IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Original / Appellate Jurisdiction)

ORIGINAL PETITION NO.1 OF 2022 &
IA NOS. 21 & 296 OF 2022

ORIGINAL PETITION NO.2 OF 2022 &
IA NOS. 19 & 298 OF 2022

APPEAL NO. 116 OF 2022 (DFR NO.40 OF 2022)

APPEAL NO. 74 OF 2022
APPEAL NO.75 OF 2022
AND
APPEAL NO. 76 OF 2022

Dated: **05th April 2022**

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

ORIGINAL PETITION NO.1 OF 2022 &
IA NOS. 21 & 296 OF 2022

In the matter of:

NRSS-XXIX Transmission Limited
Through its Authorised Signatory
C-2, Second Floor, The Mira Corporate Suites,
Ishwar Nagar, Okhla Crossing
Mathura Road,
New Delhi – 110065
vishrov.mukerjee@jsalaw.com
krishan@jsalaw.com ….. Petitioner

VERSUS

1. **Central Electricity Regulatory Commission**
Through its Secretary,
3rd & 4th Floor, Chanderlok Building,
Janpath,
New Delhi – 110 001
secy@cercind.gov.in

2. **Uttar Pradesh Power Corporation Limited**
Through its Managing Director
14th Floor, Shakti Bhawan Extension,
14 – Ashok Marg,
Lucknow
cmd@uppcl.org;
directorcomm@uppcl.org

3. **Ad Hydro Power Limited**
Through its Managing Director
Bhilwara towers, A-12, Sector 1
Noida – 201 301,Uttar Pradesh
sumitgarg@lnjbhilwara.com

4. **Haryana Power Purchase Centre**
Through its Chairman cum Managing Director
Shakti Bhawan, Sector-6
Panchkula -134 109, Haryana
cehppc@uhbvn.org.in

5. **Punjab State Power Corporation Limited**
Through its Managing Director
Thermal Shed T 1-A
Near 22 Phatak,
Patiala-147 001
cmd-pspcl@pspcl.in; director-distribution@pspcl.in
ce-ppr@pspcl.com

6. **Himachal Sorang Power Pvt. Limited**
Through its Managing Director
901 B, 9th Floor, Time Tower
M.G. Road,
Gurgaon-122 009,Haryana
anil.giria@hsppl.co.in;
damian.obiglio@tagaglobal.com

7. **Adani Power Limited Mundra**
Through its Authorised Signatory/Managing Director
Achalraj, Opp Mayor Bungalow, Law Garden,
Ahmedabad – 380 006
mehul.rupera@adani.com;
kandarp.patel@adani.com

8. **Rajasthan Discoms Power Procurement Centre,**
Through its Chairman/Managing Director
Shed no. 5/4, Vidyut Bhawan, Janpath,
Jyoti Nagar,
Jaipur – 302 005
se.ra.ruvnl@rajasthan.gov.in;

9. **Jaipur Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
Vidyut Bhawan, Janpath,
Jaipur – 302 005
md@jvvnl.org; cehq@jvvnl.org

10. **Ajmer Vidyut Vitran Nigam Ltd.,**

Through its Managing Director
Old Power House, Hathi Bhatta,
Jaipur Road, Ajmer
cecomavvnl@gmail.com;
avvnl0145@yahoo.com

11. Jodhpur Vidyut Vitran Nigam Ltd.
Through its Managing Director
New Power House, Industrial Area,
Jodhpur – 342 003
md.jdvvnl@rajasthan.gov.in;
addlcehqjdvvnl@gmail.com

12. LancoAnpara Power Limited,
Through its Authorised Signatory
Plot No 397, Udyog Vihar,
Phase 3, Gurgaon – 122 016
arun.tholia@lancogroup.com;
rajkumar.roy@lancogroup.com

13. Lanco Green Power Pvt. Ltd.
Through its Authorised Signatory
Plot No. 397, Udyog Vihar,
Phase 3, Gurgaon – 122 016
satishkumar.garg@lancogroup.com

14. Power Development Department,
Through its Secretary / Managing Director
Mini Secretariat, Jammu,
Jammu& Kashmir- 180001
pdd-jk@nic.in; cecnsjmu@gmail.com

15. North Central Railway
Through its General Manager
DRM Office, Nawab Yusuf Road,
Subedarganj,
Allahabad-211 001
gm@ncr.railnet.gov.in;
sdgm@ncr.railnet.gov.in

16. Jaiprakash Power Ventures Limited,
Through its Authorised Signatory
A Block, Sector-128,
Noida – 201 304, Uttar Pradesh
ashok.shukla@jalindia.co.in;
r.k.narang@jalindia.com

17. BSES Yamuna Power Ltd.,
Through its Managing Director
Shakti Kiran Building,

Karkardooma, New Delhi - 110 092
abhishek.ku.srivastava@relianceada.com

18. **BSES Rajdhani Power Ltd.,**
Through its Managing Director
BSES Bhawan, Nehru Place,
New Delhi - 110 019
megha.bajpeyi@relianceada.com

19. **North Delhi Power Ltd., (Now known as Tata Power Delhi Distribution Limited)**
Through its Chief Executive Officer
Sub Station Building, Hudson Lines,
Kingsway Camp,
New Delhi - 110 009
anurag.bansal@tatapower-ddl.com

20. **New Delhi Municipal Corporation**
Through its Chairman
Palika Kendra Building,
Opp. Jantar Mantar Building,
Parliament Street,
New Delhi - 110 001
ce2elect@ndmcmail.gov.in

21. **Electricity Wing of Engineering Dept.,**
UT of Chandigarh,
Through Administrator
Chandigarh Administration,
Sector-9, Chandigarh
seelecty@gmail.com

22. **Power Grid Corporation of India Limited**
Through its Chairman cum Managing Director
Saudamini, Plot No-2, Sector – 29,
Gurgaon – 122 001, Haryana
commercialcc@powergrid.co.in;
jasbir@powergridindia.com

23. **PTC (Budhil),**
Through its Authorised Signatory/Managing Director
PTC India Limited
2nd floor, NBCC Tower
15, BhikajiCama Place,
New Delhi – 110066
rajiv@ptcindia.com;
hde@ptcindia.com

24. **PTC (Everest),**
Through its Authorised Signatory/Managing Director

PTC India Limited,
2nd floor, NBCC Tower,
15, BhikajiCama Place,
New Delhi – 110066
rajiv@ptcindia.com;
hde@ptcindia.com

25. Uttarakhand Power Corporation Ltd.,
Through its Managing Director
Urja Bhawan, Kanwali Road,
Dehradun, 248 001
cgmupcl@yahoo.com

26. Himachal Pradesh State Electricity Board,
Through its Managing Director
Vidyut Bhawan,
Shimla - 171 004
pcshimla2003@gmail.com;
directorp@hpseb.in

27. REC Transmission Projects Company Limited
Through its Authorised Signatory/Managing Director
ECE House, 3rd Floor,
Annexe - II, 28A, KG Marg,
New Delhi – 110001 ….. Respondents
bhupender_g@yahoo.com;
skgupta@recl.nic.in;
vijay.vksingh@gmail.com

ORIGINAL PETITION NO.2 OF 2022 & IA NOS. 19 & 298 OF 2022

In the matter of:

East-North Interconnection Co. Ltd.
F-I, Mira Corporate Suits 1 & 2,
Mathura Road, Ishwar Nagar,
New Delhi – 110065
vishrov.mukerjee@jsalaw.com
krishan@jsalaw.com ….. Petitioner

VERSUS

1. Central Electricity Regulatory Commission
Through its Secretary,
3rd & 4th Floor, Chanderlok Building,
Janpath,
New Delhi – 110 001
secy@cercind.gov.in

2. Jodhpur Vidyut Vitran Nigam Ltd.

Through its Managing Director
New Power House, Industrial Area,
Jodhpur - 342 003
md.jdvvnl@rajasthan.gov.in;
addlcehqjdvvnl@gmail.com

3. **Jaipur Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
Vidyut Bhawan, Janpath,
Jaipur - 302 005
md@jvvnl.org; cehq@jvvnl.org

4. **Ajmer Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
Old Power House, Hathi Bhatta,
Jaipur Road, Ajmer
cecomavvnl@gmail.com; avvnl0145@yahoo.com

5. **BSES Yamuna Power Ltd.,**
Through its Managing Director
Shakti Kiran Building,Karkardooma,
New Delhi - 110 092
abhishek.ku.srivastava@relianceada.com

6. **BSES Rajdhani Power Ltd.,**
Through its Managing Director
BSES Bhawan, Nehru Place,
New Delhi - 110 019
megha.bajpeyi@relianceada.com;

7. **North Delhi Power Ltd., (Now known as Tata Power Delhi Distribution Limited)**
Through its Chief Executive Officer
Sub Station Building, Hudson Lines,
Kingsway Camp,
New Delhi - 110 009
anurag.bansal@tatapower-ddl.com

8. **New Delhi Municipal Corporation**
Through its Chairman
Palika Kendra Building,
Opp. Jantar Mantar Building,
Parliament Street, New Delhi - 110 001
chairperson@ndmc.gov.in;
secretary@ndmc.gov.in

9. **Uttarakhand Power Corporation Ltd.,**
Through its Managing Director
Urja Bhawan, Kanwali Road,
Dehradun, 248 001

cgmupcl@yahoo.com

10. **Paschimanchal Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
Victoria Park, Meerut - 250 001
directorcommrt@gmail.com

11. **Poorvanchal Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
Hydel Colony, Bhikharipur,
Post: DLW, Varanasi - 221 004
dircompuvvnl@gmail.com

12. **Dakshinanchal Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
220 kV Vidyut Sub-Station,
Mathura Agra By Pass Road,
Sikandra, Agra - 282 007
dcdvvnl@gmail.com

13. **Madhyanchal Vidyut Vitran Nigam Ltd.,**
Through its Managing Director
4-A, Gokhle Marg,
Lucknow-226 001
commvvnl@gmail.com

14. **Uttar Haryana Bijli Vitran Nigam Ltd.,**
Through its Managing Director
Vidyut Sadan, Plot No. 16-C,
Sector-6, Panchkula- 134 109
md@uhbvn.org.in; ceadmin@uhbvn.org.in

15. **Dakshin Haryana Bijli Nigam Ltd.,**
Through its Managing Director
Vidyut Sadan, Vidyut Nagar,
Hissar - 125 005
md@dhbvn.org.in; seadmn@dhbvn.org.in

16. **Punjab State Electricity Board,**
Through its Managing Director
The Mall, Patiala - 147 001
seisbpspcl@gmail.com; cmd-pspcl@pspcl.in
director-distribution@pspcl.in

17. **Power Development Department,**
Through its Secretary / Managing Director
Mini Secretariat, Jammu,
Jammu& Kashmir- 180001
pdd-jk@nic.in

18. Himachal Pradesh State Electricity Board,
Through its Managing Director
Vidyut Bhawan,Shimla - 171 004
pcshimla2003@gmail.com;
directorp@hpseb.in

19. North Central Railway,
Through its General Manager
Subedarganj, Allahabad - 211 033
gm@ncr.railnet.gov.in;
sdgm@ncr.railnet.gov.in

20. Electricity Wing of Engineering Dept.,
UT of Chandigarh,
Through Administrator
Chandigarh Administration,
Sector-9, Chandigarh
seelecty@gmail.com ..... Respondents

Counsel for the Petitioner (s) : Mr. SajanPoovayya, Sr. Adv.
Mr. VishrovMukerjee
Mr. JanmaliManikala
Mr. Yashaswi Kant
Mr. Damodar Solanki
Mr. Harshit Gupta

Counsel for the Respondent (s) : Mr. Nikhil Nayyar, Sr. Adv.
Mr. TVS Raghavendra Sreyas
Mr. Dhananjay Baijal
Mr. Siddharth Vasudev for R-1

