

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

**Appeal No. 55 OF 2021
Appeal No. 21 OF 2021
Appeal No. 32 OF 2021
Appeal No. 56 OF 2021
Appeal No. 74 OF 2021
Appeal No. 76 OF 2021
Appeal No. 175 OF 2021
Appeal No. 187 OF 2021
Appeal No. 188 OF 2021
Appeal No. 189 OF 2021
Appeal No. 190 OF 2021
Appeal No. 191 OF 2021
Appeal No. 192 OF 2021
Appeal No. 193 OF 2021
Appeal No. 194 OF 2021
Appeal No. 216 OF 2022
Appeal No. 176 OF 2021
Appeal No. 215 OF 2022 & IA No. 929 OF 2021
Appeal No. 174 OF 2022**

Dated: 9th July, 2024

**Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member
Hon'ble Mr. Virender Bhat, Judicial Member**

Appeal No. 55 OF 2021

In the matter of:

M/s. Orange Bercha Wind Power Pvt. Ltd.
Plot No. 7, MLU, Sector – 10,
Dwarka, New Delhi – 110075.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director,
GPH Compound,
Polo Ground, Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur – 482008, M.P.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 21 OF 2021

In the matter of:

Sterling Agro Industries Limited
Aggarwal Cyber Plaza 2,
11th Floor, Netaji Subhash Place,
Pitam Pura, New Delhi – 110034.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.
- (2) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.
- (3) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Mr. Nitin Gaur for R-2

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-3

Appeal No. 32 OF 2021

In the matter of:

M/s. DJ Energy Pvt. Ltd.
102, El Tara, Orchard Avenue,
Hiranandani Garden, Powai,

Mumbai, Maharashtra – 400076.

...**Appellant(s)**

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...**Respondent(s)**

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 56 OF 2021

In the matter of:

M/s. Orange Mamatkhedha Wind Pvt. Ltd.

D-21, Corporate Park, 3rd Floor, 301B,
Sector – 21, Dwarka, Delhi – 110075.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 74 OF 2021

In the matter of:

ReNew Power Pvt. Ltd.
Commercial Block – 1,
Zone – 6, Golf Course Road,
DLF City Phase-V,
Gurugram, Haryana – 122009.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 76 OF 2021

In the matter of:

(1) Ratedi Wind Power Private Ltd.
ILF&S Financial Centre,
Plot C-22, G-Block,
Bandra Kurla Complex,
Mumbai – 400051.

(2) Etesian Urja Limited
ILF&S Financial Centre,
Plot C-22, G-Block,
Bandra Kurla Complex,
Mumbai – 400051.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal

Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 175 OF 2021

In the matter of:

M/s. KRBL Limited
5190, Lahori Gate,
New Delhi – 10006.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1
Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 188 OF 2021

In the matter of:

ReNew Wind Energy (AP3) Pvt. Ltd.
Commercial Block – 1,
Zone – 6, Golf Course Road,
DLF City Phase-V,
Gurugram, Haryana – 122009.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 189 OF 2021

In the matter of:

ReNew Wind Energy (Rajasthan-One) Pvt. Ltd.
Commercial Block – 1,
Zone – 6, Golf Course Road,
DLF City Phase-V,
Gurugram, Haryana – 122009.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.
- (2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008. **...Respondent(s)**

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1
Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2
Mr. Nitin Gaur for R-3

Appeal No. 190 OF 2021

In the matter of:

Badoni Power Private Limited
315, 3rd Floor, Shagun Arcade,
Scheme No. 54, Vijay Nagar,
Indore – 452001.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.
- (2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director

GPH Compound, Polo Ground,
Indore – 452001.

- (3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008. **...Respondent(s)**

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1
Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2
Mr. Nitin Gaur for R-3

Appeal No. 191 OF 2021

In the matter of:

Ostro Urja Wind Private Ltd.
Unit No. G-0, Ground Floor,
Mira Corporate Suites,
1&2, Ishwar Industrial Estate,
Mathura Road, Delhi – 110065.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,

5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 192 OF 2021

In the matter of:

ReNew Wind Energy (MP-Two) Pvt. Ltd.
138, Ansal Chambers II, Bikaji Cama Place,
Delhi – 110066.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.
- (2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.
- (3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008. **...Respondent(s)**

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 193 OF 2021

In the matter of:

ReNew Wind Energy (Rajasthan) Pvt. Ltd.
Commercial Block-1, Zone-6, Golf Course Road,
DLF City Phase – V, Gurugram,
Haryana – 122009.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 194 OF 2021

In the matter of:

AVP PowerInfra Private Ltd.
Plot No. A-122, Sector – A,

Kalani Bagh Colony,
Ward No. 15, Dewas – 455001.

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2

Mr. Nitin Gaur for R-3

Appeal No. 216 OF 2022

(1) M/s. Giriraj Enterprises
Malpani House, I.G. Road,
Sangamner, District – Ahmedabad – 422605.

(2) M/s DJ Malpani
Malpani Estate, Kasara Dumala,
Sangamner,
District Ahmednagar,
Maharashtra – 422605,

...Appellant(s)

Vs.

(1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.

(2) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

(3) M.P. Madhya Kshetra Vidyut Vitran Co. Ltd.
Through General Manager,
Circle Betul, (O&M) MPB Colony,
Near Tarang Complex,
Link Road, Betul, Madhya Pradesh – 462001.

(4) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(5) M.P. Poorv Kshetra Vidyut Vitran Co. Ltd.
Deputy General Manager
Shakti Bhawan, Rampur, Vidyut Nagar,

Jabalpur, Madhya Pradesh – 482008.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1
Mr. Nitin Gaur for R-2
Mr. Rahul Dhawan
Ms. Approva Misra
Mr. Vishesh Issar
Mr. Varun Sharma
Mr. Ravi Sehgal
Mr. Dheer Srivastava for R-3
Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-4

Appeal No. 176 OF 2021

In the matter of:

- (1) Kukru Wind Power Private Limited
Atria Power, 1st Floor, No. 11,
Commissariat Road, Bangalore,
Karnataka – 560025.
- (2) Betul Wind Farms Limited
No. 11, 1st Floor, Commissariat Road,
Bangalore, Karnataka – 560025.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.
- (2) Betul Circle,
Madhya Pradesh Madhya Kshetra
Vidyut Vitran Company Ltd.,
Through the General Manager (O&M)
MPEB Colony, Near Tarang Complex,
Link Road, Betul (MP) – 460001.
- (3) Madhya Pradesh Madhya Kshetra
Vidyut Vitran Company Ltd. (MPMKVVCL),
Through General Manager,
Nishtha Parisar, Govindpura,
Bhopal – 462023.
- (4) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.
- (5) Madhya Pradesh Poorv Kshetra
Vidyut Vitran Company Ltd. (MPPKVVCL),
Through General Manager,
Shakti Bhawan, Rampur,
Vidyut Nagar, Jabalpur (MP) – 482008.
- (6) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016. **...Respondent(s)**

Counsel for the Appellant(s) : Ms. Astha Nigam
Mr. Sidhartha Das

Counsel for the Respondent(s) : Mr. Nitin Gaur for R-1

Mr. Rahul Dhawan
Ms. Approva Misra
Mr. Vishesh Issar
Mr. Varun Sharma
Mr. Ravi Sehgal
Mr. Dheer Srivastava for R-2&3

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-4

Ms. Preeti Goel for R-6

Appeal No. 215 OF 2022 & IA No. 929 OF 2021

In the matter of:

Agarwal Renewable Energy Private Ltd.
Anand Bhavan, Old Station Road,
Margao, Goa – 403601.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.
- (2) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

(3) Madhya Pradesh Power Management Co. Ltd.
Through General Manager
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008. **...Respondent(s)**

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Ms. Preeti Goel for R-1
Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Tanya Sareen for R-2
Mr. Nitin Gaur for R-3

Appeal No. 174 OF 2022

In the matter of:

Orange Bercha Wind Power Pvt. Ltd.
Registered Office at F-9, 1st Floor,
Manish Plaza – 1,
Plot No. 7, MLU, Sector – 10, Dwarka,
New Delhi – 110075.

...Appellant(s)

Vs.

- (1) Madhya Pradesh Electricity Regulatory Commission
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016.
- (2) Madhya Pradesh Power Management Co. Ltd.
Through General Manager

Block No. 2, Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh – 482008.

- (3) M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.
Through Deputy Director
GPH Compound, Polo Ground,
Indore – 452001.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Surabhi Pandey

Counsel for the Respondent(s) : Mr. Shlok Chandra
Mr. Pratik Das
Ms. Mansie Jain for R-1

Ms. Poorva Saigal
Mr. Shubham Arya
Ms. Tanya Sareen
Mr. Ravi Nair
Ms. Srishti Khindaria for R-2&3

JUDGEMENT

PER HON'BLE MR. SANDESH KUMAR SHARMA, TECHNICAL MEMBER

1. The captioned Appeals have been filed by the Appellants challenging the Orders dated 08.08.2019, 05.12.2020, 18.12.2020, 28.12.2020, 05.01.2021 (in short "Impugned Orders") passed by Madhya Pradesh Electricity Regulatory Commission (in short "MPERC" or "State Commission") in Petition Nos. 8 of 2019, 43 of 2019, 48 of 2019, 51 of 2019, 13 of 2020, 14 of 2020, 32 of 2020, 33 of 2020, 34 of 2020, 35 of 2020, 36 of 2020, 37 of 2020, 38 of 2020, 39 of 2020, 40 of 2020, 48 of 2020, 56 of 2020, 51 of 2020.

2. The Appellants are the Generator Companies in the State Of Madhya Pradesh.
3. The Respondent Commission is the Madhya Pradesh Electricity Regulatory Commission, vested with powers and discharging functions under the provisions of the Electricity Act, 2003.
4. The Respondents, M.P. Pashchim Kshetra Vidyut Vitran Company Limited (in short "MPPKVVCL"), M.P. Madhya Kshetra Vidyut Vitran Company Ltd. (in short "MPPMVVCL") and M.P. Poorva Kshetra Vidyut Vitran Company Ltd. (in short "MPPKVVCL") are Govt. Companies *inter-alia* the Distribution Company of the State of M.P.
5. The Respondent Madhya Pradesh Power Management Company Limited (in short "MPPMCL") is the holding company of the three distribution licensees within the State of Madhya Pradesh viz, East DISCOM, West DISCOM and Central DISCOM, and is entrusted with the responsibilities of bulk purchase of electricity from generating companies and supplying of electricity to the three DISCOMs.
6. The issue raised in all the appeals and the factual matrix of all these appeals are identical, *inter-alia* for sake of brevity, all these appeals are disposed of by this common order.
7. The Appellants are renewable energy based generating companies situated within the State of Madhya Pradesh have signed PPAs with the distribution companies of their licenced area for the sale of power from their WEGs (Wind

Energy Generators), *inter-alia* draw power from the Grid during contingencies including auxiliary power, startup power, etc. for which monthly invoices are sent to them by the respective Discoms.

