Chairman-cum-Managing Director,
Vidyut Sadan, Sector-6, Panchkula -134109
Email: sera@uhbvn.org.in
- 3. Dakshin Haryana Bijli Vitran Nigam Limited,**
Through its Chairman-cum-Managing Director,
Vidyut Sadan, Vidyut Nagar, Hisar – 125005
Email: sera@dhbvn.org.in
- 4. Haryana Electricity Regulatory Commission,**
Through its Secretary,
Bays 33-36, Sector 4, Panchkula – 134112
Email: secretary.herc@nic.in

... Respondents

Counsel for the Appellant (s) : Mr. Anand K. Ganesan
Counsel for the Respondent (s) : Mr. Arjun Grover for R-1
Mr. Samir Malik with
Ms. Nikita Choukse for R-2 & 3

J U D G M E N T (Oral)

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

1. This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.
2. The order assailed by the appeal at hand was rendered by the Haryana Electricity Regulatory Commission (State Commission) on 13.05.2019 in Case No.22 of 2019. The appellant is a generator of electricity with a captive generation plant located at district Hissar, a region in the State of Haryana where *Dakshin Haryana Bijli Vitran Nigam Limited* (DHBVNL) is the distribution licensee. It supplies electricity to certain consumers in district Jhajjar which is part of a separate region of the State of Haryana where *Uttar Haryana Bijli Vitran Nigam Limited* (UHBVNL) is the distribution licensee. Under the extant regulations, it is liable to pay for distribution losses. While passing the impugned order, laying down the procedure/guidelines for banking of renewable solar energy power, the State Commission has stipulated as under:

*“At the end of the month, the total RE power injected during the month, the total RE Power adjusted during the month, RE Power adjusted from the previous banked energy during the month and net banked energy for the month (+ve or -ve) shall be worked out by **the Commercial wing of UHBVNL/ Sr. A.O./Open Access of DHBVN** from the time slot wise energy statement prepared by SLDC, Haryana with the downloaded meter data. The Banked Energy shall be calculated at the end of a month by **the Commercial wing of UHBVN/ Sr. A.O./Open Access of DHBVN** as follows:-*

Banked Energy at the end of month (E_{bi}) = {E_g(1-losses)-E_c}(1-b) + E_b (i-1)
where*

** E_g = Energy injected for the ith month
* E_c = Energy consumption for the ith month
* E_b (i-1) = Energy banked at the end of previous month
* b = Banking charges in kind as specified by HERC
from time to time*

Losses are the transmission losses and distribution losses (Technical) as approved by the HERC in its Tariff Order for the relevant financial year.

The methodology is hereby illustrated with an example as under:

Solar power injected (Eg)	Transmission losses @ 2.46% as per HERC Order dated 15.11.2018	Distribution (technical) losses @5.87% as per HERC Order dated 15.11.2018	Solar power at consumer end (Eg(1-losses))	Energy consumption assumed Ec	Banking charges @ 5% (b)	
	<i>kWh</i>	<i>kWh</i>	<i>kWh</i>	<i>kWh</i>	<i>kWh</i>	
<i>Case 1: Generator and consumer both connected to 66kV and above</i>	100,000	2460	NA	97540	70,000	1377
<i>Case 2: One of the Generator / Consumer is connected at 66kV and other is connected at 33 kV in same utility</i>	100,000	2460	5726	91814	70,000	1091
<i>Case 3: Generator is connected to 11/33 kV in UHBVN and consumer is connected to 11/33 kV in DHBVN or vice versa</i>	100,000	2460	11451	86089	70,000	804

”

3. The case of the appellant falls in scenario 3 (Case No.3) in the above table wherein it is located in the area of one distribution licensee and its consumer is located in the area of other distribution licensee operating in the State. Its grievance is that there is no logic or justification for the distribution losses to be recovered twice over from it for use of the transmission network of the two licensees.

4. Having heard the learned counsel for the parties, the State Commission not participating despite notice, we find that the impugned order is devoid of any expression of reason or justification for such dispensation as is the cause of the grievance agitated in the appeal at hand.

5. Learned counsel for the appellant submitted that the appellant would be satisfied if they are given liberty to approach the State Commission by invoking its review jurisdiction so that its contentions against such dispensation as above may be heard and the Commission spells out its reasons for the final determination that it chooses to adopt on the subject.

6. In the foregoing facts and circumstances, we grant the request, we give liberty to the appellant to approach the State Commission by review petition within four weeks hereof, to seek a detailed reasoned order on the specific issue mentioned above. Needless to add, the Commission will be obliged to hear all stakeholders while hearing the appellant on the subject and shall pass the order dealing with the contentions that are raised before it, in accordance with law.

7. Needless also to add that the Commission will approach the Review Petition with an open mind not feeling bound by the determination which is being questioned. Given the financial impact that the questioned determination creates for the appellant, and possibly similarly placed other entities, it is desirable that the decision on the review petition proposed to be submitted by the appellant is taken by the Commission expeditiously which we request it to do preferably within two months of the submissions of the review petition.

8. While disposing of the appeal with such liberty having been granted, we clarify that nothing said in this judgment will be construed as any expression of opinion by this Tribunal.

9. The appeal is disposed in of above terms.

**PRONOUNCED IN THE VIRTUAL COURT THROUGH VIDEO CONFERENCING
ON THIS 05th DAY OF MAY, 2022.**

(Sandesh Kumar Sharma)
Technical Member

(Justice R.K. Gauba)
Officiating Chairperson

pr/tp