APPEAL NO. 116 OF 2022 (DFR NO.40 OF 2022)

In the matter of:

Raipur-Rajnandgaon-Warora Transmission Limited
Through its Authorized Signatory
C-105, Anand Niketan
New Delhi-110 019
Email: bhavesh.kundalia@adani.com ..... Appellant(s)

VERSUS

1. Central Electricity Regulatory Commission
Through its Secretary
3rd& 4thChanderlok Building 36, Janpath Rd,
New Delhi – 110 001
Email: secy@cercind.gov.in

2. Maharashtra State Electricity Distribution Company Ltd
Through Principal Secretary
Prakashgad, 4th Floor, Bandra (East)

Mumbai – 400 051
Email: ceppmsedcl@gmail.com

3. **Chhattisgarh State Power Distribution Company Ltd.**
Through its Chairman
P.O. Sunder Nagar, Dangania,
Raipur – 492013, Chhatisgarh
Email: mddiscom@cspc.co.in

4. **Gujarat Urja Vikas Nigam Ltd.**
Through its Managing Director
Vidyut Bhawan, Race Course,
Vadodara – 390 007
Email: decsp.guvnl@gebmail.com

5. **Madhya Pradesh Power Management Company Ltd.**
Through its Chairman
Block No. 11, Ground Floor,
Shakti Bhawan,
Vidyut Nagar, Rampur,
Jabalpur – 482 008
Email: comml.deptt@mppmcl.com

6. **Electricity Department of Goa**
Govt. of Goa
Through its Chief Engineer
Aquem Alto Margaon
Goa – 403 601
Email: cee-elec.goa@nic.in

7. **DNH Power Distribution Corporation Ltd.**
Through its Executive Engineer
66kV, Amli Ind. Estate,
Silvassa – 396 230
Email: ee-elec-dnh@nic.in

8. **Electricity Department**
Administration of Daman and Diu
Through its Chief Engineer
Plot No. 35, OIDC Complex,
Near Fire Station, Somnath
Daman – 396 210
Email: elec-dmn-dd@nic.in

9. **Power Grid Corporation of India Ltd (PGCIL)**
Through its Managing Director
Saudamini, Plot No. 2, Sector 29,
Gurgaon – 122 001
Email: ksreekant@powergrid.in

10. Chhattisgarh State Power Transmission Company Limted
Through Chief Engineer (EITC)
Energy Info Tech Centre
Daganiya, Raipur (CG) – 492 013
Email: webadmin@cseb.gov.in

11. Central Electricity Authority
Through its Chief Engineer
Sewa Bhawan, R.K. Puram, Sector-1
New Delhi – 110 066
Email: shran_ishan@nic.in ….. Respondents

Counsel for the Appellant (s) : Mr. Amit Kapur
Ms. Poonam Verma
Ms. Aparajita Upadhyay

Counsel for the Respondent (s) : Mr. Nikhil Nayyar, Sr. Adv.
Mr. TVS Raghavendra Sreyas for R-1

Mr. Akshay Goel for R-2 (MSEDCL)

Mr. Akshat Shrivastava for R-3 & R-10

APPEAL NO. 74 OF 2022

In the matter of:

NER-II Transmission Limited
Registered Office:
Unit No. 101, First Floor,
Windsor Village Kolekalyan, Off CST Road,
Vidyanagari Marg, Kalina,
Santacruz (East),
Mumbai - 400098
(Through Its Authorized Signatory) ..... Appellant

VERSUS

1. Central Electricity Regulatory Commission
Through its Secretary
3rd& 4thChanderlok Building 36, Janpath,
New Delhi – 110 001
Email: secy@cercind.gov.in

2. Assam Electricity Grid Corporation Limited
Through Managing Director
4th Floor, Bijulee Bhawan (First Floor),
Paltan Bazar,
Guwahati-I, Assam-781 001
Email: managing.director@aegcl.co.in,

acecomt.aseb@gmail.com

3. **Tripura State Electricity Corporation Limited**
Through Chairman Cum Managing Director
Bidyut Bhawan, Banamalipur, Agartala,
Tripura - 799 001
Email: ad_comm@rediffmail.com

4. **Meghalaya State Power Distribution Company Limited**
Through Chairman Cum Managing Director
Lum Jingshai, Sort Round Road, Shillong,
Meghalaya - 793 001
Email: ga.dkhar@gmail.com

5. **Manipur State Power Distribution Company Limited**
Through Managing Director
Electricity Complex, Patta No. 1293 Under 87(2),
Khwai Bazar, Keishampat, District-Imphal West,
Manipur - 795 001
Email: cs.birdas@mspdcl.com,
tj.khongthang@mspdcl.com

6. **Department Of Power,**
Through Commissioner
Government Of Arunachal Pradesh
Vidyut Bhawan, Itanagar,
Arunachal Pradesh - 791 111
Email: vidyutarunachal@gmail.com

7. **Department Of Power**
Through Commissioner & Secretary
Government Of Nagaland
A.G. Colony, Kohima, Nagaland-797 005
Email:cepower1@gmail.com

8. **Power And Electricity Department**
Through Commissioner & Secretary
Government Of Mizoram
Mizoram Secretariat, Annexure-Ii, Treasury,
Square Aizwal, Mizoram
Email: commercialpnemz@gmail.com

9. **REC Transmission Projects Company Limited**
Through Managing Director
Core – 4, Scope Complex,
7, Lodhi Road, New Delhi – 110 003, India
Email: pshariharan@recl.in

10. **Power Grid Corporation Of India Limited**
Through Its Chairman Cum Managing Director

Saudamini, Plot No-2, Sector - 29,
Gurgaon – 122 001, Haryana
email: ksreekant@powergrid.in, ….. Respondents
commercialcc@powergrid.co.in

APPEAL NO.75 OF 2022

In the matter of:

Odisha Generation Phase II Transmission Limited
Through Its Authorised Signatory
Unit No. 101, First Floor,
Windsor Village Kolekalyan, Off CST Road,
Vidyanagari Marg, Kalina,
Santacruz (East), Mumbai – 400098 ….. Appellant

VERSUS

1. **Central Electricity Regulatory Commission**
Through Its Secretary
3rd& 4thChanderlok Building 36, Janpath,
New Delhi – 110 001
Email: secy@cercind.gov.in

2. **West Bengal State Electricity Distribution Company Limited**
Through Its Chairman & Managing Director
Bidyut Bhawan, A-Block,
3rd Floor, Bidhannagar, Kolkata-700 091
Email: cereg.wbsedcl@gmail.com

3. **North Bihar Power Distribution Company Limited**
Through Its Managing Director
2nd Floor, Vidyut Bhawan,
Bailey Road, Patna-800 001
Email: powermanagementcell2018@gmail.com

4. **South Bihar Power Distribution Company Limited**
Through Its Managing Director
2nd Floor, Vidyut Bhawan,
Bailey Road, Patna-800 001
Email: powermanagementcell2018@gmail.com

5. **Damodar Valley Corporation**
Through Its Chariman
DVC Head Quarters, Dvc Towers,
VIP Road, Kolkata-700 054
Email: chairman@dvc.gov.in

6. **Jharkhand Bijli Vitran Nigam Limited**
Through Its Managing Director
Engineer's Building, Dhurwa,
Ranchi-834 004
Email: cecr2018@gmail.com,
juvnldelhi@gmail.com

7. **GRIDCO Limited**
Through Its Chariman-Cum-Managing Director
Grid Corporation Of Orissa Limited,
Janpath, Bhubneshwar-751 011
Email: liason.delhi@optcl.co.in

8. **Energy And Power Department,**
Govt. Of Sikkim
Through Its Secretary
Power Secretariat, Sonam Gyatso Marg,
Gangtok, Sikkim-737 101
Email: kunwarkb@gmail.com

9. **Power Grid Corporation Of India Limited**
Through Its Chairman & Managing Director
HvdcRihand, "Saudamini" Plot No-2
Sector-29, Gurgaon-122 001
Email: ksreekant@powergrid.in,
tbcb@powergrid.co.in

10. **Odisha Power Generation Corporation Limited**
Through Its Chairman
Zone-A, 7th Floor,
Fortune Towers, Chandrasekharpur,
Bhubaneshwar, Odisha – 751 023
Email: ritwik.mishra@aes.com

11. **SKS Power Generation (Chhattisgarh) Ltd.**
Through Its Promoter &Cmd
B-501, Elegant Business Park,
Andheri Kurla Road, J.B. Nagar,
Andheri East, Mumbai,
Maharashtra – 400 059
Email: vipinkumar@spgcl.com ….. Respondents

Counsel for the Appellant (s) : Mr. Deep Rao Palepu
Ms. Parichita Chowdhury

Counsel for the Respondent (s) : Mr. Nikhil Nayyar, Sr. Adv.
Mr. TVS Raghavendra Sreyas for R-1

Mr. Akshay Goel for R-2

APPEAL NO. 76 OF 2022

In the matter of:

Khargone Transmission Limited
Through its Authorised Signatory
DLF, Cyber Park, Tower-B, 9th Floor,
Udyog Vihar Phase-III, Sector 20
Gurugram – 122008, Haryana ….. Appellant(s)

VERSUS

1. **Central Electricity Regulatory Commission**
Through its Secretary
3rd& 4thChanderlok Building,
36, Janpath,
New Delhi – 110 001
Email: secy@cercind.gov.in

2. **Madhya Pradesh Power Management Company Ltd.**
Through its Managing Director
Block No. 11, Ground Floor,
Shakti Bhawan, Vidyut Nagar, Rampur,
Jabalpur – 482 008, Madhya Pradesh
Email: comml.deptt@mppmcl.com

3. **Chhattisgarh State Power Distribution Company Ltd.**
Through its Managing Director
P.O. Sunder Nagar, Dangania,
Raipur – 492013, Chhattisgarh
Email: mddiscom@cspc.co.in

4. **Gujarat Urja Vikas Nigam Ltd.**
Through its Managing Director
Vidyut Bhawan, Race Course,
Vadodara – 390 007, Gujarat
Email: decsp.guvnl@gebmail.com

5. **Maharashtra State Electricity Distribution Company Ltd**
Through its Managing Director
Prakashgad, 4th Floor, Bandra (East)
Mumbai – 400 051
Email: ceppmsedcl@gmail.com

6. **Electricity Department, Government of Goa**
Through its Chief Electrical Engineer
Vidyut Bhawan, Panaji
Goa – 605 001

Email: cee-elec.goa@nic.in

7. DNH Power Distribution Corporation Ltd.
Through its Chairman
Administration of Dadar Nagar Haveli,
66kV, Amli Road,
Silvassa – 396 230
Email: tapasya.raghav@as.nic.in,
cparmar1956@gmail.com

8. Electricity Department, Daman And Diu
Through Secretary (Power)
Administration of Daman and Diu
Plot No. 35, OIDC Complex,
Near Fire Station, Somnath
Daman – 396 210
Email: elec-dmn-dd@nic.in

9. REC Transmission Projects Company Limited
Through its Managing Director
Core – 4, Scope Complex,
7, Lodhi Road, New Delhi – 110 003
Email: pshariharan@recl.in ….. Respondents

Counsel for the Appellant (s)	:	Mr. Deep Rao Palepu Ms. Parichita Chowdhury
Counsel for the Respondent (s)	:	Mr. Nikhil Nayyar, Sr. Adv. Mr. TVS Raghavendra Sreyas for R-1 Mr. Ravi Sharma for R-2 MPPMCL Mr. Akshat Shrivastava for R-3 & 10 Mr. Akshay Goel for MSEDCL

J U D G M E N T

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

1. These matters were taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

2. The petitions filed seeking compensation on account of '*Change in Law*' ("CIL") events, invoking jurisdiction of *Central Electricity Regulatory*

Commission (hereinafter referred to variously as 'CERC' or 'the Central Commission' or 'the Commission') under Section 79 of the Electricity Act, 2003 have been disposed of by CERC by various orders taking the view that the concerned entities must have instead recourse to the *Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021* (for short, 'CIL Rules'). A common question of law has been raised in the captioned matters concerning the legality, validity and propriety of such approach taken by CERC on petitions which had been pending adjudication before it prior to the CIL Rules being notified on 22.10.2021. Since the question of law to be addressed by this tribunal is common, we have clubbed these matters together and with the consent of parties took them up for final hearing, dispensing with detailed pleadings to be filed, it having been made clear that, in these proceedings and at this stage of the process, it being inappropriate, we would not wish to go into the factual matrix for examining merits of the respective claims for compensation.