8. In these captioned appeals, they have raised the issue of the change of consumer category for drawing such power for emergency/ startup and other contingencies.

9. The MPERC has enacted the MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 for enabling the RE Generators to withdraw power from the Grid for the purposes of shutdown and such other emergencies.

10. In terms of the MPERC RE Regulation 2010, the billing of power drawn for the purposes of shutdown and such other emergency shall be done as a temporary consumer under the industrial category of the retail supply tariff orders, further, vide Seventh Amendment dated 15.11.2017 (notified on 17.11.2017) Regulation 10 was amended to provide that the RE Generators connected to the grid shall be entitled to avail power for synchronization, shutdown and such other emergencies and that such power shall be billed at the rate provided in the tariff schedule for synchronization in the retail supply tariff orders.

11. The Distribution Companies consistently billed the Appellants under the applicable tariff schedule HV-7 for all power drawn by the Appellants, however, the Discoms unilaterally changed the billing methodology and started to bill the Appellants under HV 3.1 industrial category as a temporary consumer.

12. Considering that the appeals are identical, for further, facts Appeal no. 193 of 2021 is taken as the lead appeal to decide the impugned issue.

Appellants submissions

13. The present appeal is against the Order dated 08.12.2020 (in short “Impugned Order”) of MPERC in Petition No. 33 of 2020, the State Commission, vide the Impugned Order, upheld the retrospective billing of additional charges at the rate applicable to a temporary connection under HT industrial category (HV 3.1) by Respondent No. 2, i.e. M.P. Paschim Kshetra Vidyut Vitran Co. Ltd.

14. The Appellant is a Wind Generator (WEG) in Madhya Pradesh with an installed capacity of 18 MW, these WEGs are induction/asynchronous generators that need to be constantly energised and ready to generate when adequate wind is available, when adequate wind is unavailable, WEGs draw power from the grid to remain connected, energised and ready for generation.

15. The relevant regulations which provide for the billing of power drawn by the Appellant WEG are Regulation 10 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 (“MPERC RE Regulations, 2010”) 7th Amendment, the Regulations provide for billing of power drawn for three purposes only: synchronisation, shutdown and emergency, however, specifies that power for synchronisation, power must be billed as per the Retail Supply Tariff Order and under Tariff Schedule HV-7 for Synchronization, the Regulations further provide that for other cases, being Shut

down and Emergency, the power drawn will be billed at the rate applicable for Temporary Connection under HT Category.

16. The conflict between the Retail Supply Tariff Orders of the State Commission and Regulation 10 arises due to the un-implementable limitation of 2 hours imposed on synchronization under Clause (e) of Tariff Order HV-7 and that too with the phrase “each occasion”, and this Clause (e) should be read down to be in compliance of Regulations 10.

17. It is submitted that there cannot be any retrospective change in tariff for electricity, which the Appellant has already consumed, which is what Respondent No. 2 has done and the State Commission has allowed, in this regard, reliance is placed on the Supreme Court’s judgement dated 18.10.2022 in the matter of ***BSES Rajdhani Power Ltd. vs Delhi Electricity Regulatory Commission (2023) 4 SCC 788, (Para 55)*** which holds that there can be no retrospective application of tariff.

18. In order to demonstrate that the Impugned Order has allowed retrospective amendment of the tariff, it is essential to first outline the events leading to Petition No. 33 of 2020, in which the Impugned Order was passed, this series of events reveals that the distribution company had previously, before 2016, attempted to bill power drawn by generators under a temporary tariff category, however, the State Commission struck down these attempts in multiple orders, subsequently, these orders were codified into an amendment of Regulation 10 in 2017, which added 'synchronisation' as a third category for power drawl, alongside shutdown and emergency, the DISCOM continued billing in accordance with the State

Commission's orders until Petition 29 of 2019, when it sought to remove a 2-hour limitation on drawl, arguing it was unimplementable, the State Commission, in its order dated 16.12.2019 in Petition 29 of 2019, declared the billing practices up to that date as compliant, including all power drawn outside of emergency and shutdown conditions, irrespective of the 2-hour limit under the HV 7 schedule, the State Commission also indicated that any issues could be raised in the next tariff order, however, DISCOM, in what was a clear contempt of order dated 16.12.2019, retrospectively changed the billing methodology to enforce the 2-hour limit it had previously declared unimplementable and sent a letter dated 16.01.2020, when the generators challenged this through petitions, the State Commission, in the Impugned Order, revised the tariff to justify the retrospective billing, aligning with the DISCOM's revised tariff, the said events are detailed herein below.

19. In 2019, Respondent No. 2 approached the State Commission in Petition 29 of 2019 with the prayer to amend Regulation 10 of the MPERC RE Regulations, 2010 and remove clause (e) of Schedule 7, which provides for a 2-hour limit, stating that it cannot implement the clause because of technical limitation.

20. The Respondent No. 2 submitted that it cannot distinguish when the power is drawn for synchronizations or when otherwise, further, Respondent No. 2 pleaded that there is no way for it to work out the fixed charge under Schedule HV 3.1, temporary tariff category, which is based on contract demand, the Appellant does not have a contract demand, and its maximum demand is far from its average demand.

21. It is submitted that the 2-hour limit has been there since 2012-2013, in tariff orders passed by the State Commission, but the same was never implemented by Respondent No. 2, and thus Respondent No. 2 proposed in Petition 29 of 2019 that the State Commission remove the limit altogether, it being non-implementable, to begin with.

22. In fact, the unamended MPERC RE Regulation, 2010, provides that a generator may procure power only for shutdown and emergency, during that time, Respondent No. 2 started billing for power drawn for reasons other than shutdown and emergency under the temporary tariff category.

23. The State Commission, in various orders, struck this down and vide its Order dated 05.07.2016 in Petition 20 of 2016, Order dated 08.07.2016 in Petition 22 of 2016, Order dated 25.10.2016 in Petition 50 of 2016 and Order dated 05.12.2016 in Petition 42 of 2016, held that Clause 10 of MPERC RE Regulations, 2010 should be applicable in the event of drawing of power by the WEG during shutdown of the plant or during other emergencies, during the shutdown or emergency periods, the plant requires power for repairs and maintenance purposes, for which the WEG shall have to avail power and would be billed at a temporary supply tariff as specified in the aforesaid regulations.

24. The State Commission further held that if the power is required by the WEG for synchronization of WEGs frequently, the same cannot be considered under drawl of power during shutdown or emergency period, the WEG would be billed as per provisions of tariff schedule HV7.

25. As a consequence of the aforementioned orders of the State Commission, the MPERC RE Regulations, 2010 were amended, vide the 7th amendment in order to make the law laid down by the State Commission's Orders into the regulations itself, i.e. all power drawn from other than emergency and shut down being power drawn for synchronization was required to be billed under the HV-7 Category.

26. Pursuant to this, the billing continued to be under the HV-7 category for all power other than shutdown and emergency, however, the 2-hour limitation on the period of synchronization, which has been there since 2012-2013, remained in the tariff order but was never implemented by Respondent No. 2.

27. The State Commission, by way of its Order dated 16.12.2019 in Petition 29 of 2019, stated that the RE Generators were being billed as per the applicable legal provisions [as per HV-7] and that if any changes are needed to be made with respect to the 2-hour limitation, Respondent No. 2 could bring up the issue and the same would be addressed in the Retail Supply Tariff Order for FY 2019-20.

28. In a clear defiance of the State Commission's order issued on 16.12.19, Respondent No. 2 sent letters to the appellants on January 16, 2020, initiating retrospective billing from April 2017 to August 2019, enforcing a 2-hour limit on synchronization as outlined in the HV-7 schedule of the tariff orders.

29. This action contradicted Respondent No. 2's earlier representations in Petition 29 of 2019, demonstrating a disregard for the State Commission's directives, in response to these letters and the retrospective billing, the Appellants

herein filed a Petition 33 of 2020 with the State Commission, in which the Impugned Order, dated 08.12.2020, was issued.

30. Respondent No. 2's retrospective tariff revision, via a letter dated 16.12.20, was directly challenged by the generators through Petition 33/20, this petition contested Respondent No. 2's implementation of a new tariff methodology for retrospective billing—a method that had not previously received the State Commission's approval.

31. The State Commission, in the Impugned Order, in complete contravention to its Order dated 16.12.2019 in Petition 29 of 2019, finds that the retrospective additional billing done by Respondent No. 2's letter dated 16.01.2020 for April 2017 to August 2019 is the correct methodology of billing, rewriting it's all previous order including its immediately preceding order dated 16.12.2019, not only does the State Commission in the Impugned Order allow retrospective billing, but it also lays down new instructions as to how the 2-hour limitation is to be implemented.

32. Respondent No. 2 sought approval for its unilateral tariff revisions in its defence to Petition no. 33 of 2020 initiated by the generators challenging the said revisions, the State Commission, vide the Impugned Order, laid down a new tariff process that precisely mirrors the method the DISCOM had arbitrarily implemented for the retrospective billing, as outlined in the letter dated January 16, 2020—a letter that was itself the subject of contention before the State Commission and by endorsing this approach, the State Commission has effectively sanctioned retrospective billing practices.

33. The Impugned Order grants DISCOM the authority to enact delegated legislation, an authority that extends beyond the permissible scope of an order arising from a petition initiated by the generator to challenge the legitimacy of retrospective billing, the Impugned Order effectively ratified Respondent No. 2's actions, which had been executed without prior approval and in apparent contradiction to the State Commission's earlier ruling that existing billing methods were satisfactory and did not require alteration.

34. This action contradicts the submissions of the Discom in Petition 29 of 2019 and the judgments it now relies on, which do not support retrospective tariff amendment or the implementation of a new tariff method retrospectively, notably, these judgments address defective meters, not the revision of the methodology or the tariff itself, which has been expressly prohibited by the Supreme Court in judgment 18.10.2022, in the matter of **BSES Rajdhani Power Ltd. vs Delhi Electricity Regulatory Commission (2023) 4 SCC 788**.