3. Certain basic indisputable facts, however, need to be taken note of at this stage. The petitioners in the first two captioned matters and the appellants in the remaining matters are transmission licensees, each having established and been operating or maintaining transmission projects and connected network. Each of them had entered into similar contractual arrangements with the entities shown in the array as respondents (other than CERC), each of such contracts having been described as

Transmission Services Agreement ('TSA'), the petitioners/appellants herein being the *Transmission Service Providers* ('TSPs'), the other parties to the TSA being *Long Term Transmission Customers* ('LTTCs").

4. At the heart of the matter in the dispute at hand is a provision in each TSA concerning the effect of '*Change in Law*' on the financial terms binding the contracting parties. The relevant clause, adopted from the model format, forming part of each TSA being identical, reads thus:

> ***"ARTICLE: 12***
>
> ***12 CHANGE IN LAW***
>
> ***12.1 Change in Law***
>
> *12.1.1 Change in Law means the occurrence of any of the following after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring / non-recurring expenditure by the TSP or any income to the TSP:*
>
> - *the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;*
> - *a change in the interpretation or application of any Law by any Indian Governmental instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;*
> - *the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;*
> - *a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or*

conditions for obtaining such Consents, Clearances and Permits;

- *any change in the licensing regulations of the Appropriate Commission, under which the Transmission License for the Project was granted if made applicable by such Appropriate Commission to the TSP;*

- *any change in the Acquisition Price; or*

- *any change in tax or introduction of any tax made applicable for providing Transmission Service by the TSP as per the terms of this Agreement.*

12.1.2 *Notwithstanding anything contained in this Agreement, Change in Law shall not cover any change:*

a. on account of regulatory measures by the Appropriate Commission including calculations of Availability; and

b. in any tax applied on the income or profits of the TSP

12.2 Relief for Change in Law

12.2.1 ***During Construction Period:***

During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

- *For every cumulative increase/decrease of each Rupees Seven Crore (Rs. 7,00,00,000/=) in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in non-escalable Transmission Charges shall be an amount equal to 0.32 percent (0.32%) of the Non-Escalable Transmission Charges.*

12.2.2 *During the Operation Period:*
During the Operation Period, the compensation for any increase/decrease in revenues shall be determined and effective from such date, as decided by the Appropriate Commission whose decision shall be final and binding on both the Parties, subject to rights of appeal provided under applicable Law.

Provided that the abovementioned compensation shall be payable only if the increase/decrease in revenues or cost to the TSP is in excess of an amount equivalent to one percent (1%) of Transmission Charges in aggregate for a Contract Year.

12.2.3 *For any claims made under Articles 12.2.1 and 12.2.2 above, the TSP shall provide to the Long Term Transmission Customers and the Appropriate Commission documentary proof of such increase/ decrease in cost of the Project/revenue for establishing the impact of such Change in Law.*

12.2.4 *The decision of the Appropriate Commission, with regards to the determination of the compensation mentioned above in Articles 12.2.1 and 12.2.2, and the date from which such compensation shall become effective shall be final and binding on both the Parties subject to rights of appeal provided under applicable law.*

12.3 Notification of Change in Law

12.3.1 *If the TSP is affected by a Change in law in accordance with Article 12.1 and wishes to claim relief for such Change in Law under this Article 12, it shall give notice to Lead Long Term Transmission Customer of such Change in Law as soon as reasonably practicable after becoming aware of the same.*

12.3.2 *The TSP shall also be obliged to serve a notice to Lead Long Term Transmission Customer even when it is beneficially affected by a Change in Law*

12.3.3 *Any notice served pursuant to Articles 12.3.1 and 12.3.2 shall provide, amongst other things, precise details of the Change in Law and its eflect on the TSP.*

12.4 Payment on account of Change in Law

12.4.1 *The payment for Change in Law shall be through Supplementary Bill as mentioned in Article 10.10. However, in case of any change in Monthly Transmission Charges by reason of Change in Law, as determined in accordance with this Agreement, the Monthly Invoice to be raised by the TSP after such change in Transmission Charges shall appropriately reflect the changed Monthly Transmission Charges."*

(Emphasis supplied)

5. Clearly, the contract stipulates a Change in Law event relevant for purposes of the restitutionary principle incorporated therein with reference to a specific *cut-off date* i.e. seven days prior to the last date for submission of bids (in processes under Section 63 of Electricity Act). The eventualities that may be covered by the CIL definition provided in the contract are expressly set out and, for present purposes, it may be assumed that the claims of the parties which had approached the Central Commission for declaration of the right to relief of compensation leading to impugned orders being passed are *prima facie* covered by the said definition. The contract envisages both possibilities wherein a Change in Law may result in increase in the cost for the generating or transmission licensee or reduce it so as to result in a legitimate claim of the procurer for cost to be diminished. In either case, the prime obligation to notify the Change in Law is placed at the door of the TSP, such notice to be issued at the earliest opportune date, after having become aware of the Change in Law event and its impact.

6. The contact does not envisage *suo-motu* recovery of the additional cost consequent upon Change in Law event nor does it confer on the TSP any right to decide the date from which such compensation will become available. For both said purposes, the matter is placed by the contracting parties in the hands of the Regulatory Commission (Article 12.2.4). The

determination of the compensation payable and also the date from which the obligation to so compensate is to become effective is left in the hands of the Regulatory Commission, its decision treated as “final and binding”, though subject to right of appeal under the Electricity Act, first before this Tribunal and finally before the Hon’ble Supreme Court.

7. The issuance of notice of such claim supported by the requisite information in the nature of “precise details” served on the party from which the recovery is to be made (i.e. LTTCs) is a step anterior to the matter being taken before the Regulatory Commission for determination in terms of Article 12.2.4. It does appear that the contractual clause on relief for Change in Law does not expressly mention a scenario where the parties may be not in agreement with each other on the issue as to whether the particular event being referred to is a Change in Law event or not or, further, as to whether any compensation is payable in its respect or, still further, if so, the date from which such payment of compensation is to become effective. In our reading of the contractual clause, however, the matter is squarely placed in the domain of the Regulatory Commission even if the parties were in agreement with each other on all such aspects, the determination being a matter for the regulatory authority to take care of, perhaps justifiably so because the larger concern of consumers’ interest ought to be overseen and ensured only by the sector regulator. At the same time, we must add that the need to approach the regulatory

commission for determination of such issues as above is bound to arise particularly if there is a dispute between the parties on the claim for restitution with reference to change in law event. For such purposes, the jurisdiction of the Central Commission (where that Commission is the appropriate commission), under Section 79(1)(f) of the Electricity Act "to adjudicate upon disputes" with regard, *inter* alia, to the matters connected with the regulation of "interstate transmission of electricity" – a function under Section 79(1)(c) – is generally invoked, as has been the case in respect of the claims of all the six parties which are before this Tribunal in the captioned matters.

8. Since an issue also arises in such context in some of the captioned matters, it may be noted here that the TSA also provides for claims arising out of *force majeure* events, the relevant clause being Article 11 which, to the extent relevant, may be quoted as under:

> ***"ARTICLE: 11***
>
> ***11 FORCE MAJEURE***
>
> ***11.1 Definitions***
>
> *11.1.1 The following terms shall have the meanings given hereunder:*
>
> ***11.2 Affected Party***
>
> *11.2.1 An Affected Party means any of the <u>Long Term Transmission Customers or the TSP whose performance has been affected by an event of Force Majeure</u>*

11.2.2 An event of Force Majeure affecting the CTU/STU or any agent of the Long Term Transmission Customers, which has affected the Interconnection Facilities, shall be deemed to be an event of Force Majeure affecting the Long Term Transmission Customers.

11.2.3 Any event of Force Majeure shall be deemed to be an event of Force Majeure affecting the TSP only if the Force Majeure event affects and results in, late delivery of machinery and equipment for the Project or construction, completion, commissioning of the Project by Scheduled COD and/or operation thereafter

11.3 Force Majeure

A 'Force Majeure' means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

(a) Natural Force Majeure Events:
act of God, including. but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years

(b) Non-Natural Force Majeure Events:
i. Direct Non-Natural Force Majeure Events
- *Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the TSP; or*
- *…*

ii. Indirect Non-Natural Force Majeure Events
act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action: or
...

11.4 Force Majeure Exclusions

11.4.1 *Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:*

…

11.5 Notification of Force Majeure Event

11.5.1 *The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement*

Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure.

11.5.2 *The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance bf its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.*

11.6 Duty to perform and duty to mitigate

To the extent not prevented by a Force Majeure Event, the Affected Party shall continue to perform its obligations as provided in this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

11.7 Available Relief for a Force Majeure Event

Subject to this Article 11

(a) *no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;*

(b) *every Party shall be entitled to claim relief for a Force Majeure Event affecting its performance in relation to its obligations under this Agreement.*

(c) *For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event as per Article 11.3 affecting the TSP shall be as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tarif0 Regulations 2014 as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Long Term Transmission Customers as per Schedule 5, for the duration of such event(s).*

(d) *For so long as the TSP is claiming relief due to any Force Majeure Event under this Agreement, the Lead Long Term Transmission Customer may, from time to time on one (1) day notice, inspect the Project and the TSP shall provide the Lead Long Term Transmission Customer's personnel with access to the Project to carry out such. inspections, subject to the Lead Long Term Transmission Customer's personnel complying with all reasonable safety precautions and standards."*

(Emphasis Supplied)

9. As is clear from bare reading of Article 12.1.1, the cut-off date in relation to the bid deadline (*seven days prior*) is crucial for a *Change in Law* event to inure relief under the contract to the party thereby affected, there being an obligation on the latter (the affected party) wishing to claim relief for such CIL event to give notice of such event within reasonable period

'*after becoming aware of the same*' to the *Lead Long Term Transmission Customer* ("Lead-LTTC") under Article 12.3.1, providing therewith, amongst other things '*precise details of Change in Law and its effect*'.

10. It is not contested at this stage in the present proceedings that the claims for compensation under Article 12 of the respective TSAs presented before CERC by the TSPs, are with reference to events described as *Change in Law* that had occurred after the cut-off date stipulated in the contract, notices in terms of Article 12.3.1 ('CIL Notices') having been issued and served, the petitions thereafter having been filed before CERC for adjudication.

11. For completeness, we may briefly note the relevant facts in above regard.

12. The TSAs relevant for the first two captioned matters (OP-1 and OP-2 of 2022) of *NRSS-XXIX Transmission Limited* (for short, "NRSS") and *East-North Interconnection Co. Ltd.* (for short, "ENICL") were executed on 02.01.2014 and 06.08.2009 respectively. The cut-off date relevant for the CIL clause (Article 12) coming into effect in their respect is 02.05.2014 and 08.09.2009 respectively.

13. The Change in Law events with reference to which NRSS seeks relief in the nature of compensation are described as – unforeseen requirement of forest clearance for JS Line; increase in the rate of service tax; increase in the rate of J&K General sales tax; increase in J&K VAT rate; and unforeseen higher *right of way* ("RoW") compensation on account of land acquisition through private negotiation committee mode in lieu of compulsory acquisition mode and compensation towards cutting of apple orchids and walnut trees, each statedly having occurred post the cut-off date. The petitioner having served CIL Notices on the LTTCs was constrained to file petition (no. 49/MP/2021) before CERC invoking its jurisdiction under Sections 61, 63 and 79(1)(f) of Electricity Act, 2003 praying, *inter alia,* for declaration of Change in Law events, grant of appropriate increase in transmission tariff so as to offset the adverse impact of Change in Law events. The petition, as later events would unfold, was decided by CERC by Order dated 04.02.2022 which is assailed, *inter alia,* by the application for directions (IA no. 296 of 2022).

14. Almost on similar lines, ENICL had approached the CERC by Petition no. 514/MP/2020 invoking its jurisdiction under Sections 63, 79(1)(c) and (f) of Electricity Act, 2003, based on prior notices to LTTCs, pleading a cause of action for claiming compensation on account of Change in Law event described as deviation from scope of work provided in the bidding documents on account of restoration of the PB line resulting in additional

expenditure, also pressing a case for relief with reference to certain (post cut-off date) events described as *Force Majeure* within the scope of Article 11 of the TSA they being inclusive of collapse of tower forming part of PB line due to sudden and unprecedented change in the course of river *Ganga*, breach of obligation under TSA for period consumed on restoration of the said PB line, etc. The petition was disposed of by CERC by Order dated 04.03.2022, a similar disposition as in the previous case, observing, *inter alia,* that Change in Law claims 'have to be dealt in line with CIL Rules', adding that it would be appropriate that *Force Majeure* claims be dealt with in a separate petition giving liberty to the petitioner to approach the Commission accordingly.

15. The TSA relevant for the third captioned matter (Appeal no. 116 of 2022) of *Raipur-Rajnandgaon-Warora Transmission Limited*(for short, "RRWTL") was executed on 24.06.2015, the cut-off date relevant for present purposes being 23.11.2015. The appellant had approached the CERC by Petition no. 533/MP/2020 seeking declaration of title to relief of compensation and consequential directions *vis-à-vis* Change in Law events described as, levy of *Swachcha Bharat Cess* and *Krishi Kalyan Cess*; increase in Excise Duty on primary aluminum products; increase in compensation regarding RoWfor transmission lines based on Ministry of Power guidelines; change in configuration of tower to 'D-D' type; increase in MVAT; increase in tax due enactment of GST Acts and levy of GST on

RoW payments to be made to landowners. The contention of the appellant has been that it had issued series of CIL notices during the period 14.04.2016 to 21.02.2020 but since the said claims were not settled by LTTCs it had approached CERC by the said petition on 02.06.2020. It is pointed out that objection to maintainability was taken by respondent LTTCs which were rejected by CEREC by Order dated 07.11.2021 holding the petition maintainable. The petition, however, was disposed of by the impugned order passed on 22.12.2021 directing the appellant and LTTCs to settle the CIL claims amongst themselves in terms of CIL Rules, CERC to be approached only in terms of Rule 3(8) of CIL Rules.

16. The appellants in last three captioned matters (appeal nos. 74 – 76 of 2022) – viz. *NER-II Transmission Limited* (for short, "NER-II"), *Odisha Generation Phase II Transmission Limited* (for short, "Odisha GTL") and *Khargone Transmission Limited* (for short, "KTL") - had entered into TSAs with respective LTTCs (in the array as respondents) on 27.12.2016, 20.11.2015 and 14.03.2016 respectively, the cut-off dates relevant for invocation of CIL clause (Article 12) being 11.01.2017, 23.11.2015 and 09.05.2016 respectively.

17. The Change in Law events with reference to which claim for compensation was filed by the said appellants by their separate petitions – Petition nos. 134/MP/2021, 182/MP/2020 and 237/MP/2021 statedly

occurred after the cut-off date. The appellant NER-II referred to the CIL events as inclusive of diversion of route for construction of the JR Line; shifting of tower at location no. 108/2 of the JR Line; promulgation of new set of compensation guidelines in the State of Chhattisgarh; standardization of requirement of Power Line Crossing by CEA, also claiming certain reliefs *vis-à-vis force majeure* events described as delay in acquisition of Special Purpose Vehicle ('SPV'); delay due to the stay order granted by the Hon'ble High Court of Orissa, with respect to the OJ line; unseasonal heavy rainfall and flood in Odisha; and delay in obtaining forest clearance for implementation of the OJ line. The petition of the appellant Odisha GTL had sought compensation pleading its case with reference to CIL events described as delay in commissioning of the 400 kV D/C OPGC-Jharsuguda Transmission Line (OJ-Line) on 30.08.2017, instead of 31.07.2017 as per Article 11.7(a) of the TSA, also pleading case for reliefs on account of *force majeure* events described as delay of three months in acquisition of PFFCCL/SPV; delay of fourteen days due to stay order dated 25.07.2017 granted by High Court of Orissa; delay of twenty days on account of unseasonal heavy rainfall and floods in the State of Odisha; and delay of seven months twenty days in obtaining forest clearance. Similarly, the appellant KTL had sought to make out a case for relief of compensation on account of CIL events described as additional expenditure incurred in diverting the KD line to avoid intersection with the Jamphal Dam; additional expenditure incurred in construction of the concrete wall protection

pursuant to directions of the Ministry of Power ("MoP"); additional expenditure on account of enhancement of RoW compensation by the Government of Maharashtra and Madhya Pradesh; additional expenditure incurred in complying with the H+6 criteria imposed by MPPTCL for construction of the KI Line; additional expenditure incurred in diverting the KK line to avoid intersection with NTPC's railway track; and interest during construction. The said party (KTL) also seeks certain reliefs on account of *force majeure* events described as unexpected requirement to divert the KD line to avoid intersection with the proposed Jamphal Dam; delay due to unanticipated imposition of the H+6 criteria for laying of transmission lines by MPPTCL; delay in receiving highway crossing approvals from NHAI; delay in acquisition of land and subsequent construction of the Khandwa substation due to agitations by locals; and delay due to outbreak of the Covid-19 pandemic. The petitions of these appellants- NER-II, Odisha GTL and KTL - have been disposed of by CERC by Orders dated 24.01.2022 taking the impugned view relegating the appellants to procedure envisaged under CIL Rules.

18. As said before, it is not in dispute that CIL events have occurred post the respective cut-off date relevant for each TSA. It is also not in dispute that the petitions for relief of compensation invoking, *inter alia*, Article 12 (extracted earlier) were filed by the respective parties before CERC (the appropriate Commission in their respect) after service of CIL notices,

claims having been resisted by the respondent LTTCs. All these events concededly occurred prior to 22.10.2021 on which date the CIL Rules were notified by the MoP in the Government of India in exercise of its power under Section 176(2) of Electricity Act, 2003. The petitions for compensation, *inter alia,* on account of Change in Law events had admittedly been entertained by CERC and adjudicatory process was underway when the CIL Rules were notified.

19. It will be appropriate at this stage to take note of the CIL Rules, extracted as under:

"MINISTRY OF POWER
NOTIFICATION
New Delhi, the 22nd October, 2021

G.S.R. 751(E). — In exercise of the power conferred by sub-section (1), read with clause (z) of sub-section (2), of section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, namely:—

1. Short title, commencement and application

(1) These rules may be called the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) These rules shall apply to a generating company and transmission licensee.

2. Definitions.
(1) In these rules, unless the context otherwise requires,

(a) "Act" means the Electricity Act, 2003 (36 of 2003);

(b) "agreement" means an agreement for the purchase, supply or transmission of electricity entered into under the Act;

(c) "change in law", in relation to tariff, unless otherwise defined in the agreement, means any enactment or amendment or repeal of any law, made after the determination of tariff under section 62 or section 63 of the Act, leading to corresponding changes in the cost requiring change in tariff, and includes

(i) a change in interpretation of any law by a competent court; or

(ii) a change in any domestic tax, including duty, levy, cess, charge or surcharge by the Central Government, State Government or Union territory administration leading to corresponding changes in the cost; or

(iii) a change in any condition of an approval or license obtained or to be obtained for purchase, supply or transmission of electricity, unless specifically excluded in the agreement for the purchase, supply or transmission of electricity, which results in any change in the cost, but does not include—

(A) any change in any withholding tax on income or dividends distributed to the shareholders of the generating company or transmission licensee; or

(B) change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission;

(d) "law" includes any Act, Ordinance, order, bye-law, rule, regulation, notification, for the time being in force, in the territory of India.

(2) The words and expressions used and not defined herein but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Adjustment in tariff on change in law.

(1) On the occurrence of a change in law, the monthly tariff or charges shall be adjusted and be recovered in accordance with these rules to compensate the affected

party so as to restore such affected party to the same economic position as if such change in law had not occurred.

(2) For the purposes of sub-rule (1), the generating company or transmission licensee, being the affected party, which intends to adjust and recover the costs due to change in law, shall give a three weeks prior notice to the other party about the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.

(3) The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the occurrence of the change in law or on the expiry of three weeks from the date of the notice referred to in sub-rule (2), whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.

(4) The impact of change in law to be adjusted and recovered may be computed as one time or monthly charges or per unit basis or a combination thereof and shall be recovered in the monthly bill as the part of tariff.

(5) The amount of the impact of change in law to be adjusted and recovered, shall be calculated

(a) where the agreement lays down any formula, in accordance with such formula; or

(b) where the agreement does not lay down any formula, in accordance with the formula given in the Schedule to these rules;

(6) The recovery of the impacted amount, in case of the fixed amount shall be,

(a) In case of generation project, within a period of one-hundred eighty months; or

(b) in case of recurring impact, untill the impact persists.

(7) The generating company or transmission licensee shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in the monthly tariff or charges.

(8) The Appropriate Commission shall verify the calculation and adjust the amount of the impact in the monthly tariff or charges within sixty days from the date of receipt of the relevant documents under sub-rule (7).

> *(9) After the adjustment of the amount of the impact in the monthly tariff or charges under sub-rule (8), the generating company or transmission licensee, as the case may be, shall adjust the monthly tariff or charges annually based on actual amount recovered, to ensure that the payment to the affected party is not more than the yearly annuity amount.*
>
> (Emphasis supplied)

20. The Schedule to the CIL Rules provides the "*Formula to calculate adjustment in the monthly tariff due to the impact of Change in Law, which is non-recurring in nature*" with reference to Rule 5(b).

21. The Notification dated 22.10.2021, quoted above, itself makes it clear that the CIL Rules have been framed and promulgated by the Central Government in exercise of power vested in it by Section 176 of the Electricity Act, 2003, particular reference having been made to clause (z) of sub-section (2). Sub-section (1) of Section 176 confers a general power on the Central Government to make rules for purposes of "carrying out the provisions of the Act". Particular matters in which respect such general power can be availed by the Central Government to introduce subordinate legislation are set out in various clauses of sub-section (2), clause (z) bringing in the remainder in relation to "*any other matter … required to be … prescribed*".

22. Indeed, timely recovery of costs due to Change in Law events has been a matter of concern for the electricity industry, claims of such nature having come up for adjudication before the Regulatory Commissions, the

decisions whereupon have not been timely, the enforcement of adjudicatory orders rendered wherein being subject to even more protracted proceedings. The CIL Rules framed by the Central Government and notified on 22.10.2021 seem to introduce uniformity in dealing with claims for such compensation, introducing a universal restitutionary rule for affording a right in the hands of the party affected by Change in Law event to seek compensation and be restored to the same economic position as if such Change in Law had not occurred, whether or not the contract with the procurer of power or services (in the nature of transmission of electricity) is governed by Section 62 or Section 63 of the Electricity Act. Aside from a specific inclusive definition of the expression "Change in Law" provided in CIL Rules, two particular aspects stand out i.e. the Change in Law event must have occurred "after the determination of tariff" under Section 62 or Section 63 of the Electricity Act and that the CIL Rules would come into force "on the date of their publication in the official gazette" which is 22.10.2021.