35. It is essential to note that there was no mistaken billing that was sought to be corrected, as the impugned order holds, in fact, a new absurd method altogether to implement the unimplementable 2-hour limit is laid down for the first time in the impugned order.

36. Already billed electricity units for which billing has happened are billed again by a new tariff calculation method, the evidence shows that the bills for different appellants have inflated to as much as twofold, thus, this isn't some electricity unit that DISCOM mistakenly didn't bill for; this is a new tariff altogether applied retrospectively.

37. It would be absurd for a consumer to use electricity without knowing the tariff, only for it to be revised later, changing the basis of consumption entirely, this principle applies equally to a generator when it acts as a consumer of electricity.

38. The imposition of a 2-hour synchronization limit in the tariff order starkly conflicts with amended Regulation 10, which outlines only three categories for power drawl: shutdown, synchronization, and emergency.

39. Implementing this limit, if at all feasible, would result in certain power usage being unbillable, specifically, if the 2-hour limit were enforceable, there would be no provision to bill for power consumed beyond this period since Regulation 10 mandates billing only for power used during shutdown, synchronization, and emergency.

40. The tariff order's specification that synchronization with the grid is limited to a maximum of 2 hours on each occasion introduces a dilemma: assuming the DISCOM could ascertain the purpose of power drawl (which it cannot) and enforce the 2-hour limit (which is impractical), there would still be no method to bill for power drawn after this period.

41. This is because Regulation 10 facilitates billing at the temporary connection rate under the HT Industrial Category solely for shutdown and emergency situations, not for any usage beyond 2 hours of synchronization, which does not fall under either category.

42. Consequently, if the 2-hour limitation were somehow applied as the commission suggests in the Impugned Order, it would render the tariff order contradictory to the regulation, this contradiction effectively creates an unauthorized fourth category of power drawl that is neither for synchronization, shutdown, nor emergency, which Regulation 10 does not recognise.

43. Therefore, the relevant section of the tariff order should be considered illogical and invalidated as it contradicts the regulation, this assertion forms the basis of the challenge against the tariff order dated 08.08.2019 in Appeal No. 174 of 2022, which is part of the current batch of appeals, reliance is placed on the Supreme Court's judgement in ***The Authorised Officer, Central Bank of India vs. Shanmugavelu* 2024 SCC Online SC 92**, wherein it held that when a court encounters a provision, which, if interpreted according to plain and literal meaning, might lead to constitutional or legal issues, the court may opt to read down the provision, hence, this Tribunal has the power to read down the absurdity of the 2-hour synchronization limitation, further reliance is placed on the judgment of the Supreme Court in ***PTC v. CERC (2010) 4 SCC 603*** wherein it states a regulation stands on a higher pedestal vis-a-vis order of Central Electricity Regulatory Commission, in the sense that an order passed by the Commission has to be in conformity with the regulation.

44. Regarding the phrase "other cases" in Regulation 10, it can only refer to shut down and emergency since the regulation specifies that power drawn for synchronization will be billed under the synchronization schedule in the tariff order and in other cases, under the temporary tariff category.

45. The phrase "other cases" must be interpreted in the context of the rest of Regulation 10's language, which clearly states that power can be drawn for three purposes only: shutdown, emergency, and synchronization.

46. If "other cases" could mean any situation beyond these three, then specifying these three purposes would be redundant.

47. This interpretation aligns with the legal principle of "***Expressio unius est exclusio alterius***" meaning the express mention of one thing excludes all others, this principle of statutory interpretation has been upheld by the Honorable Supreme Court in several rulings, notably in the case of ***Babu Verghese and Ors. vs. Bar Council of Kerala and Ors (1999) 3 SCC 422***. In this judgment, the Supreme Court asserted that when legislation mandates a specific action be carried out in a prescribed manner, it must not be conducted in any way other than that which is stipulated by law.

48. In any event, the 2-hour limitation specified in the tariff order is both impractical and absurd, DISCOM, by its own admission, cannot ascertain when a plant is in the process of synchronizing, making it unreasonable to assume that power consumption within the first two hours automatically pertains to synchronization.

49. This confusion is exacerbated by the tariff order's phrasing—'2 hours on each occasion'—raising critical questions about the meaning of 'each occasion', is it meant to denote each day, each week, a month, or some other arbitrary period?

50. Without knowledge of the purpose behind the power drawl, DISCOM lacks a reasonable basis to define 'each occasion', the argument that each power drawl marks the start of an 'occasion' of synchronization leads to an illogical conclusion, as synchronization by its nature implies that generation should immediately follow, ending the need for further drawl, therefore, interpreting the first two hours of each power drawl session as for synchronization contradicts the expectation that such drawl should culminate in the generation, rendering the 2-hour limitation on drawl for synchronization non-implementable.

51. This issue is further compounded by the impracticality of enforcing the synchronization limitation, if any 2-hour period is presumed for synchronization, followed by a brief second's pause and then another 'occasion', initiating yet another 2-hour period, it leads to an odd enforcement scenario.

52. Moreover, this 2-hour restriction, specified since 2012-2013 solely within the tariff order and not incorporated into Regulation 10, unimplemented until 2020, underscores the disconnect between the regulations and the tariff order and the application of such arbitrary constraints on synchronization, given the DISCOM's inability to identify the purpose of drawl, leaving 'each occasion' undefined and thus, unenforceable.

53. The power drawn beyond 2 hours of synchronization, which the DISCOM assumes is for synchronization since it cannot ascertain the purpose of drawl, cannot be presumed to be for shutdown or emergency.

54. A generating plant is not in a state of shutdown or emergency all the time, an obvious interpretation of Regulation 10 is that power availed during synchronization of plant with the grid, refers to the power needed for the process of synchronization—for a renewable generator to synchronize when the wind is sufficient to generate, it has to keep the plant and lines charged and ready.

55. Even if not, according to previous State Commission orders that stated all power other than for shutdown and emergency would be billed under the HV7 schedule, which is for synchronization, the amended Regulation 10 should be read in the context of those orders, as it was amended consequently to them.

56. Regarding DISCOM's submission that the 2-hour limit is part of the tariff order and the R2 had mistakenly not enforced it for the period 2017 onwards, it is clarified that this limit has been in the tariff order since 2012-2013.

57. DISCOM seeks to enforce it from the date of the regulation amendment (in 2017) as though the regulation made it applicable, but there is no direct linkage between the amendment to Regulation 10 and the application of this 2-hour limitation in the tariff order.

58. The amendment merely made statutory what the State Commission had stated in its previous orders i.e., the power drawn for reasons other than shutdown and emergency is to be billed under the tariff for synchronization [Order dated 05.07.2016 in Petition 20 of 2016 {**Page 411 of the CC**}, Order dated 08.07.2016 in Petition 22 of 2016{**Page 413 of the CC**}, Order dated 25.10.2016 in Petition

50 of 2016 {**Page 418 of the CC**} and Order dated 05.12.2016 in Petition 42 of 2016 {**Page 416 of the CC**}].

59. The Impugned Order force retrofits the language of the tariff order into the regulation by stating that the phrase "shall be billed for the period at the rate" in Regulation 10 refers to the 2-hour limitation, this is absurd in so far as obviously the phrase "*for the period*" means the period of the tariff order being the financial year or MYT period for which the rate of tariff is applicable.

60. This is evidenced by the fact that while the State Commission removed the 2-hour limitation for synchronisation from its Tariff Orders from FY 20-21, the State Commission retains the phraseology "*shall be billed for the period at the rate*" in Regulation 8 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy), (Revision-II), Regulations, 2021 {RG-33(II) of 2021}, which deals with drawing of power by a generator/co-generator from renewable sources of energy, even though the 2-hour limitation has been done away from the Tariff Order for FY 2020-21.

61. Hence proving that "*for the period*" never referred to the 2 hour limit as prescribed in tariff orders before FY 20-21.

62. In so far as the submission of the DISCOM that the imposition of a 2-hour limitation on synchronization by the DISCOM is intended to prevent generators from drawing excessive power for purposes unrelated to plant operation, the same is rendered superfluous by the existing tariff structure specified in the HV7 schedule.

63. This concern is preemptively addressed by Clause (a) of the HV7 schedule, which limits the supply for synchronization to no more than 15% of the capacity of the highest-rated unit in the Power Plant, this existing restriction makes the additional 2-hour limit unnecessary and impractical to enforce.

64. Moreover, the HV-7 tariff rate is notably higher than that for contractual consumers of the DISCOM and is only more affordable than the rate for temporary industrial consumers (who are billed under Schedule HV 3.1), who need power for a brief period.

65. Unlike these consumers, a renewable generator requires a continuous power supply, making the set tariff rate, Rs. 875 paise per unit as per State Commission's Retail Supply Tariff order for FY 2018-19, more than adequate for a renewable generator.

66. Consequently, the 2-hour limitation fails to address any substantial issue or potential for misuse that isn't already mitigated by the 15% capacity limitation, therefore, this limit is not only redundant but also ineffectual, highlighting its lack of purpose in the broader context of preventing power misuse among renewable wind plant operations.

67. In its Tariff Order for FY 20-21, the State Commission removed Clause (e) from Schedule 7, following the request of Respondent No. 2 in their tariff petition, this removal, coming after the issuance of the Impugned Order, acknowledges the

State Commission's recognition that billing for power consumed by wind generators should be uniformly conducted at a singular rate, as specified in HV-7.

68. This act underscores the Commission's agreement with the premise that a single-rate billing system within HV-7 is the most rational approach for handling power drawl by wind generators.

69. Regarding the State Commission's reference to the judgment in M/s Malwa Solar Power Generation Private Limited in Appeal No. 112 of 2017, it is pertinent to note that the core issue addressed in the case was whether a renewable generator could be billed under the HT industrial tariff category, the discussion revolved around the then-unamended Regulation 10, which allowed renewable generators to draw power exclusively for their own use from the distribution licensee's network during plant shutdowns or emergencies, with the consumed energy being billed at the rate applicable to Temporary Connections under the HT Industrial Category.

70. The contention from the generator there was based on the argument that, as a renewable generator, it should not be billed under the HT industrial category since it does not qualify as a temporary consumer—a consumer requiring power for a brief period.

71. However, this Tribunal clarified that Regulation 10 does not categorize a renewable generator as a temporary consumer but rather specifies that the rate applicable to a temporary connection under the HT industrial category would apply

to renewable generators for power drawn during shutdown and emergency situations.

72. This judgment primarily focuses on billing for shutdown and emergency draws of power and does not extend to the issue of synchronization, as it relates to the unamended Regulation 10.

73. In the present appeal, the question at hand is whether the 2-hour limitation on synchronization imposed by the tariff order is feasible, given that Regulation 10 does not recognise a fourth category of power draw—namely, power drawn for synchronization beyond 2 hours.

74. There exists no regulation beyond Regulation 10 that permits the billing of such power at any rate, consequently, this Tribunal's judgment in the Malwa case does not apply to the present case.

75. In view of the submissions above, it is respectfully prayed that this Tribunal grant the relief sought by the Appellants in these batch Appeals. Specifically, the Appellant prays that the Hon'ble Tribunal set aside the Impugned Order and quash all invoices, enforcing the 2-hour limitation in clause (e) of Schedule 7 of the applicable tariff orders. Consequently, the Appellants seek the annulment of any invoices that have applied this 2-hour restriction to the power usage of renewable generators, leading to their billing at the temporary connection rate under the HT Industrial Category.

Submissions of Discom MPPKVCL (adopted by MPPMCL also)

(As part of reply as no written submissions were filed)

76. The matter in issue relates to the billing done by the Respondent No. 2 - M.P Paschim Kshetra Vidyut Vitran Company Limited (hereinafter '**Answering Respondent**') for the power drawn by the Appellant- Wind Power Generator from the grid.

77. The Appellant's case is that it should be billed for the above power drawn from the Grid as per Tariff Category HV 7- '*Synchronization of power for Generators connected to the grid*' as specified in the Tariff Orders passed by the State Commission from time to time.

78. However, the State Commission, based on the Regulations notified, earlier Tariff Orders passed and the submissions made by the Answering Respondent, has held that the revisional billing done by the Respondent No. 2 based on the following two (2) sets of billing methodology is correct:

- (a) For the power drawn by the Generators for the first two hours- Billing as per Tariff Schedule HV 7- '*Synchronization of power for Generators connected to the grid*' category.
- (b) For the power drawn by the Generators beyond the two hours-Billing at the rate applicable to temporary connection under HT Industrial Category i.e. Tariff Schedule HV 3.1-'*Temporary category under HT Industrial*' category.

79. On 09.11.2010, the State Commission notified the 'Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 (hereinafter '**RE Regulations**'). Regulation 10 of the RE Regulations reads as under:

“10. Drawing power during shut down by Generator/Co-generation from Renewable Sources-

The Generator/Co-generation from Renewable Sources would be entitled to draw power exclusively for its own use from the Distribution Licensee's network during shutdown period of its Plant or during other emergencies. The energy consumed would be billed at the rate applicable to Temporary Connection under HT Industrial Category.”

80. The above RE Regulations were amended from time to time. On 17.11.2017, the State Commission notified the 7th Amendment to the RE Regulations whereby the State Commission amended Regulation 10 as under:

“10. Drawing power by Generator/Co-generation from Renewable Sources

The Generator/Co-generation from Renewable Sources would be entitled to draw power exclusively for its own use from the Transmission/Distribution Licensees' network for synchronization of plant with the grid or during shutdown period of its plant or during such emergencies. The power availed during synchronization of plant with the

grid shall be billed for the period and at the rate as per retail supply tariff order under tariff schedule for synchronization. In other cases, it would be billed at the rate applicable to temporary connection under HT Industrial category.”

(emphasis supplied)

81. In terms of the above statutory framework provided in the Regulation 10 of the RE Regulations, the billing for the power drawn by the Generators is bifurcated into two parts, namely:

- (a) The power availed during synchronisation of the plant to be billed for the period and at the rate in accordance with the tariff orders passed by the State Commission from time to time; and
- (b) In other cases, power drawn by the Generators to be billed at the rate applicable to the temporary connection under HT Industrial category.

82. The State Commission, in the Tariff Orders for the period between Financial Years 2017-18 to 2019-20 specified the Tariff Schedules HV-7 dealing with ‘Synchronization of power for Generators connected to the grid’. Amongst others, the State Commission, in Tariff Schedule- HV 7 specified the following terms:

*“For the synchronization with the grid, power shall be provided for a **maximum period of 2 hours on each occasion.**”*

83. The above provision of RE Regulations read with Tariff Order clearly implied that a generator was only entitled to draw power at the tariff specified in HV-7 Tariff

schedule only upto 2 hours for the purposes of synchronisation and for power drawn beyond 2 hours, the generators were to be billed at the rate applicable to temporary connection under HT Industrial category, namely, HV-3.1 category.

84. In terms of the above, the Answering Respondent was required to bill as per HV-7 and HV-3.1 Tariff Schedules considering the two periods, namely, two hours and beyond. The Answering Respondent, due to inadvertence, continued to bill the Generators, including the Appellant, only as per HV-7 tariff irrespective of the fact whether the Generators was drawing power for 2 hours or for a period beyond 2 hours.

85. In September 2019, the Answering Respondent, realising the above billing error, corrected the applicable tariff and started raising the monthly bills considering the power drawn for a period 2 hours and beyond 2 hours. Thereafter from 05.10.2019, the Answering Respondent also issued supplementary bills to the Generators, including the Appellant for the period from April 2017 to August 2019. The issuance of supplementary bills by the Answering Respondent was challenged by the Renewable Generators, including the Appellant, by way of filing Petitions before the State Commission.

86. The State Commission, vide the impugned order dated 05.01.2021, after going through the submissions and contentions of the Appellant and the Respondents has held that for every instance of power drawl for synchronisation upto 2 hours, the tariff as per HV-7 Schedule is applicable but thereafter for the period of continuous power drawl beyond two hours tariff at the rate of HV 3.1 (H.T Industrial Category) would be applicable. Thus, the revised supplementary bills

issued by the Answering Respondent are in consonance with the RE Regulations and Tariff Orders issued by the State Commission and therefore, need not be set aside or quashed.

87. As stated above, Regulation 10 of the RE Regulations as amended by the 7th Amendment, specifies that the power availed by the Generator for synchronisation of the generating plant to the grid is to be billed as per the Tariff Schedules specified in the Tariff Orders passed by the State Commission from time to time.

88. The tariff orders issued between FY 2017-18 to 2019-20 provides for the maximum time during which the power can be availed by the generator for the purposes of synchronisation to avail HV-7 Category Tariff.

89. A combined reading of the RE Regulations and the tariff orders issued by the State Commission, by necessary implication, provides that if the power is drawn by the Generator for a period of 2 hours on every occasion, such drawal is required to be billed in terms of HV 7 Tariff Schedule and for power drawn beyond 2 hours to be billed at the rate applicable to temporary connection under HT Industrial category i.e. HV-3.1 Tariff schedule as specified in the tariff orders.

90. Contrary to the above, the Appellant's contention is that for the energy drawn by it from the grid, irrespective of the period or duration of the energy availed, it should be billed only as per Tariff Schedule HV-7 and not otherwise. The above contention is directly in conflict with the express provisions of the RE Regulations and Tariff Orders.

91. The intent behind limiting the power drawn for synchronisation purposes by the Generators to two hours in the tariff orders passed by the State Commission is also very clear as a generator should not take more than 2 hours to synchronise its plant with the grid.

92. In fact, the period of 2 hours as provided in the tariff order is on the higher side and if a generator is consuming power for more than 2 hours, it has to be necessarily billed separately in terms of the Regulation 10 of the RE Regulations.

93. Such tariff is rate applicable to temporary connections under Tariff Schedule HV-3.1 of the Tariff Orders passed by the State Commission from time to time.

94. In view of the above, the Answering Respondent has correctly billed the generators for power availed by them considering the two periods, namely, two hours and beyond two hours.

95. Further, if the contention of the Appellant is to be accepted, then the use of words billed for the period and at the rate in Regulation 10 of RE Regulations, 2017 read with the condition provided in the Tariff Order limiting the maximum drawl upto 2 hours would be rendered redundant.

96. It is well settled while interpreting provisions of a statute or a sub-ordinate legislation, the interpretation which renders the provisions of a Statute redundant, otiose or surplusage has to be avoided.

97. In regard to the above, the Answering Respondent craves leave of this Tribunal to refer to the relevant judgments at the time of hearing.

98. As submitted hereinabove, the tariff as determined in terms of the RE Regulations and the Tariff Order is required to be paid by the Generators such as the Appellant.

99. The Answering Respondent has only sought to recover such charges as determined by the State Commission and there is no excess recovery. The Supplementary Invoices raised by the Answering Respondent for the correct amount cannot be invalid merely because they were raised subsequently.

100. The original invoices were raised on the basis of HV-7 Tariff Schedule inadvertently without factoring in the period for which the power was consumed by the Generators. However, once the mistake was realized, the Answering Respondent raised Supplementary Invoices for the differential charges for the period in issue.

101. The Answering Respondent has not retrospectively revised or amended the charges payable by the Generators. There is no revision in the applicable tariff but the Answering Respondent is merely seeking to recover the applicable charges as per the Tariff Order.

102. There had been an under-recovery of the tariff for the relevant period and the Answering Respondent had sought to recover the said amount. The Answering Respondent cannot be prevented from recovery of legitimate dues.

103. The issue is, therefore, not of retrospective effect but of correction of the invoices. The obligation of the Answering Respondent to ensure supply of power cannot mean that the Answering Respondent is not liable to make payments for tariff as determined by this Commission.

104. The principle of recovery through revised invoices has already been upheld by this Tribunal in judgment and order dated 15.03.2019 in Ultratech Cement Limited -v- Gujarat Electricity Regulatory Commission and Another in Appeal No. 83 of 2018, as under:

62. In the instant case, the second Respondent/SLDC has only collected the transmission charges as per the GERC Open Access Regulations and Tariff Orders passed by the first Respondent/GERC. It is significant to note that, if by inadvertence, there was under-recovery of the amounts; the differential amount can be recovered subsequently by raising corrected invoices/supplementary invoices. Therefore, the obligation of the Appellants/short term open access customer to pay the transmission charges as per the GERC Open Access Regulations and Tariff Orders. They cannot deny the liability merely because the invoice was raised subsequently. The invoices raised by SLDC are not invalid merely because they were raised subsequently. This is particularly when the claim for transmission charges had not been time barred. There had been an under-recovery of the transmission charges for the relevant period and the second Respondent/SLDC had sought to recover the said amount. The second Respondent/SLDC cannot be prevented from

recovery of legitimate dues. Therefore, the contention of the Appellant claiming application of promissory estoppel is misconceived and there was no application of such concept of estoppel in the instant case on the ground that the Appellant had not raised the issue of doctrine of estoppel/promissory estoppel in the Petition before the State Commission or even in the Memorandum Appeal before this Tribunal.....