23. Rule 3 is the main provision of CIL Rules, its clause (1) creating a right in the hands of the "affected party" to be compensated and, towards that end, "adjust and recover the costs due to Change in Law" but by taking requisite steps in terms of the clauses that follow under Rule 3. The scheme of CIL Rules is that the notice seeking adjustment and recovery of the additional cost brought in by Change in Law has to be given "three

weeks" before the date from which the right to compensation is intended to become effective, such notice, of course, to be supported by requisite information including computation (to be provided in a time bound manner) – "within thirty days of the occurrence of Change in Law or on expiry of the period of three weeks of the notice".

24. It is sub-rules (7) & (8) of Rule 3 of CIL Rules which bring in the role of the Regulatory Commission, the relevant documents pertaining to notice for adjustment and recovery given to the opposite party by the affected licensee being required to be placed before it (the Regulatory Commission), the only duty envisaged on behalf of the latter (Regulatory Commission), however, being to "verify the calculation and adjust the amount of impact" in a time bound manner ("within sixty days").

25. What needs to be highlighted here is that CIL Rules, as notified on 22.10.2021, do not cover a scenario where the parties may not be in agreement with each other on the issue as to whether the event being referred to does or does not constitute a Change in Law scenario and, further, if the answer to the first issue were to be in affirmative, as to whether such Change in Law event has led to additional cost being incurred by the licensee so as to set up a legitimate claim for compensation for restoring it to the original economic position by adjustment or recovery. To put it more clearly, the CIL Rules do not dwell at all on a situation where

a licensee may have to approach the Regulatory Commission for "adjudication" of the dispute. From this perspective, it may not be wrong to also say that the CIL Rules assume that there is a consensus *ad idem* between the parties as to the nature of the event and its adverse effect on the cost borne by the claimant licensee, the only thing remaining to be done being to "verify the calculation" presented by the licensee within the meaning of Rule 3(8).

26. It must be noted here that by the time the petitioners in first two captioned matters – viz. NRSS and ENICL – had approached this tribunal invoking its jurisdiction under Section 121 of Electricity Act, 2003, the CERC had taken a view that CIL Rules will have to be applied even in such matters as had been pending adjudication before it, at least seven such orders having been quoted, described as Order dated 02.12.2021 in Petition N. 188 MP 2021 – *Coastal Energen Pvt. Ltd v TANGEDCO & Ors.*(date of filing 27.08.2021); Order dated 13.12.2021 in Petition No. 167 MP 2021 – *Adhunik Power and Natural Resources Ltd v TENGEDCO & Ors.* (date of filing 21.07.2021); Order dated 13.12.2021 in Petition No. 215 MP 2021 *Sasan Power Ltd v MP Power Management Company Ltd & ors.* (Date of filing 01.10.2021); Order dated 16.12.2021 in Petition No. 207 MP 2021 – *Eden Renewable Cite Private Ltd v SECI* (date of filing 22.09.2021); Order dated 17.12.2021 in Petition No. 214 MP 2021 – *M/s ReNew Solar Urja Pvt Ltd v SECI* (date of filing 27.09.2021); Order dated 23.12.2021 in

Petition No. 168 MP 2021 – *ReNew Solar Energy (Jharkhand Three) Pvt. Ltd v SECI & Anr.* (date of filing 13.08.2021); and Order dated 23.12.2021 in Petition No. 171 of 2021 – *ReNew Sun Waves Private Ltd v SECI & Anr.* (date of filing 13.08.2021).

27. The above-mentioned petitioners (NRSS and ENICL) filed the captioned Original Petitions, invoking the jurisdiction of this Tribunal under Section 121 of Electricity Act, 2003 on 05.01.2022, based on the apprehension that the CERC having reserved its judgment on the claim petitions (49/MP/2021 and 514/MP/2020) on 14.10.2021 would follow the same path as in the above cited other cases thereby non-suiting them, relegating the petitioners to follow the route of CIL Rules. Raising several contentions as to impropriety and illegality of said approach of CERC, the prayer made in the two petitions essentially was for direction to CERC to decide, by passing final orders on merits, the said claim petitions which had been filed prior to the coming into force of the CIL Rules. This Tribunal, by order passed on 07.01.2022, while issuing notice, directed as under:

> *"We would expect the Central Commission to bear in mind the contentions urged in the present petition before passing any further orders. The orders, if any, passed by the Central Commission during the interregnum will be subject to further directions by this Tribunal in the matter at hand."*

28. The petitions came up before us again on 21.01.2022. It will be appropriate to extract the following part of the proceedings recorded on that day:

> *"The note of the Registry indicates Court Notice was sent by email, and another copy sent by post is not yet confirmed to be delivered. There are some Respondents who seem to have been served. But there is no appearance on behalf of any of them. The Original Petition at hand needs to be considered in line with the response of the 1st Respondent i.e., Central Electricity Regulatory Commission. There is no reason why despite notice sent by email, there is no appearance on its behalf.*
>
> *The learned senior counsel for the Petitioner submitted that though in his case, the Commission reserved the order taking note of the contentions in terms of the directions of the previous order of this Tribunal, by subsequent order in the case of other similarly placed parties the Commission has continued following the practice of disposal to which exception is taken by the matter at hand.*
>
> *The proper course would be to insist on a formal response from the 1st Respondent. The Registry shall ensure fresh service before next date. The Petitioner shall assist and coordinate in this regard. The CERC shall be obliged to file its response well in time before next date."*

29. By the time these matters came up again before us on 11.02.2022, the CERC had already passed its Orders on 04.02.2022 continuing to adopt its earlier dispensation in the previously mentioned matters. We directed as under:

> *"The order in the nature apprehended by the Petitioner giving reason to file this Original Petition has since been passed by the Respondent Commission on 04.02.2022. In terms of the interim direction by our Order dated 07.01.2022, the correctness and propriety of the approach taken by the Respondent Commission needs to be examined in these very proceedings. The Order will have to defend itself and, therefore, there is no occasion for pleadings to be called for. The learned counsel for the Respondent Commission, however, sought*

adjournment on the ground that he has been engaged only yesterday and is yet to file his Vakalatnama or seek full instructions. We adjourn the matter for hearing to 04.03.2022.

Written submissions, if required, may be filed in advance."

30. Against the above backdrop, the petitioners filed fresh applications (IA nos. 296 & 298 of 2022) seeking, *inter alia,* directions, with reference to the Order dated 04.02.2022 seeking a remit of the matter to CERC with direction for adjudication on merits of the claim petitions founded on Change in Law claim prior to 22.10.2021.

31. The CERC has resisted the first two captioned matters – Original Petition no. 1 and 2 of 2022 – primarily on the ground that the same have become infructuous after the Commission had rendered its decision on the claim petitions on 04.02.2022, it being impermissible for this Tribunal to examine the validity of such orders while exercising its jurisdiction under Section 121 of Electricity Act, 2003.

32. While this Tribunal was seized of the matters arising out of the original petitions, the four above captioned appeals came to be filed against identical orders passed by CERC in the claim cases of the above-mentioned entities (all transmission licensees). The six captioned matters thus came up before this Tribunal together and were clubbed, for final

hearing and decision, with the following observations recorded on 24.03.2022:

> *"2. The original petitions, captioned above, raised a common question of law concerning the legality, validity and propriety of the approach taken by the respondent Central Electricity Regulatory Commission (CERC) vis-à-vis the applicability and impact of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 (hereinafter referred to, in short, as "Change in Law Rules") on matters pending adjudication before CERC on claims for compensation on account of Change in Law events under Section 79 of Electricity Act, 2003. While the said petitions were pending before this tribunal, four above captioned appeals have been filed each raising identical question of law vis-à-vis similar claims of the said respective appellants, each having been disposed of by CERC by various orders relegating the parties (claimants) for proceeding under Change in Law Rules which were notified on 22.10.2021. Since the question of law to be addressed by this Tribunal is common, we have clubbed all these captioned matters together and with the consent of parties have taken up the same for final hearing at this stage.*
>
> *3. In view of the short question of law that needs to be answered, we have dispensed with detailed pleadings to be filed in as much as this Tribunal would not wish to go into the factual matrix for examining merits of claims for compensation in these proceedings, our focus being limited to invocation by CERC of Change in Law Rules.*
>
> *4. The learned senior counsel appearing for CERC, at the outset, submitted that he is under instructions to say that the CERC does not wish to say anything in the four captioned appeals concerning the correctness, legality or propriety of the impugned orders in as much as orders passed are judicial orders amenable to scrutiny by this Tribunal under Section 111of Electricity Act, 2003. The CERC, the learned counsel submitted, however, opposes the original petitions which were presented invoking Section 121 of the Electricity Act, 2003, the prime submissions being that the final orders on the Change in law claim petitions of the petitioners having been passed by the CERC, the petitions before this Tribunal have been rendered infructuous, it being impermissible, in the submission of the counsel for CERC, for the correctness of such subsequent orders to be gone into under the jurisdiction of Section 121 of Electricity Act, 2003.*

5. We have heard learned counsel for all parties that have appeared, at length.

Judgment is reserved.

6. The appellants and petitioners as indeed the learned counsel for the respondents are given liberty to file their respective (updated) written submissions within three days."

33. As noted in the proceedings recorded on 24.03.2022, extracted above, the respondent CERC does not seek to say anything in defence of the impugned view as challenged by the four above captioned appeals, its entire focus being on resisting the prayer for intervention by this Tribunal in exercise of power under Section 121 of Electricity Act, 2003 in the matters of the two original petitioners. Though the issue as to whether such jurisdiction under Section 121 of Electricity Act can be exercised in the present fact-situation *vis-à-vis* the impugned view of the Central Commission has paled into insignificance on account of filing of the four above-captioned appeals raising questions of law as to the validity and propriety of such approach, as indeed on account of applications moved by the petitioners seeking directions to CERC to decide the claim cases of the petitioners on merits, to be considered in light of our express directions by Order dated 07.01.2022 that any decision by CERC "would be subject to directions" of this Tribunal, we feel duty bound to deal also with the objection of CERC to the invocation of Section 121, so that there is a complete adjudication.

34. It has been argued that when the original petitions were filed, the claim cases of the petitioners were pending consideration of CERC. It has been submitted that by Order dated 07.01.2022, this Tribunal had directed the CERC to pass further orders bearing in mind the contentions that were raised in the original petitions. It is submitted that the said direction was duly complied with and all the contentions of the petitioners were taken note of and dealt with in the final decision rendered on 04.02.2022. It is submitted that after the claim cases of the petitioners have been decided, the purpose of original petitions under Section 121 had been served and consequently the petitions have become infructuous, the orders passed by CERC now being amenable only to challenge under Section 111 of Electricity Act but not so as to be interfered with under the jurisdiction of Section 121.

35. Reliance is placed on the decision of Constitution Bench of Hon'ble Supreme Court reported as *PTC India Limited v CERC* (2010) 4 SCC 603 and Order dated 29.01.2021 in Civil Appeal no. 226–227 of 2021 in the matter of *Andhra Pradesh State Load Despatch Centre v M/s KSK Mahanadi Power Company Limited & ors* besides judgment of this Tribunal dated 28.04.2015 in Original Petition no. 2 of 2015 *Reliance Gas Transportation Infrastructure Limited v Petroleum & Natural Gas Regulatory Board*.

36. Section 121 of the Electricity Act, 2003 reads thus:

> *"Section 121. (Power of Appellate Tribunal):*
> *The Appellate Tribunal may, after hearing the Appropriate Commission or other interested party, if any, from time to time, issue such orders, instructions or directions as it may deem fit, to any Appropriate Commission for the performance of its statutory functions under this Act."*

37. It was the submission of the learned counsel for CERC that while construing the contours of the power vested in us by above-quoted provision contained in Section 121, we must bear in mind that it cannot be equated with the power of judicial review vested in the High Courts by Articles 226 & 227 of the Constitution of India. He also pointed out that prior to its amendment w.e.f. 27.01.2004, the provision of Section 121 conferred a "general power of superintendence and control over the appropriate Commission". It was submitted that the amended provision of Section 121 must be applied bearing in mind the materially altered position of the statutory precept. Similar argument was raised by some of the respondent LTTCs with the submission that this Tribunal must steer clear of subjecting the *vires* of CIL Rules to be examined.