105. The Tribunal had also rejected the contention of doctrine of promissory estoppel:

63.*It is well settled principle that any amount paid/received without authority of law has to return and can be adjusted as held by the Hon'ble Supreme Court in the case of Chandi Prasad Uniyal v State of Uttarakhand and Others (2012) 8 SCC 417, which reads as under:*

“14. We are Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. Any amount paid/received without the authority of law can always be recovered barring few exceptions of extreme hardship but not as a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment”

(Emphasis Supplied)

Therefore, the ground and the submissions/stands taken by the learned counsel for the Appellant regarding Doctrine of Estoppel/Promissory Estoppel cannot be acceptable and it is liable to be rejected at threshold.

106. It has been held by the High Courts that a benefit given or excess payment made by mistake cannot act as estoppel for correction of such mistake. The Answering Respondent craves leave to refer to the judgments passed by the Courts in this regard at the time of hearing.

107. The reliance on the Appellant on Section 56 (2) Electricity Act, 2003 is wrong, baseless and contrary to the express provision. Section 56 (2) provides that a licensee can recover a sum from any consumer till a period of 2 years from the date when such sum became first due.

108. In the present case, the amount only became due after issuance of supplementary bills by the Answering Respondent on 05.10.2019 and not anytime before. Therefore, unless any demand is raised specifying the time limit for payment, no such demand can be said as 'due' and person consuming electricity cannot be termed in default of any payment.

109. In regard to above, the following judgments are relevant:

- (a) Judgment of the Hon'ble Supreme Court in M/s. Swastic Industries -v- Maharashtra State Electricity Board, (1997) 9 SCC 465;
- (b) Decision dated 14.11.2006 of the Hon'ble Tribunal in Appeal Nos. 202 & 203 of 2006 in the case of Ajmer Vidyut Vitran Nigam Limited -v- M/s Sisodia Marble & Granites Pvt. Ltd. & Ors.

The above order of the Tribunal was challenged by the consumers before Supreme Court in Civil Appeal No. D.No.13164 of 2007. Vide order dated 17.05.2007, the Supreme Court dismissed the Civil Appeal upholding the

order of Tribunal; and

- (c) Decision dated 13.07.2006 of the High Court of Madhya Pradesh Bench at Gwalior in the case of Kapoor Saw Manufacturing Co. -v- Madhya Pradesh State Electricity Board and others, (2006 SCC Online MP 612)

110. In view of the above settled principles, the amount becomes first due only when the notice of demand/supplementary bill is raised. In the present case, supplementary bill is raised on dated 05.10.2019 and therefore, the amount became **first due only on 05.10.2019**. Thus, the Appellant cannot plead that recovery is time-barred under Section 56(2) of the Electricity Act, 2003. The Answering Respondent craves leave to refer to the other judgments passed by the Hon'ble Courts on the issue of limitation at the time of hearing.

111. In view of the above, the para-wise reply is as under:

Para 1:	With regard to Para 1 of the Appeal, it is submitted that there is no merit in the Appeal filed by the Appellant. The impugned order dated 05.01.2021 passed by the State Commission is well reasoned and based on the regulations and earlier tariff orders passed by the State Commission. The submissions made hereinabove are reiterated. The Answering Respondent craves leave to refer to the contents of the impugned order dated 05.01.2021 at the time of hearing for its true scope and intent. Each and every allegation to the contrary is wrong and denied.
Paras 2-6:	The contents of Paras 2 to 6 of the Appeal do not call for any reply.

Paras 7.1-7.4:	The contents of Paras 7.1 to 7.4 of the Appeal are matters of record and do not call for any reply.
Paras 7.5- 7.17:	<p>With regard to Paras 7.5 to 7.17 of the Appeal, the Answering Respondent craves leave to refer to the RE Regulations 2008, RE Regulations 2010, RE Regulations 2017, tariff orders passed by the State Commission from time to time, HT Agreement dated 12.07.2018 entered into between the Appellant and the Answering Respondent, Power Purchase Agreement ('PPA') dated 10.02.2017 entered into between the Appellant and the Respondent No. 3 during the hearing for their true scope and interpretation.</p> <p>It is not denied that the billing done by the Answering Respondent for the power drawn by the Generator is required to be done as per Tariff Schedule HV-7 in terms of the RE Regulations and the tariff orders issued by the State Commission. However, the applicability of Tariff Category HV-7 is restricted to 2 hours of continuous drawl by the Generator on each occasion. In the eventuality of exceeding 2 hours, the Generator is to be billed by Tariff Schedule HV-3.1, in terms of the RE Regulations (as amended).</p> <p>The preliminary submissions made hereinabove are reiterated. Each and every contention to the contrary is wrong and denied.</p>

<p>Para 7.18 and 7.19:</p>	<p>With regards to the contents of Paras 7.18 and 7.19 of the appeal, it is reiterated that the Answering Respondent has only sought to recover such charges as determined by the State Commission and there is no excess recovery. The Supplementary Bills raised by the Answering Respondent for the correct amount cannot be invalid merely because they were raised subsequently. The Answering Respondent has not retrospectively revised or amended the charges payable by the Generators. There is no revision in the applicable tariff but the Answering Respondent is merely seeking to recover the applicable transmission charges as per the Tariff Order.</p> <p>It is wrong and denied that the invoice dated 05.10.2019 is illegal or arbitrary or contrary to the provisions of the RE Regulations or Tariff Orders. The preliminary submissions made in this regards are reiterated. Each and every contention to the contrary is wrong and denied.</p>
<p>Para 7.20 - 7.21:</p>	<p>The contention of the Appellant, as sought to be raised in Paras 7.20 to 7.21 of the Appeal, that the issue involved in the present Appeal has already been decided by order dated 16.12.2019 passed by the State Commission in Petition No. 29 of 2019 is baseless, wrong and denied.</p> <p>The Petition No. 29 of 2019 was primarily filed by the Respondent No. 3 along with the Answering Respondent seeking an amendment in the RE Regulations and Revision in the tariff conditions under HV-7 Tariff Schedule.</p>

The Petition No. 29 of 2019 was summarily disposed off by the State Commission, inter-alia, holding as under:

“5. During the course of hearing held on 6th December’2019, the Commission has noted that the petitioners are seeking revision/clarification in retail supply tariff order for FY 2018-19 issued on 3rd May’ 2018. The subject petition has been filed after a period of more than a year and the billing to respective category of consumers have been done based on the provisions in the tariff order and the Regulations mentioned in the subject petition. Further, no reference has come before the Commission either from the petitioners or the consumers by way of any petition during applicability of said tariff order. Besides, the next retail tariff supply order for FY 2019-20 was issued on 8th August’ 2019. Further, process for next year’s tariff order has already been started as a petition (Petition No. 49 of 2019) for determination of ARR and retail supply tariff for FY 2020-21 has been filed by the petitioners on 29th November’ 2019 and the same is fixed for motion hearing on 11.12.2019.

6. In view of above background and developments, the petitioners may approach the Commission with regard to their contention for HV-tariff by way of an appropriate proposal in their tariff petition for FY 2020-21 filed with the Commission on 29.11.2019. With regard the prayer seeking amendment in MPERC (Co-generation and Generation of Electricity from

Renewable Sources of Energy) (Revision 1) Regulations, 2010, the Commission shall examine the aforesaid prayer of the petitioners in light of respective provisions under tariff order to be issued and may come up with an appropriate draft amendment if required, so that appropriate amendment in the Regulations may be made after providing opportunity to all stakeholders including the intervenors in the subject petition to offer their comments/objections through the process of public hearing.”

The decision of the State Commission in the order dated 16.12.2019 does not, in any manner, impact the decision rendered by the State Commission in the impugned order dated 05.01.2021. In Petition No. 29 of 2019, the Respondents had sought for the State Commission to exercise its regulatory power in order to remove difficulties in implementation of Regulation 10 of the RE Regulations. The State Commission vide the order dated 16.12.2019, did not consider the prayer of the Respondents and observed that it shall consider the prayers while passing the tariff order for the subsequent tariff orders and the Regulations. In terms of the order dated 16.12.2019, the State Commission, while passing the tariff order for the FY 2020-21, has removed the condition of drawl of 2 hours from the Tariff Category HV-7 and has introduced the following amendment:

“The supply for synchronization with the grid shall not exceed 15% of the capacity of the Power Plant. In case of drawl of

power above 15% of the capacity of the power plant on any occasion, the excess energy drawn during the billing month shall be billed at the rate of 2 times of the normal energy charges.”

In view of the above, the applicable amendments in the tariff order can only be implemented by the Answering Respondent for the FY 2020-21 and not for the period before such amendments. For the period before issuance tariff order for FY 2020-21, the Answering Respondent is bound to bill the Generators in terms of the RE Regulations and the tariff orders issued from time to time.

Further, the above order dated 16.12.2019 passed in Petition No. 29 of 2019, in any event, cannot operate as res-judicata for the Answering Respondent or for the State Commission to pass the impugned order dated 05.01.2021 as the order dated 16.12.2019 was passed in a matter wherein the Respondents had sought for the exercise of regulatory jurisdiction by the State Commission.