38. Lest there be any doubts entertained, we make it clear that we do not intend to subject the validity of CIL Rules to any scrutiny least of all judicial review, in as much as that is not our domain. We also do not intend to exercise any general power of superintendence and control over the Central Commission, our focus here being only on the grievance that the

Central Commission has failed to exercise its jurisdiction or perform its statutory functions bringing about a situation where there is a need to issue requisite orders under Section 121 to secure performance of such statutory functions by the Regulatory Commission.

39. The following observations of Hon'ble Supreme Court in *PTC India* (supra) guide us:

> *"80. Before concluding on this topic, we still need to examine the scope of Section 121 of the 2003 Act. In this case, the appellant(s) have relied on Section 121 to locate the power of judicial review in the Tribunal. For that purpose, we must notice the salient features of Section 121. Under Section 121, there must be a failure by a Commission to perform its statutory function in which event the Tribunal is given authority to issue orders, instructions or directions to the Commission to perform its statutory functions. Under Section 121 the Commission has to be heard before such orders, instructions or directions can be issued. The main issue which we have to decide is the nature of the power under Section 121.*
>
> *…*
>
> *82. It was further held in Raman and Raman Ltd. [AIR 1959 SC 694] that the legislature had used two words in the section: (i) orders; and (ii) directions. This Court further noticed that under the 1939 Act there was a separate Chapter which dealt with making of "rules" which indicated that the words "orders" and "directions" in Section 43-A were meant to clothe the Government with the authority to issue directions of administrative character. It was held that the source of power did not affect the character of acts done in exercise of that power. Whether it is a law or an administrative direction depends upon the character or nature of the orders or directions authorised to be issued in exercise of the power conferred. It was, therefore, held that the words "orders" and "directions" were not laws. They were binding only on the authorities under the Act. Such orders and directions were not required to be published. They were not kept for scrutiny by legislature. It was further held that such orders and directions did not override the discretionary powers conferred on an authority under Section 60 of the 1939 Act. It was observed that*

non-compliance with such orders, instructions and directions may result in taking disciplinary action but they cannot affect a finding given by the quasi-judicial authority nor can they impinge upon the rules enacted by the rule-making authority. It was held that such orders and directions would cover only an administrative field of the officers concerned and therefore such orders and directions do not regulate the rights of the parties. Such orders and directions cannot add to the considerations/topics prescribed under Section 47 of the 1939 Act on the basis of which an adjudicating authority is empowered to issue or refuse permits, as the case may be.

83. Applying the tests laid down in the above judgment to the present case, we are of the view that, the words "orders", "instructions" or "directions" in Section 121 do not confer power of judicial review in the Tribunal. It is not possible to lay down any exhaustive list of cases in which there is failure in performance of statutory functions by the appropriate Commission. However, by way of illustrations, we may state that, under Section 79(1)(h) CERC is required to specify the Grid Code having regard to the Grid Standards. Section 79 comes in Part X. Section 79 deals with functions of CERC. The word "grid" is defined in Section 2(32) to mean high voltage backbone system of interconnected transmission lines, sub-stations and generating plants. Basically, a grid is a network. Section 2(33) defines "Grid Code" to mean a code specified by CERC under Section 79(1)(h). Section 2(34) defines "Grid Standards" to mean standards specified under Section 73(d) by the Authority."

84. Grid Code is a set of rules which governs the maintenance of the network. This maintenance is vital. In summer months grids tend to trip. In the absence of the making of the Grid Code in accordance with the Grid Standards, it is open to the Tribunal to direct CERC to perform its statutory functions of specifying the Grid Code having regard to the Grid Standards prescribed by the Authority under Section 73. One can multiply these illustrations which exercise we do not wish to undertake. Suffice it to state that, in the light of our analysis of the 2003 Act, hereinabove, the words "orders, instructions or directions" in Section 121 of the 2003 Act cannot confer power of judicial review under Section 121 to the Tribunal, which, therefore, cannot go into the validity of the impugned 2006 Regulations, as rightly held in the impugned judgment.

…

90. In our view, there is no merit in the above contention advanced on behalf of CESC Ltd. At the outset, we may state

that material brought on record indicates that Section 121 of the original Electricity Act, 2003, quoted hereinabove, was never brought into force because some MPs expressed the concern that the power, under that section, conferred upon the Chairperson of the Appellate Tribunal, could lead to excessive centralisation of power and interference with the day-to-day activities of the Commission by the Chairperson of the Tribunal. Therefore, Section 121 was amended by the Electricity (Amendment) Act, 2003 (57 of 2003) which is also quoted hereinabove and which Amendment Act came into force from 27-1-2004. In our view, by necessary implication of the coming into force of the Electricity (Amendment) Act, 2003 (57 of 2003) all provisions amended by it also came into force, hence, there is no requirement for a further notification under Section 1(3), particularly when Section 121 in its amended form has come into force w.e.f. 27-1-2004.

91. In this connection, it may be seen that Section 121 of the original Act stood substituted by Amendment Act 57 of 2003. Substitution of a provision results in repeal of the earlier provision and its replacement by the new provision. Substitution is a combination of repeal and fresh enactment. (See Principles of Statutory Interpretation by G.P. Singh, 11th Edn., p. 638.) Section 121 of the original Electricity Act, 2003 was never brought into force. It was substituted by new Section 121 by Amendment Act 57 of 2003 which was brought into force by a Notification dated 27-1-2004. Substitution, as stated above, results in repeal of the old provision and replacement by a new provision. Applying these tests to the facts of the present case, we find that the Electricity (Amendment) Act, 2003 (57 of 2003) was brought into force by Notification dated 27-1-2004. That, notification was issued under Section 1(2) of the Electricity (Amendment) Act, 2003 (57 of 2003). If one reads Section 1(2) of the Electricity (Amendment) Act, 2003 (57 of 2003) with Notification dated 27-1-2004 issued under Section 1(2) of the amended Act, 2003, it becomes clear that on coming into force of the Electricity (Amendment) Act, 2003 (57 of 2003) all provisions amended by it also came into force. Hence, there was no requirement for a further notification under Section 1(3), consequently, Section 121 in its amended form came into force with effect from 27-1-2004.

92. (iv) Section 121 of the 2003 Act does not confer power of judicial review on the Appellate Tribunal. The words "orders", "instructions" or "directions" in Section 121 do not confer power of judicial review in the Appellate Tribunal for Electricity. In this judgment, we do not wish to analyse the English authorities as we find from those authorities that in certain cases in England

> *the power of judicial review is expressly conferred on the tribunals constituted under the Act. In the present 2003 Act, the power of judicial review of the validity of the regulations made under Section 178 is not conferred on the Appellate Tribunal for Electricity."*
>
> *(Emphasis supplied)*

40. The reference by the CERC to the case of *Andhra Pradesh State Load Despatch Centre v M/s KSK Mahanadi Power Company Limited* (supra) in present context is wholly inappropriate. In the said matter, this Tribunal had referred to Section 121 of the Electricity Act to issue certain directions in a situation wherein the Central Commission was not functioning due to absence of a Member (Legal) at that point of time. The Hon'ble Supreme Court found that Section 121 does not give any power to this Tribunal "to decide disputes pending before such Tribunals" in such fact situation. The said case cannot be said to have set at naught the principles which have been laid down vis-à-vis the extent and scope of the jurisdiction vested in this Tribunal under Section 121, as explained in *PTC India Limited* (supra). The question being addressed in the present matters is as to whether the impugned orders amount to refusal on the part of the CERC to exercise its adjudicatory function and consequently its failure to discharge its statutory functions. We make it clear that there is neither a prayer before us nor do we intend to examine the merits of the claims for compensation or issue any such direction in the present proceedings, that being a subject of statutory jurisdiction vested in CERC which, the aggrieved parties allege, has failed to perform.

41. The reference to the case of *Reliance Gas Transportation Infrastructure Limited* (supra) is misplaced for the reason, as already said earlier, we are not undertaking any judicial review of the regulatory function of the Commission, our focus here being only on the propriety of the manner of discharge of adjudicatory function under Section 79(1)(f) of Electricity Act. Noticeably, even in the said case, this Tribunal observed, *inter alia,* that under Section 121, it can *"secure performance of statutory functions by the Appropriate Commission by issuing such orders, instructions or directions as may be necessary."*

42. Following the said ruling, we do not have the least doubt that in the event we find there is failure on the part of the Regulatory Commission to perform its statutory functions, it is the duty of this Tribunal to issue necessary orders, instructions or directions to the Commission to perform its statutory functions. Issuance of such orders, in case there is non-exercise of jurisdiction vested in the Commission, does not amount to judicial review.

43. It is appropriate to take note of two decisions of this Tribunal, the first judgment dated 11.11.2011 in OP No. 1 of 2011 titled "*Tariff Revision (Suo-Motu action on the letters received from Ministry of Power)"* and the second

judgment dated 14.11.2013 in OP No. 1 & 2 of 2012 titled "*BSES Rajdhani Power Limited v. DERC & Ors.*"

44. In the judgment of this Tribunal in OP no. 1 of 2011 passed on 11.11.2011, this Tribunal observed as under:

> *"54. This section confers powers to Appellate Tribunal to issue such directions to any Appropriate Commission whenever it finds that the Commission has not performed its statutory functions. This power has been conferred on this Tribunal to ensure that the statutory functions of the Commission as prescribed under the Act and the Regulations are performed by the Commissions.*
> *…*
> *59. … the State Commission must play a pro-active role in ensuring the compliance of the provisions of the Act, Regulations and the Statutory Policies under the Electricity Act, 2003.*
>
> *60. In the absence of the performance of functions and duties enjoined under the Act and Regulations by the State Commission, it is the duty of the Tribunal to intervene and wake them up from their deep slumber and to make them act to ensure that the Regulations are being followed scrupulously by the Commissions as well as the Utilities."*

45. In OP nos. 1 & 2 of 2012 decided on 14.11.2013, this Tribunal further held that "(*t)he power may be exercised to remedy any failure by the Commission to perform its statutory functions as deemed fit by the Appellate Tribunal. Once, this Tribunal finds that there is a cause for it to issue appropriate directions to the Commission, the nature of directions or orders are qualified only by the objective of securing performance of statutory functions by the Commission."*

46. Though we have referred to the said statutory provision earlier, it is necessary to quote it, to the extent relevant, for present discussion, as under:

> *Section 79. (Functions of Central Commission): ---*
> *(1) The Central Commission shall discharge the following functions, namely:-*
> *(a)…*
> *…*
> *(c) to regulate the inter-State transmission of Electricity;*
> *…*
> *(f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;"*

47. As noted in the factual background earlier, the claim cases for compensation with reference to Change in Law events in terms of contractual clauses binding the parties herein were presented before CERC for adjudication with specific reference to Section 79(1)(f) quoted above. Since the facts, as presented before us, undoubtedly point to the reality that the TSPs (the claimants before the Commission) and LTTCs (the respondents before the Commission) were not in agreement with each other on the claims for compensation or for that matter the contention that the events referred to constituted Change in Law events, a dispute had arisen in each case which required adjudication within the meaning of Section 79(1)(f) of Electricity Act. Thus, each of the claim cases presented before the Commission sought firstly a declaration that the events in question amounted to Change in Law event within the meaning of

contractual clauses and, as a sequitur, for the compensation to be determined and directions issued for its payment so as to restore the claimant to the same economic position as if the Change in Law event had not occurred.