Without prejudice to the above, it is relevant to place on record that the above subsequent order issued for FY 2020-21 is not a confirmation that the State Commission had considered that for the earlier period also, there should be only one tariff irrespective of the number of hours for which the synchronisation power is drawn. In the said order for the FY 2020-21, the State Commission has amended the entire tariff design under the category of HV-7 Tariff Schedule, made appropriate changes in

	<p>the tariff applicable for power drawn by the Generators, including for synchronisation, bringing them in two categories, (a) when such power drawn does not exceed 15% of the total generation from the generating station of the generator; and (b) when it exceeds the said 15%. The limitation and billing as per number of hours has now being amended and substituted in terms of the percentage of the generation. Accordingly, reliance placed by the Appellant on the said order to justify its claim is misplaced.</p> <p>The Answering Respondent craves leave to refer to the order dated 16.12.2019 and judgments passed by the Hon'ble Courts on the principles of res-judicata at the time of hearing.</p> <p>All allegations to the contrary are wrong and denied.</p>
<p>Paras 7.22- 7.24:</p>	<p>The contents of Paras 7.22 to 7.24 of the Appeal deal with the supplementary bill issued by the Answering Respondent and the proceedings before the State Commission. The Answering Respondent craves leave to refer to the supplementary bill, the pleadings filed before the State Commission and the order passed by the State Commission at the time of hearing. A copy of the Reply and the Written Submissions filed by the Answering Respondent before the State Commission are collectively attached hereto and marked as Annexure R-2/1 (Colly.).</p> <p>With regard to the validity of the Supplementary Bills raised by the Answering Respondent the preliminary submissions made in that</p>

	regards are reiterated. Each and every contention to the contrary is wrong and denied.
<p>Paras 8.1 to 8.11:</p>	<p>The contents of Paras 8.1 to 8.11 of the Appeal are wrong and denied. It is wrong and denied that billing done by the Answering Respondent is without considering the phrase ‘on each occasion’. Further, denied that the supplementary bills issued by the Answering Respondent or the impugned order dated 05.01.2021 passed by the State Commission need to be set aside. The Answering Respondent had rightly issued the supplementary bills in terms of the Regulation notified by the State Commission and the tariff orders passed from time to time.</p> <p>As stated hereinabove, a combined reading of the 7th Amendment to the RE Regulations and the Tariff Order issued for FY 2017-18 to FY 2019-20 provides that a generator is only entitled to draw power at the tariff specified in HV-7 Tariff schedule for upto 2 hours for the purposes of synchronisation and for power drawn over and above 2 hours, the generators are to be <u>billed at the rate applicable to temporary connection under HT Industrial category.</u></p> <p>The Tariff Schedule dealing with the above category is temporary HV-3.1 category. In terms of the above, the Answering Respondent was required to bill as per HV-7 and HV-3.1 Tariff Schedules accordingly.</p> <p>The argument of the Appellant that a Generator cannot be limited to draw power for synchronisation only for a period of two hours; that there are only three purposes for which a generator can be</p>

billed and therefore, HV 3.1 Tariff Schedule is not attracted to the power drawn by the Generator is contrary to the simple language and basic intent of the Regulations and tariff orders issued by the State Commission. It is submitted that if such contention is to be accepted, then the use of words billed for the period and at the rate in Regulation 10 of RE Regulations, 2017 and the limitation of 2 hours as provided in Tariff Schedule HV-7 would be rendered redundant.

With regard to the contention of the Appellant that Regulation 10 of the RE Regulations (as amended) is an exhaustive provision and therefore only the Regulation is to be looked at and not the tariff order is contrary to the plain reading of Regulation 10 (as amended). Regulation 10 itself provides for the modalities of prescribing the duration and the tariff rate to the tariff orders to be passed by the State Commission.

It is wrong and denied that Regulation 10 of the RE Regulations (as amended) does not intend and restrict the

Duration for which the power shall be availed for synchronisation.

It is wrong and denied that if a limit of 2 hours is effectuated, there is a tariff gap or otherwise. The State Commission has rightly interpreted the RE Regulations (as amended) and the tariff orders issued by it. It is wrong and denied that the supplementary bills issued by the Answering Respondent is based on the incorrect interpretation of the RE Regulations and the Tariff Orders issued by the State Commission.

	<p>It is reiterated that the period of 2 hours as provided in the tariff order is on the higher side and if a generator is consuming power for more than 2 hours, it has to be billed separately in terms of the Regulation 10 of the RE Regulations as amended by the 7th Amendment.</p> <p>The Answering Respondent craves leave of this Hon'ble Tribunal to refer to the decision dated 12.02.2020 of the Hon'ble Tribunal in Appeal No. 112 of 2017 at the time of hearing for its true scope and intent.</p> <p>The reliance of the Appellant on the judgment of the Hon'ble Supreme Court in Babu Verghese and Ors. -v- Bar Council of Kerala and Ors (1999) 3 SCC 422 and the decision dated 18.02.2013 of the Hon'ble Tribunal in Appeal No. 33 of 2012- M/s Godawari Power & Ispat Ltd. -v- Chhattisgarh State Electricity Regulatory Commission and Ors. is misplaced. The Answering Respondent craves leave to refer to the above decision of the Hon'ble Supreme Court at the time of hearing for its true scope and intent.</p> <p>The preliminary submissions in regard to the scope and interpretation of the RE Regulations are reiterated. The Answering Respondent craves leave to refer to the RE Regulations and the tariff orders for their true scope and intent. Each and every contention to the contrary is wrong and denied.</p>
<p>Para 8.12:</p>	<p>The contents of Para 8.12 of the Appeal are wrong and denied. The reliance placed by the Appellant on the orders passed by the</p>

	<p>State Commission in Petition Nos. 20 of 2016, 22 of 2016, 42 of 2016 and 50 of 2016 is misplaced.</p> <p>It is submitted that, in none of the orders referred by the Appellant, the State Commission has adjudicated the issue under consideration in the present Appeal.</p> <p>The above orders have been passed on the interpretation of the un-amended Regulation 10 of the RE Regulation notified by the State Commission and not on the interpretation of the amended Regulation 10 as done by the State Commission in the impugned order dated 05.01.2021. Further, the State Commission has merely held that billing should be done as per provisions of tariff schedule HV-7. It is submitted that the billing done by the Answering Respondent is in accordance with the provision of HV-7 only as HV-7 Tariff Schedule provides restriction on the drawal of power upto 2 hours for synchronisation purposes and drawl beyond 2 hours to be billed in accordance with the Regulation 10 as amended i.e. at the rate applicable to the temporary connection under Tariff Schedule HV-3.1 category.</p> <p>The Answering Respondent craves leave to refer to the orders passed by the State Commission in Petition Nos. 20 of 2016, 22 of 2016, 42 of 2016 and 50 of 2016 at the time of hearing for their true scope and meaning.</p> <p>Each and every allegation to the contrary is wrong and denied.</p>
<p>Para 8.13:</p>	<p>With regard to Para 8.13 of the Appeal, it is not denied that the limitation of 2 hours existed in all tariff orders passed by the State</p>

	<p>Commission since 24.05.2014 for FY 2014-15 till the passing of the tariff order for FY 2019-20.</p> <p>As stated earlier, the Answering Respondent was required to bill as per HV-7 and HV-3.1 Tariff Schedules considering the two periods, namely, two hours and beyond. The Answering Respondent, due to inadvertence, continued to bill the Generators, including the Appellant, only as per HV-7 tariff irrespective of the fact whether the Generators was drawing power for 2 hours or for a period beyond 2 hours. Thereafter, in September 2019, the Answering Respondent, realising the billing error, corrected the applicable Tariff and started raising the monthly bills considering the power drawn for a period 2 hours and beyond 2 hours.</p> <p>Further, the 7th amendment to the RE Regulation prescribing the differentiation between the power supplied for synchronisation and power supplied in all other cases based on the duration of the power supply was only notified in the Year 2017.</p> <p>The State Commission in the Petition No. 20, 22,42 and 50 of 2016 nowhere held that billing is to be done without considering the limit of 2 hours provided in the HV-7 Tariff Schedule.</p> <p>The preliminary submissions made hereinabove are reiterated. Each and every allegation to the contrary is wrong and contrary.</p>
<p>Para 8.14</p>	<p>With regard to Para 8.14 of the Appeal, it is submitted that Regulation 10 as amended provides that apart from rate, period shall be as per Tariff Order. Further, the Tariff Orders specifically</p>

	<p>provided for the condition of 2 hours as the limitation for drawing synchronisation power. Therefore, beyond 2 hours, the power drawn to be charged at the rate applicable to temporary connections under HV-3.1 Tariff Category. This was clearly intended in the Tariff Orders. Though the Tariff Orders dealing with HV-7 Tariff Category also dealt with 15% limit, there was no provision in Regulation 10 or in HV-7 Tariff Category as to the manner in which the tariff of tariff category is to be charged if the power is drawn in excess of 15%. This excess drawl was therefore dealt under the conditions of 2 hours. There is, therefore, no conflict or inconsistency in the tariff categorisation or conditions contained in the tariff orders. It is therefore wrong on the part of the Appellant to allege that, in view of the 15% of the capacity provided, the prescription of 2 hours limitation was absurd or unfair or otherwise for drawal of power towards synchronisation. It is also wrong and denied that such prescription is beyond the scope of Regulation 10 of RE Regulations or otherwise without any basis or logic. It is also wrong and denied that the Answering Respondent have given a wrong interpretation to the conditions for availing HV-7 Tariff Category. Each and every contention to the contrary is wrong and denied.</p>
<p>Paras 8.15:</p>	<p>The contents of Para 8.15 of the Appeal are not denied. It is submitted that the Answering Respondent is billing the Generators for the FY 2020-21 in terms of the tariff order dated 17.12.2020 only. However, the said tariff order is applicable with</p>

	<p>effect from 26.12.2020 and cannot be applied for the tariff period when the tariff orders provided for different stipulations.</p> <p>As mentioned hereinabove and without prejudice to the above, it is submitted that the subsequent order dated 17.12.2020 issued for FY 2020-21 is not a confirmation that the State Commission had considered that, for the earlier period also, there should be only one tariff irrespective of the number of hours for which the synchronisation power is drawn. In the said order for the FY 2020-21, the State Commission has amended the entire tariff design under the category of HV-7 Tariff Schedule, made appropriate changes in the tariff applicable for power drawn by the Generators, including for synchronisation, bringing them in two categories, (a) when such power drawn does not exceed 15% of the total generation from the generating station of the generator and (b) when it exceeds the said 15%. Accordingly, reliance placed by the Appellant on the said order to justify its claim is misplaced.</p> <p>Each and every allegation to the contrary is wrong and denied.</p>
<p>Paras 8.16- 8.19:</p>	<p>With regard to the contents of Paras 8.16 to 8.19 of the Appeal, it is wrong and denied that the methodology adopted by the Answering Respondent is contrary to the provisions of the Electricity Act, 2003; or the HT Agreement; or the PPA entered into between the Appellant and the Respondent No. 3. It is wrong and denied the Answering Respondent has changed the tariff category of the Appellant or otherwise. The supplementary bills issued by the Answering Respondent are in strict compliance of</p>

	<p>the RE Regulations read with the Tariff Orders issued by the State Commission.</p> <p>It is wrong and denied that the Regulation 10 (as amended) of the RE Regulations has been amended or modified by way of the impugned order dated 05.01.2021 or otherwise. It is submitted that a bare reading of Regulation 10 itself provides for the modalities of prescribing the duration and the tariff rate to the tariff orders to be passed by the State Commission. In terms thereof, the tariff order, by necessary implication, will have to be read as a part of and furthering the scope of Regulation 10 (as amended) of the RE Regulations. It is wrong and denied that the levy of tariff by the Answering Respondent in terms of the RE Regulations and the Tariff Orders issued by the State Commission is against the mandate of Section 86(1)(e) of the Electricity Act, 2003 or otherwise.</p> <p>Each and every allegation to the contrary is wrong and denied.</p>
Para 8.20:	The contents of Para 8.20 do not call for any reply.
Para 8 (b):	With regard to Para 8 (b) of the Memorandum of Appeal, it is wrong and denied that any questions of law arise for consideration of this Hon'ble Tribunal. As submitted hereinabove, the RE Regulations and the Tariff Orders issued by the State Commission do provide for the Answering Respondent to bill the Generators for power drawn for synchronisation beyond 2 hours

	<p>at the rate applicable to temporary consumers i.e. Tariff Category HV 3.1.</p> <p>It is wrong and denied that the State Commission has failed to consider the provisions of the PPA dated 10.02.2017 or the HT Agreement dated 12.07.2018.</p> <p>It is wrong and denied that there exists no provision in the RE Regulations or the Tariff Order to bill the Generators at the rate applicable to temporary consumers.</p> <p>It is wrong and denied that the State Commission has failed to protect the interest of the Generators as mandated under Section 86(1)(e) of the Electricity Act, 2003 or otherwise.</p>
Para 9:	<p>The contents of Para 9 of the Appeal are repetitive and vexatious in nature.</p> <p>It is wrong and denied that the impugned order passed by the State Commission is erroneous or fails to protect the interest of the Appellant.</p> <p>It is also wrong and denied that the impugned order is contrary to the HT Agreement entered into between the Appellant and the Answering Respondent; or the PPA dated 10.02.2017 entered into between the Appellant and the Respondent No. 3.</p> <p>It is reiterated that the State Commission has rightly interpreted the RE Regulations and the Tariff Orders issued by it. The language of the above two read together clearly provides for the levy of HV-7 Tariff Schedule in case the Generator avails power for 2 hours and in case of power consumed beyond than 2 hours, HV-3.1 Tariff Schedule is to apply.</p>

It is wrong and denied that the consideration of 2 hours by the State Commission for power drawn for synchronisation for every day is contrary to Regulation 10 of the RE Regulations. The Regulation 10 provides for purposes for which the power can be drawn. Whereas the tariff applicable, namely the tariff design and the tariff category which would apply to the power drawn is to be decided by the State Commission from time to time in the tariff orders. The provisions of HV-7 Tariff Schedule at the relevant time were clear, namely, for any power drawn beyond 2 hours, HV-7 Tariff Schedule will not apply and the relevant category will be temporary HV-3.1 Tariff Schedule. It is wrong and denied that the above Tariff Order designing the tariff in the manner mentioned above is in any manner penal in nature.

It is reiterated that the contention of the Appellant that Regulation 10 of the RE Regulations (as amended) is an exhaustive provision and therefore only the Regulation is to be looked at and not the tariff order is contrary to the plain reading of Regulation 10 (as amended). Regulation 10 itself provides for the modalities of prescribing the duration and the tariff rate to the tariff orders to be passed by the State Commission. In terms thereof, the tariff order, by necessary implication, will have to be read as a part of and furthering the scope of Regulation 10 (as amended) of the RE Regulations.

It is wrong and denied that the Regulation 10 (as amended) of the RE Regulations has been amended or modified by way of the impugned order dated 05.01.2021 or otherwise. It is submitted

that a bare reading of Regulation 10 itself provides for the modalities of prescribing the duration and the tariff rate to the tariff orders to be passed by the State Commission. The Answering Respondent reiterates the submissions made in reply to Paras 8.16 to 8.19 hereinabove.

The reliance placed by the Appellant on the orders passed by the State Commission in Petition Nos. 20 of 2016, 22 of 2016, 42 of 2016 and 50 of 2016 is misplaced.

It is submitted that, in none of the orders referred by the Appellant, the State Commission has adjudicated the issue under consideration in the present Appeal. The Answering Respondent reiterates the submissions made in reply to Para 8.12 hereinabove.

It is wrong and denied that the billing done by the Answering Respondent is arbitrary, unfair or otherwise.

The reliance placed by the Appellant on the decision dated 16.12.2019 passed in Petition No. 29 of 2019 is wrong and baseless. The Answering Respondent reiterates the submissions made hereinabove in reply to Paras 7.20 to 7.21.

It is not denied that the limitation of 2 hours existed in all tariff orders passed by the State Commission since 24.05.2014 for FY 2014-15 till the passing of the tariff order for FY 2019-20. However, the Answering Respondent inadvertently had not taken into consideration such limit of two hours. Further, the 7th amendment to the RE Regulation prescribing the differentiation between the power supplied for synchronisation and power

supplied in all other cases based on the duration of the power supply was only notified in the Year 2017. The Answering Respondent reiterates the submissions made hereinabove in reply to Para 8.13.

It is submitted that the Regulation 10 as amended provides that apart from rate, period shall be as per the Tariff Order. Further, the Tariff Orders specifically provided for the condition of 2 hours as the limitation for drawing synchronisation power and beyond 2 hours, the power drawn to be charged at rate applicable to temporary connection under HV-3.1 Tariff Category. This was clearly intended in the Tariff Orders. Though the Tariff Orders dealing with HV-7 Tariff Category also dealt with 15% limit, there was no provision in HV-7 Tariff Category as to the manner in which the tariff of tariff category is changed if the power is drawn in excess of 15%. This excess drawl was therefore dealt under the conditions of 2 hours. There is, therefore, no conflict or inconsistency in the tariff categorisation or conditions contained in the tariff orders. It is therefore wrong on the part of the Appellant to allege that, in view of the 15% of the capacity provided, the prescription of 2 hours limitation was absurd or unfair or otherwise for drawal of power towards synchronisation. It is also wrong and denied that such prescription is beyond the scope of Regulation 10 of RE Regulations or otherwise without any basis or logic. It is also wrong and denied that the Answering Respondent have given a wrong interpretation to the conditions for availing HV-7 Tariff Category. It is wrong and denied that answering respondent

is not implementing the phrase “each occasion”. Each and every allegation to the contrary is wrong and denied. It is wrong and denied that the impugned order dated 05.01.2021 is contrary to the mandate of the Electricity Act, 2003 or otherwise. It is wrong and denied that the tariff order is in conflict with the regulations or otherwise.

It is wrong and denied that the Answering Respondent has sought to apply two different categories. The RE Regulations read with the Tariff Orders specifies that for the power drawn by the Generators for 2 hours-HV 7 Tariff Schedule will apply and for drawl beyond 2 hours, HV-3.1 Tariff Schedule is to apply.

It is submitted that the Answering Respondent has only recovered the tariff as prescribed in the RE Regulations read with the Tariff Orders.

It is submitted that the State Commission has rightly held that the Answering Respondent was correct in issuing supplementary bills. It is wrong and denied that the supplementary bill dated 05.10.2019 is illegal or contrary to Section 56(2) of the Electricity Act, 2003. The Answering Respondent reiterates the submissions made hereinabove.

It is wrong and denied that the levy of tariff in terms of the RE Regulations and Tariff Order is extraordinary or punitive or conducive to the promotion of renewable generation.

It is wrong and denied that the impugned order is contrary to Section 45 or Section 62(3) of the Electricity Act, 2003.

	<p>The Answering Respondent craves leave of this Hon'ble Tribunal to refer to the decision dated 12.02.2020 of the Hon'ble Tribunal in Appeal No. 112 of 2017 at the time of hearing for its true scope and intent.</p> <p>It is wrong and denied that there is inherent or otherwise any contradiction in the impugned order dated 05.01.2021 passed by the State Commission.</p> <p>Each and every allegation to the contrary is wrong and denied.</p>
Paras 10-20:	The contents of Paras 10 to 20 of the Appeal do not call for any reply.
Para 21:	The contents of Para 21 of the Memorandum of Appeal are wrong and denied. It is denied that the Appellant is entitled to any relief as alleged or otherwise. The appeal filed by the Appellant is liable to be dismissed with cost. There is no merit in the grounds raised or relief prayed for by the Appellant.

Observations & Conclusion

112. The reply filed by the other Respondents is identical to what has been filed by MPPKVCL, their replies have also been examined in detail and the issues based on the issues raised in these batch of appeals and the replies of the Respondents, the following have to be noted and resolved:

- a. Whether the State Discoms are now raising the defence by citing inadvertent error as against earlier submission before the State Commission that it is difficult to determine power supply cost in the light of 2 hours restriction?
- b. Whether the State Commission is right in allowing retrospective billing, even when the Discoms has raised the issue of difficulty in raising bills in accordance with Regulations and tariff orders?
- c. Is the condition of 2 hours imposed by tariff order is in consonance to the Regulations *inter-alia* is deemed to be sub-ordinate legislation?

113. We are satisfied that the impugned WEGs are induction/asynchronous generators that need to be constantly energised and ready to generate when adequate wind is available, therefore, when adequate wind is not available, WEGs draw power from the grid to remain connected, in fact, it cannot be ascertained at what time the **power is drawn by these WEGs from the Grid for the purpose of synchronisation and when it is drawn for other reasons.**

114. We also agree with the contention of the Appellants that for the above reason, the Discoms were facing difficulty in billing in accordance with the Tariff Order imposing the condition of two hours on synchronization under Clause (e) of Tariff Order HV-7 and that too with the phrase “each occasion”.

115. The Appellant submitted that Respondent No. 2 submitted to the State Commission that it cannot distinguish when the power is drawn for synchronizations or when otherwise, further, Respondent No. 2 pleaded that there is no way for it to work out the fixed charge under Schedule HV 3.1, temporary

tariff category, which is based on contract demand, the Appellant does not have a contract demand, and its maximum demand is far from its average demand.

116. We have no reason to disagree with the above submission of the Appellant as also clear from the Impugned Order.

117. Undisputedly, the State Discoms were aware of the provisions contained in the Regulations and the Tariff inter-alia the condition of the two hours restriction, however, they failed to bill accordingly, and, therefore, after raising supplementary bills are citing the reasons as inadvertent error and thus, revision of earlier bills.