48. The CIL Rules have come in while the said claim cases were pending adjudication before the Central Commission. It has passed the impugned orders holding that the rules apply retrospectively and, on that premise, thrown out the petitions without rendering any decision on merits of the claims. The question as to whether this amounts to failure on the part of the Commission to exercise its statutory function of adjudication under Section 79(1)(f) can, therefore, be examined by this Tribunal not only under Section 111 of Electricity Act but also to consider if any orders, instructions or directions require to be issued under Section 121 of the Electricity Act, such examination not amounting to judicial review either of the CIL Rules or of any regulatory order passed by the Central Commission.

49. For the forgoing reasons, we reject the objections raised by the CERC, as have been adopted by some of the respondent LTTCs.

50. The CERC has held, by the orders which are assailed before us, that the CIL Rules apply retrospectively since they do not affect substantive

rights of the parties and are merely procedural law. It is a view of CERC that before it can be approached for adjudication under Section 79(1)(f), it is incumbent on the parties to follow the CIL Rules and make an effort "*for settlement of Change in Law claims among themselves*" and only thereafter approach it in terms of Rule 3(8). The Commission is of the view that discharge of its functions under Section 79(1) has to be in conformity with the delegated legislation (i.e. CIL Rules) and, by giving effect to the said subordinate legislation, it cannot be said to have abdicated its responsibility. It also observes that seeking a declaration of Change in Law events prior to following the process prescribed under CIL Rules will only add to the delay.

51. In our considered opinion, the view taken by CERC to above effect by the impugned order is wholly ill-conceived, ill-advised and mis-directed, the Commission having most unfairly, unjustly and inappropriately failed to discharge its statutory function of adjudication misconstruing the import and effect of the CIL Rules.

52. It is quite apparent that the Central Commission has fallen into serious error by concluding that the CIL Rules have retrospective effect. Most unfortunately, once it took that approach in some matters previously decided, it has chosen not to budge from that position even when the petitioners herein presented weighty arguments to the contrary.

53. It is trite law that, unless a statute gives power to the executive to make subordinate legislation with retrospective effect, the subordinate legislation will be prospective in operation. In *Federation of Indian Mineral Industries & Ors. v. UoI & Anr.*, (2017) 16 SCC 186, it was held thus:

> "***21.*** *To answer this issue, it is necessary to first of all decide whether the DMF has in fact been established retrospectively. The learned Additional Solicitor General submitted that the DMFs were not established with retrospective effect. His contention was that under Section 9-B of the MMDR Act the DMF could be established with effect from 12-1-2015 or any date thereafter. Some States chose to issue a notification establishing the DMF from an anterior date (12-1-2015) while some others did not, notwithstanding the direction of the Central Government. According to the learned Additional Solicitor General establishing the DMF from a date anterior to the date of the notification did not mean that the DMF was established with retrospective effect. He relied on a decision of the Constitution Bench of this Court in A. Thangal Kunju Musaliar v. M. Venkatachalam Potti : (1955) 2 SCR 1196 : AIR 1956 SC 246] in support of his contention…..*
>
> *….**26.** The power to give retrospective effect to subordinate legislation whether in the form of rules or regulations or notifications has been the subject-matter of discussion in several decisions rendered by this Court and it is not necessary to deal with all of them - indeed it may not even be possible to do so. It would suffice if the principles laid down by some of these decisions cited before us and relevant to our discussion are culled out. These are obviously relatable to the present set of cases and are not intended to lay down the law for all cases of retrospective operation of statutes or subordinate legislation. The relevant principles are:*
>
> *(i) The Central Government or the State Government (or any other authority) cannot make a subordinate legislation having retrospective effect unless the parent statute, expressly or by necessary implication, authorises it to do so. [Hukam Chand v. Union of India: (1972) 2 SCC 601] and Mahabir Vegetable Oils (P) Ltd. v. State of Haryana: (2006) 3 SCC 620].*
>
> *(ii) Delegated legislation is ordinarily prospective in nature and a right or a liability created for the first time cannot be given retrospective effect. (Panchi Devi v. State of Rajasthan : (2009) 2 SCC 589)*

...

28. *On the facts before us, it is clear that Section 15 of the MMDR Act empowers the State Government to make rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith. This section does not specifically or by necessary implication empower the State Government to frame any rule with retrospective effect. Also, the MMDR Act does not confer any specific power on the State Government to fictionally create the DMF deeming it to be in existence from a date earlier than the date of the notification establishing the DMF. Therefore, it must follow that under the provisions of the MMDR Act that we are concerned with, no State Government has the power to frame a rule with retrospective effect or to create a deeming fiction, either specifically or by necessary intendment.*

29. *Similarly, Section 13 of the MMDR Act does not confer any specific power on the Central Government to frame any rule with retrospective effect. Sections 9-B(5) and (6) read with clause (qqa) inserted in Section 13(2) of the MMDR Act enable the Central Government to make rules to provide for the amount of payment to be made to the DMF established by the State Government under Section 9-B(1) of the MMDR Act. None of these provisions confer any power on the Central Government to require the holder of a mining lease or a prospecting licence-cum-mining lease to contribute to the DMF with retrospective effect. Therefore, even the scope and extent of the rule-making power of the Central Government is limited.*

30. *In view of the position in law as explained above and the factual position before us, the notifications issued by the State Governments must be understood to mean (assuming the DMF could not be established with effect from 12-1-2015 by a notification issued on a later date) that the DMF was established on the date of publication of each notification. This is reflective of the further submission of the learned Attorney General in Musaliar [A. Thangal Kunju Musaliar v. M. Venkatachalam Potti, (1955) 2 SCR 1196 : AIR 1956 SC 246] that was not considered by the Constitution Bench. In our opinion this submission can be extrapolated to the facts of the cases before us and if we do so, we find it well taken. To the extent possible, the validity of a rule, regulation or notification should be upheld. It is not obligatory to declare any notification ultra vires the rule-making power of the State Government if its validity can be saved without doing violence to the law. In these cases, we are of the opinion that it is not obligatory to declare the notifications ultra vires the rule-making power of the State Governments to the extent of their establishing the DMF from a*

retrospective date, since we can save their validity by reading them as operational from the date of their publication. In any event, no prayer was made before us for striking down the establishment of the DMF as such."

(Emphasis supplied)

54. In *Mahabir Vegetable Oils (P) Ltd.* v. *State of Haryana & Ors*, (2006) 3 SCC 620, the law was explained thus:

"41. We may at this stage consider the effect of omission of the said note. It is beyond any cavil that a subordinate legislation can be given a retrospective effect and retroactive operation, if any power in this behalf is contained in the main Act. The rule-making power is a species of delegated legislation. A delegatee therefore can make rules only within the four corners thereof.

42. It is a fundamental rule of law that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication. (See West v. Gwynne [(1911) 2 Ch 1 : 104 LT 759 (CA)]."

(Emphasis supplied)

55. Similarly, in *Income Tax Officer, Alleppy* v. *M.C. Ponnoose and Ors. Etc,* (1969) 2 SCC 351, the Supreme Court held as under:

"5. Now it is open to a sovereign Legislature to enact laws which have retrospective operation. Even when the Parliament enacts retrospective laws such laws are—in the words of Willes, J., in Phillips v. Eyre [40 Law J Rep (NS) QB 28 at p. 37] — "no doubt prima facie of questionable policy, and contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transactions carried on upon the faith of the then existing law." The courts will not, therefore, ascribe retrospectively to new laws affecting rights unless by express words or necessary implication it appears that such was the intention of the Legislature. Parliament can delegate its legislative power within the recognised limits. Where any rule or regulation is made by any person or authority to whom such powers have been delegated by the Legislature it may or may not be possible to make the same so as to give retrospective

operation. It will depend on the language employed in the statutory provision which may in express terms or by necessary implication empower the authority concerned to make a rule or regulation with retrospective effect. But where no such language is to be found it has been held by the courts that the persons or authority exercising subordinate legislative functions cannot make a rule, regulation or bye-law which can operate with retrospective effect; (see Subha Rao, J., in Dr Indramani Pyarelal Gupta v. W.R. Nathu [(1963) 1 SCR 721] , the majority not having expressed any different opinion on the point; Modi Food Products Ltd. v. Commissioner of Sales Tax U.P. [AIR 1956 All 35] ; India Sugar Refineries Ltd. v. State of Mysore [AIR 1960 Mysore 326] and General S. Shivdev Singh v. State of Punjab [1959 PLR 514]).”

(Emphasis supplied)

56. Again, in *M.D. Frozen Foods Exports (P) Ltd. v. Hero Fincorp Ltd.,* (2017) 16 SCC 741, it was ruled as under:

*“**41.** In a similar vein are the observations made in Athlumney, In re, ex p Wilson [Athlumney, In re, ex p Wilson, (1898) 2 QB 547] , where the question posed before the Queen's Division Bench was whether Section 23 of the Bankruptcy Act, 1890 was retrospective in its operation. In the aforementioned context, Wright, J., speaking for the Bench, illuminatingly opined: (QB pp. 551-52)*

“… Perhaps no rule of construction is more firmly established than this—that a retrospective operation is not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards matter of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only. … it is a general rule that when the legislature alters the rights of parties by taking away or conferring any right of action, its enactments, unless in express terms they apply to pending actions, do not affect them. It is said that there is one exception to that rule, namely, that, where enactments merely affect procedure and do not extend to rights of action, they have been held to apply to existing rights, and it is suggested here that the alteration made by this section is within that exception.”

(Emphasis supplied)

57. Since no such intent to clothe the Central Government with power to frame rules under Section 179 of Electricity Act with retrospective effect can be found expressed or by implication, we cannot subscribe to the view that the CIL Rules may have retrospective application. On the contrary, as would be noticed in due course, the rule making authority itself has clarified that the CIL Rules are meant to come into force from the date of their publication in the Official Gazette i.e., 22.10.2021 and they have not been given any retrospective operation.

58. Upon carefully scrutiny of the scope of the power of adjudication by the Central Commission under Section 79(1)(f) and its role envisaged in the CIL Rules seen in light of the objective and scheme of the said subordinate legislation, we do not have the least doubt that the latter (CIL Rules) cannot apply but prospectively in as much as they constitute not mere procedural but substantive law. As already discussed earlier, sub-rules (4), (5), (6) and (9) of Rule 3 read with Schedule to the CIL Rules provide for a mechanism or formula and period for recovery of restitution by the affected party on account of change in law events. The CIL Rules are substantive in nature as they create a new mechanism for recovery of change in law compensation and grant rights of adjustment and recovery to the parties.

59. It is well settled that a statute which affects substantive rights is prospective in operation. In *Hitendra Vishnu Thakur v. State of Maharashtra* (1994) 4 SCC 602, it was ruled as under:

> *"26…..(i) A statute which affects substantive rights is presumed to be prospective in operation unless made retrospective, either expressly or by necessary intendment, whereas a statute which merely affects procedure, unless such a construction is textually impossible, is presumed to be retrospective in its application, should not be given an extended meaning and should be strictly confined to its clearly defined limits.*
>
> *(ii) Law relating to forum and limitation is procedural in nature, whereas law relating to right of action and right of appeal even though remedial is substantive in nature.*
>
> *(iii) Every litigant has a vested right in substantive law but no such right exists in procedural law.*
>
> ***(iv)*** *A procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished.*
>
> ***(v)*** *A statute which not only changes the procedure but also creates new rights and liabilities shall be construed to be prospective in operation, unless otherwise provided, either expressly or by necessary implication."*
>
> (Emphasis supplied)

60. We hold that the CIL Rules apply prospectively to matters and change in law claims initiated after 22.10.2021 and cannot be retrospectively applied to proceedings pending for adjudication before the Central Commission particularly where the cause of action had already arisen before the Rules were brought into existence for the reason the law, existing as on date of filing of proceedings, will only govern the dispute

[see *Narendra Kishore Marwah vs. Samundri Devi,* (1987) 4 SCC 382 and *Ramesh Chandra v. Additional District judge & Ors,* (1992) 1 SCC 751].

61. We may add here that even if we were to adopt the view of CERC that the CIL Rules represent procedural law, we are not persuaded to accept that these Rules can stop the pending adjudicatory process in its tracks divesting the statutory authority of its jurisdiction to adjudicate in matters awaiting its decision. In *Ramesh Kumar Soni v. State of Madhya Pradesh*, (2013) 14 SCC 696, it was held that even procedural law does not always have retrospective effect particularly where cause of action and claims proceedings pre-date the new law. We may quote the following passage from the said decision:

> *"19. Even otherwise the Full Bench failed to notice the law declared by this Court in a series of pronouncements on the subject to which we may briefly refer at this stage. In Nani Gopal Mitra v. State of Bihar, AIR 1970 SC 1636, this Court declared that amendments relating to procedure operated retrospectively subject to the exception that whatever be the procedure which was correctly adopted and proceedings concluded under the old law the same cannot be reopened for the purpose of applying the new procedure……..:*
>
> *"5. ….It is therefore clear that as a general rule the amended law relating to procedure operates retrospectively. But there is another equally important principle, viz. that a statute should not be so construed as to create new disabilities or obligations or impose new duties in respect of transactions which were complete at the time the amending Act came into force--(See In re a Debtor, and In re Vernazza. The same principle is embodied in Section 6 of the General Clauses Act which is to the following effect:*

> …
>
> ***23.*** *In Baburam v. C.C. Jacob and Ors., (1999) 3 SCC 362, this Court invoked and adopted a device for avoiding reopening of settled issues, multiplicity of proceedings and avoidable litigation. The Court said:*
>
> > *"5. The prospective declaration of law is a devise innovated by the apex court to avoid reopening of settled issues and to prevent multiplicity of proceedings. It is also a devise adopted to avoid uncertainty and avoidable litigation. By the very object of prospective declaration of law, it is deemed that all actions taken contrary to the declaration of law prior to its date of declaration are validated. This is done in the larger public interest. Therefore, the subordinate forums which are legally bound to apply the declaration of law made by this Court are also duty-bound to apply such dictum to cases which would arise in future only. In matters where decisions opposed to the said principle have been taken prior to such declaration of law cannot be interfered with on the basis of such declaration of law…"*
>
> (Emphasis supplied)

62. The principles which emerge from the settled law governing the subject thus guide us to the effect that a statute which creates new rights, liabilities, disabilities, obligations shall be prospective in operation, unless otherwise provided, either expressly or by necessary implication. Amendments relating to procedure operate retrospectively exception being that whenever the proper procedure was adopted and proceedings concluded under the old law, the same cannot be reopened. A new law or an amendment bringing about a change in forum shall not affect cases which are concluded or are at an advanced stage since such change would cause avoidable hardship to the parties in those cases. In cases where the consequential hardship is too great retrospective operation is withheld.

63. As mentioned earlier, pertinent to note that the Central government which has framed and notified the CIL Rules itself has clarified, *albeit* subsequently, by a communication issued by MoP on 21.02.2022 that CIL Rules will apply to Change in Law events which occur on or after 22.10.2021, such events as had occurred prior to the notification of these Rules to be dealt with in accordance with the prevalent dispensation or rule at the time of occurrence of the event.

64. We have no hesitation in concluding that CERC could and should not have applied the CIL Rules retrospectively to throw out the petitions of the petitioners and appellants in the matters at hand which had been entertained and were pending adjudication of the disputed Change in Law claims under Section 79 of the Electricity Act read with Article 12 of the TSAs.

65. In terms of Section 79(1) of the Electricity Act, the Central Commission is enjoined with statutory responsibilities such as regulating the Inter-State transmission of electricity; determination tariff for inter-State transmission of electricity; adjudicating upon disputes involving generating companies or transmission licensee. These are mandatory functions. Once parties invoke its jurisdiction under Section 79(1), the Commission is obliged to exercise its powers and decide the dispute.

66. As observed earlier, CIL Rules do not deal with the dispute resolution powers of Regulatory Commissions. Therefore, such delegated legislation will not apply to a scenario such as the present where the TSPs before us had approached the Central Commission for declaratory and consequential reliefs, and the beneficiaries (LTTCs) had disputed the claims for compensation, the matters involving exercise of jurisdiction under Section 79(1)(b), (c) & (f) of the Electricity Act. It bears repetition to say, and it is trite, that such subordinate legislation (CIL Rules) cannot negate the statutory role of CERC in adjudicating upon claims for Change in Law events and compensation thereof under the parent law (Electricity Act), not the least midway the process. The right to sue is a vested right which accrues when the cause of action for filing the petition arises. Since the right to sue has been exercised by the Petitioners by the claims filed for adjudication under Section 79(1)(f) of the Electricity Act, the CIL Rules will not apply to petitions filed prior to 22.10.2021 [see *Manish Kumar v. Union of India*, (2021) 5 SCC 1; *MP Steel Corporation v. CCE*, (2015) 7 SCC 58 and *T Kaliamurthi v. Five Gori Thaikkal Wakf*, (2008) 9 SCC 306].

67. The delays in adjudicatory processes before Regulatory Commissions under the Electricity Act have been subject matter of comment in previous decisions. In *Maharashtra State Electricity Distribution Company Limited vs. Maharashtra Electricity Regulatory Commission &*

Ors., *2021 SCCOnLine SC 913* the Supreme Court has held that one of the objectives of the Electricity Act is time bound disposal of matters and that Regulatory Commissions exercise continuous regulatory supervision and steps ought to be taken to finally put an end to litigation. In the matter of *Green Infra Renewable Energy Limited vs. RERC & Ors.* (Appeal no. 251 of 2021) decided by this tribunal by Judgment dated 12.10.2021 it was observed that regulatory commissions ought to consider change in law clause at the first available instance and pass orders approving or rejecting the same even though detailed compensation orders can be issued later. It is proper to quote and reiterate the following views expressed in the said decision:

> *"16. During the hearing, we pointedly asked but no regulation or contractual clause or, for that matter, any other provision was shown as could reflect an inhibition or prohibition against consideration of claim of change in law compensation at the stage of adoption of the tariff discovered by the bid process under Section 63 of the Electricity Act, 2003. We agree with the appellant that deferring such claim for later date creates a whole lot of confusion and, what is of utmost concern to the project developers, regulatory uncertainty and consequent difficulties in attaining financial closure. It cannot be ignored that the impact on the cost of the development of the project of such change in law events that have occurred after the submission of the bid and closure of the bid process but before the adoption of the bid discovered price renders the bid price unrealistic and in terms of Section 86 (1) (b) of the Electricity Act, it is the duty of the State Commission to inquire into such claim at the first opportune time and bring in suitable corrections, may be first by declaration and followed up by detailed tariff orders. If the event referred to actually constitutes change in law within the four corners of its definition under the PPA, there is no reason why it cannot be duly recognized as a change in law at the stage of tariff adoption, the actual impact and extent of the relief admissible to be determined at the appropriate stage."*
>
> (Emphasis supplied)

68. The approach adopted by CERC in disposing of the claims of TSPs without deciding Change in Law claims is not only contrary to its statutory duty and functions but would also lead to multiplicity of litigation, causing delay in the process which, in turn, would not be in larger interest of the Consumers, it also being against the letter and spirit of the contractual terms.

69. As per Article 12.2.4 of the TSA, the decision of CERC regarding the Change in Law compensation shall be final and binding on parties. The CIL Rules recognize that adjustment of tariff on account of change in law shall be done as per the formula provided in the agreement [Rule 3(5)(a)]. The adjustment of tariff of the TSPs on account of the cumulative increase in cost due to change in law, however, cannot be considered since Change in Law claims are disputed by the LTTCs. In these circumstances, the Central Commission has failed to bear in mind that no purpose would be served by calling upon the parties to *settle among themselves* under the CIL Rules, this presumably on the assumption (for which there is no foundation) that CIL Rules govern even cases pending adjudication before the Commission at the time of coming into force of new Rules. Such view does not lead to "*timely recovery*" which is the avowed objective of the CIL Rules but instead results in inordinate delay in securing relief if made out.

70. In these circumstances, even if the TSPs were to be compelled to again approach the LTTCs (for which there is absolutely no justification), the matters will have to be finally decided by CERC only. The approach taken by CERC serves only one objective i.e. of delaying the inevitable. That such delay will have a significant impact on the final compensation payable (if the case is properly established to the satisfaction of the Commission) which will ultimately be borne by the consumers seems to have been glossed over by the Central Commission.

71. We, thus, uphold the contention that the approach taken by the Central commission contravenes its statutory duty and functions particularly under Section 79 of the Electricity Act, in that it has abdicated its regulatory jurisdiction to adjudicate the claims pertaining to Change in Law qua disputes concerning Inter-state transmission of electricity rejecting, without proper application of mind, the objection that the TSPs had sought for declaratory relief(s) which remedy is not dealt with under the CIL Rules. The impropriety of the approach is acutely vivid from the fact that even claim based on *force majeure* clause has been short-shrifted in the anxiety to put an end to the claim for compensation by applying CIL Rules, the Claimant having been asked to come anew thereby unjustly setting at naught the proceedings undertaken till the date of impugned decision even though CIL Rules did not have any bearing on claims founded on such (*force majeure*) clause. This is nothing but capricious approach.

72. For the foregoing reasons, we find the impugned orders of the Central Commission applying the CIL Rules to matters pending before it for adjudication under Section 79(1)(f) of Electricity Act on the date of coming into force of said rules wholly erroneous, improper and bad in law. The said orders are thus set aside. In the result, the proceedings in claim cases (in which impugned orders were passed – and that includes the orders dated 04.02.2022 in the Original Petitions) remain inchoate. The Central Commission is duty-bound to consider each of them on the merits of the claims and adjudicate in accordance with law on the dispute(s) in proper exercise of its jurisdiction under Section 79 of the Electricity Act. It is directed to proceed to do so expeditiously.

73. We would be failing in our duty if we do not also note here (as also indicated earlier in this judgment) that prior to the decisions which were challenged by the captioned petitions/appeals, as indeed subsequently, the Central Commission has been taking the impugned approach on pending claims which has and would have resulted in a large number of such claims being unduly scuttled, non-suiting the parties similarly placed as the petitioners/appellants herein. If the factual back-ground is same as in the cases at hand, such decisions would also constitute want of performance of statutory function by the Central Commission meriting an appropriate direction by this tribunal. This would mean each of such affected claimant

would be constrained to seek remedy against such order, if it thereby feels aggrieved. The remedies available in law include approaching the Central Commission for review or this tribunal ordinarily by an appeal.

74. Such that the affected parties do not suffer on account of faulty approach of adjudicatory authority, and this tribunal is not flooded by appeals raising identical issues against such other decisions as above, rendered in similar fact-situation by the Central Commission, it would be appropriate that it be asked to properly and fully perform its statutory function by exercise of its review jurisdiction, *suo motu*, in all similarly-placed claims for compensation founded on change in law events where similar decisions have been taken by the Central Commission after coming into force of CIL Rules on 22.10.2021 and, if such decisions are found running afoul of the view taken by this tribunal by this judgment, to vacate the same and restore the concerned Claim cases to its file and complete the process of adjudication thereupon in accordance with law. Needful action in above nature shall be initiated by the Central Commission within four weeks of this judgment. Of course, review can be undertaken even at the instance of the parties in question should they approach the Commission on their own. We may add that these directions are without prejudice to the remedy, if any, already pursued or intended to be pursued by the concerned parties vis-à-vis other such cases.

75. The captioned matters and applications pending therein are disposed of in above terms.

PRONOUNCED IN THE VIRTUAL COURT THROUGH VIDEO CONFERENCING ON THIS 05TH DAY OF APRIL, 2022.

(Sandesh Kumar Sharma)
Technical Member

(Justice R.K. Gauba)
Officiating Chairperson

vt