118. Such an argument cannot be accepted, it is an afterthought and not an inadvertent error, the State Commission in the Impugned Order has observed as follows:

“Earlier vide petition No.29/2019, MPPMCL and all the three state Discoms approached the Commission submitting that because of two types of billing methodology for power drawn for synchronization purpose and "other-than - synchronization" purposes, they were facing difficulty to implement the same. They stated that it becomes difficult to ascertain the purpose of drawl of power by a Generator in each occasion. During the initial period of two hours also the power being drawn by a generator may or may not be utilized for synchronization purposes. They further stated that only way to implement the provisions of the Regulations and the

Retail Supply Tariff Order is to assume that in first two hours power drawn is for synchronization purpose. They further stated that while carrying out billing at the rate applicable to temporary connection under HT Industrial category, it is not clear whether all terms and conditions prescribed in the Tariff Order for temporary consumer shall be applicable or tariff order shall be referred only to ascertain the rate of billing. Citing the difficulties being faced, they had prayed for amendment in the Regulations as well as in the Tariff Schedule HV-7.”

119. From the above, it is clear that:
- a. Because of two types of billing methodology for power drawn for synchronization purposes and "other-than synchronization" purposes, the Discoms were facing difficulty in implementing the same,
 - b. It is difficult to ascertain the purpose of the drawl of power by a Generator on each occasion,
 - c. During the initial period of two hours also the power being drawn by a generator may or may not be utilized for synchronization purposes,
 - d. They further stated that the only way to implement the provisions of the Regulations and the Retail Supply Tariff Order is to assume that in the first two hours power drawn is for synchronization purposes, and

e. Accordingly, prayed for amendment in the Regulations as well as in the Tariff Schedule HV-7.”

120. It, therefore, cannot be disputed that the billing, if at all been done, is based on an assumption that the drawl in the first two hours is for the purpose of synchronization as submitted by the Discoms and noted by the State Commission, without ascertaining the fact and reasons for such drawl – “**to implement the provisions of the Regulations and the Retail Supply Tariff Order is to assume that in first two hours, the power drawn is for synchronization purpose**”.

121. Also, it is recorded that it is difficult to ascertain the purpose of the drawl of power by a Generator on each occasion.

122. It is a fact that the time required for synchronization varies from Original Equipment Manufacturer (in short “OEM”) to OEM depending upon the technology used, in general, it varies from around 5 minutes to 15 minutes, certainly, not 2 hours, accordingly, it is difficult to ascertain the time required for each WEG by the Discom *inter-alia* bill accordingly.

123. No party can raise bills on assumptions, the service provided has to be on strict terms and billed on what has been actually provided.

124. Undisputedly, the State Discoms were aware of the provisions, however, due to impracticability in implementation of such provisions *inter-alia* carry out

the billing, they continue to raise bills ignoring the provision of limitation of 2 hours.

125. Therefore, it is totally misplaced and unacceptable arguments of the Discoms that due to inadvertent error *inter-alia* after being observed, the supplementary bills were raised.

126. Thus, the first issue (a) is decided against the Discoms, they cannot be allowed to take a plea that the supplementary bills are raised due to inadvertent error in the original bills.

127. Once, it is concluded that the submission of the Discoms regarding inadvertent error in raising the original bills is misplaced and incorrect, the decision of the State Commission to allow retrospective billing has to be *set aside*.

128. In fact, as submitted by the Appellant the unamended MPERC RE Regulation, 2010, provided that a generator may procure power only for shutdown and emergency, during that time, Respondent No. 2 started billing for the power drawn for reasons other than shutdown and emergency under the temporary tariff category, and accordingly, the 7th amendment was brought in in order to make the law laid down by the State Commission's Orders into the regulations itself, i.e. all power drawn from other than emergency and shut down being power drawn for synchronization was required to be billed under the HV-7 Category.

129. The Appellant submitted that such action contradicts the submissions of the Discom in Petition 29 of 2019 and the judgments it relied upon, which do not support retrospective tariff amendment or the implementation of a new tariff method retrospectively, notably, these judgments address defective meters, not the revision of the methodology or the tariff itself, which has been expressly prohibited by the Supreme Court in judgment 18.10.2022, in the matter of **BSES Rajdhani Power Ltd. vs Delhi Electricity Regulatory Commission (2023) 4 SCC 788**.

130. We agree that there was no mistaken billing that was sought to be corrected.

131. The Discom, however, submitted that it was in September 2019, after realizing the billing error, corrected the applicable tariff and started raising the monthly bills considering the power drawn for 2 hours and beyond 2 hours.

132. The above submission before us is crystal clear that the Discoms are now raising bills for two slabs for the power drawn by the WEGs i.e. for the first two hours assuming it to be for synchronization and beyond two hours as if the power is drawn for other purposes without ascertaining the factual position and reasons for such drawl.

133. Thereafter, the Discoms also issued supplementary bills to the Generators, including the Appellant for the period from April 2017 to August 2019.

134. On being asked about the basis of raising such bills, it was confirmed by the Discom that the bills are raised considering that power drawn during the first two hours is for the purpose of synchronization and beyond for other purposes.

135. The interpretation of the Discoms regarding the provision of the Regulation read with the Tariff Order is utterly misplaced and incorrect when they submitted that a combined reading of the RE Regulations and the tariff orders issued by the State Commission, by necessary implication, provides that if the power is drawn by the Generator for a period of 2 hours on every occasion, such drawl is required to be billed in terms of HV 7 Tariff Schedule and for the power drawn beyond 2 hours to be billed at the rate applicable to the temporary connection under HT Industrial category i.e. HV-3.1 Tariff schedule as specified in the tariff orders.

136. If we agree with the above interpretation there is no difference in drawl of power for the purpose of synchronisation from the drawl of power for other purposes, as such making the provision in the Regulation as redundant in terms of specifying the purpose.

137. As such, the action of the Discoms is contrary to the Regulations and the Tariff Order.

138. The State Commission after recording the fact that it is impractical to implement the provision and also the bills can be raised on certain assumptions, which may not be prudent and correct, has allowed the retrospective billing through the supplementary bills.

139. The Discoms specifically submitted that it is difficult to ascertain the purpose of the drawl of power by a Generator in each occasion, once it could not be ascertained, we decline to accept the submission that the same has been ascertained at a later date without any change in reasoning.

140. Even the State Commission realising the impracticability, re-examined the provision and modified it by a practical provision based on plant capacity percentage.

141. Therefore, the issue at (b) is decided against the decision of the State Commission.

142. The Appellants also challenged the introduction of a two-hour condition which they claim as contrary to the Regulation.

143. The Appellant placed reliance on the Supreme Court's judgment in ***The Authorised Officer, Central Bank of India vs. Shanmugavelu* 2024 SCC Online SC 92**, wherein it has been held that when a court encounters a provision, which, if interpreted according to the plain and literal meaning, might lead to constitutional or legal issues, the court may opt to read down the provision, hence, this Tribunal has the power to read down the irrationality of the 2-hour synchronization limitation, further reliance is placed on the judgment of the Supreme Court in ***PTC v. CERC (2010) 4 SCC 603*** wherein it states a regulation stands on a higher pedestal vis-a-vis order of Central Electricity Regulatory Commission, in the sense that an order passed by the Commission has to be in conformity with the regulation.

144. We agree with the contention of the Appellant that without knowledge of the purpose behind the power drawl, DISCOM lacks a reasonable basis to define 'each occasion', the argument that each power drawl marks the start of an 'occasion' of synchronization leads to an illogical conclusion, as synchronization by its nature implies that generation should immediately follow, ending the need for further drawl, therefore, interpreting the first two hours of each power drawl session as for synchronization contradicts the expectation that such drawl should culminate in the generation, rendering the 2-hour limitation on drawl for synchronization non-implementable.

145. The Appellant also submitted that this 2-hour restriction was incorporated in the 2012-2013 tariff order, however, never, incorporated into Regulation 10, unimplemented until 2020, therefore, clarifies that the regulations and the tariff order are not on the same pedestal and the application of such arbitrary constraints on synchronization, given the DISCOM's inability to identify the purpose of drawl, leaving 'each occasion' undefined and thus, unenforceable.

146. The Appellant also argued that the DISCOMs seek to enforce it from the date of the regulation amendment (in 2017) as though the regulation made it applicable, but there is no direct linkage between the amendment to Regulation 10 and the application of this 2-hour limitation in the tariff order.

147. The Appellant countered the State Commission's reference to the judgment in M/s Malwa Solar Power Generation Private Limited in Appeal No. 112 of 2017, by stating that the core issue addressed in the case was whether a renewable

generator could be billed under the HT industrial tariff category, the discussion revolved around the then-unamended Regulation 10, which allowed renewable generators to draw power exclusively for their use from the distribution licensee's network during plant shutdowns or emergencies, with the consumed energy being billed at the rate applicable to Temporary Connections under the HT Industrial Category.

148. We, however, decline to examine the said issue as is irrelevant in the light of the above observations.

149. Further, it cannot be denied that the Tariff Order has to conform with the Regulations, the Tariff Order cannot amend the Regulations by inserting conditions, which are otherwise also inconsistent with the Regulations and impractical to comply with.

150. Such conditions deserve to be set aside.

151. The submissions of other Respondents have also been considered and examined and found to be similar to what has been argued by MPPKVVCL, therefore, for the sake of brevity are not recorded in this judgment.

ORDER

For the foregoing reasons as stated above, we are of the considered view that the captioned Appeal Nos. 55 of 2021, 21 of 2021, 32 of 2021, 56 of 2021, 74 of 2021, 76 of 2021, 175 of 2021, 187 of 2021, 188 of 2021, 189 of 2021, 190 of

2021, 191 of 2021, 192 of 2021, 193 of 2021, 194 of 2021, 216 of 2022, 176 of 2021, 215 of 2022, and 174 of 2022 have merit and are allowed.

The Impugned Orders dated 08.08.2019, 05.12.2020, 18.12.2020, 28.12.2020, and 05.01.2021 passed by the Madhya Pradesh Electricity Regulatory Commission in Petition Nos. 8 of 2019, 43 of 2019, 48 of 2019, 51 of 2019, 13 of 2020, 14 of 2020, 32 of 2020, 33 of 2020, 34 of 2020, 35 of 2020, 36 of 2020, 37 of 2020, 38 of 2020, 39 of 2020, 40 of 2020, 48 of 2020, 56 of 2020, 51 of 2020 are set-aside.

All the supplementary bills as Impugned in these captioned Appeals are also set aside, the bills, in the light of the Impugned Order, have to be raised in accordance to the observation made herein above.

The captioned Appeals and pending IAs are disposed of accordingly.

PRONOUNCED IN THE OPEN COURT ON THIS 9th DAY OF JULY, 2024.

**(Virender Bhat)
Judicial Member**

**(Sandesh Kumar Sharma)
Technical Member**

pr/mkj