

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No. 156 of 2022

Dated : 15th February, 2024

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

In the matter of:

APPEAL No. 156 of 2022

M/s.Grace Infrastructure Pvt. Ltd
Rep. by its Chairman & Managing Director
Mr. A. L. Shah
A-5, Industrial Estate
Thattanchavady
Pondicherry – 605 009
Email : ruganandarya@gmail.com

... Appellant

Versus

1. TANGEDCO
Rep by its Chairman cum Managing Director
No. 144, Annasalai
Chennai- 600 002.
Email : chairman@tnebnet.org
2. The Director (Finance)
TANGEDCO
No 144, Annasalai
Chennai-600 002.
Email : dirfintangedco@tnebnet.org
3. The Chief Engineer (NCES)
TANGEDCO
No 144, Annasalai

Chennai-600 002.
Email : cences@tnebnet.org

4. The Superintending Engineer
TANGEDCO
Tirunelveli Electricity Distribution Circle
Tirunelveli- 627011.
Email : setin@tnebnet.org

5. The Superintending Engineer
TANGEDCO
Theni Electricity Distribution Circle
Theni- 625531.
Email : setheni@tnebnet.org

6. The Superintending Engineer
TANGEDCO
Dindigul Electricity Distribution Circle
Dindigul-624306.
Email : sedgl@tnebnet.org

7. Tamil Nadu Electricity Regulatory Commission
4th floor, SIDCO Corporate Office Building
Thiru. Vi. Ka Industrial Estate
Guindy, Chennai- 600 032
Email : tnerc@nic.in

...Respondents

Counsel on record for the Appellant(s) : K. Ravi, Sr. Adv.
Anand K. Ganesan
R Murugan
Swapna Seshadri for App. 1

Counsel on record for the Respondent(s) : Anusha Nagarajan for Res. 1
Anusha Nagarajan for Res. 2
Anusha Nagarajan for Res. 3
Anusha Nagarajan for Res. 4

Anusha Nagarajan for Res. 5

Anusha Nagarajan for Res. 6

JUDGEMENT

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. In this appeal, the Appellant has assailed the order dated 19th January, 2022 of the Learned Commission whereby, the Review Petition filed by the Appellant was dismissed and its application containing prayer for waiver of court fee affixed on the Review Petition was also dismissed.
2. In this appeal, the Appellant is aggrieved by the dismissal of its application for waiver of court fee affixed on the Review Petition.
3. The Appellant had filed a Petition bearing number D.R.P. No. 23 of 2020 before the Commission seeking directions to the respondents to pay a sum of Rs.80,81,31,929/- plus Rs.14,80,198.65/- being the balance amount due to it for the period from 16-03-2017 to 07-12-2020 for power supplied by it to the Respondents from its wind generation units. Vide order dated 6th July, 2021, the Commission has allowed the claim of the Appellant except to the extent of Rs.4,44,25,933/-, and the Appellant was held not entitled to the said

amount. The Appellant filed a Review Petition bearing No. 3 of 2021 before the Commission against the said portion of the impugned order rejecting its claim to the tune of Rs.4,44,25,933/-. The Review Petition was dismissed by the Commission vide order dated 19th January, 2022. While dismissing the Review Petition, the Commission also rejected the prayer of the Appellant for waiver of court fee.

4. We have heard the Learned Counsel for the parties and perused the impugned order as well as material on record.

5. The contention raised on behalf of the Appellant is that in terms of Regulation number 4(8)(i) of TNERC Fees and Fines Regulations 2004 as amended vide notification dated 4th June, 2014, no court fee was payable by the Appellant on the Review Petition but on insistence of the Registry of the Commission, it was compelled to pay a sum of Rs.8,09,613/- i.e. 10% of the court fee paid by it on DRP. Therefore, it was argued on behalf of the Appellant that the Commission has erred in not passing a direction for the return of the said court fee to the Appellant.

6. We are unable to countenance with the submission made on behalf of the Appellant in this regard.

7. The relevant Regulation number 4.8 of TNERC Fees and Fines Regulations 2004 as amended vide notification dated 4th June, 2014 is reproduced hereunder :-

<p><i>“For review or correction of any order of the Commission on account of typographical or clerical error or mistake</i></p>	<p><i>NIL</i></p>	<p><i>Fees for Review</i> <i>(i) for correction of any order of the Commission on account of typographical or clerical error or mistake</i></p>	<p><i>NIL</i></p>
		<p><i>(ii) Review petition filed by an individual against the orders of the Commission in a Miscellaneous Petition</i></p>	<p><i>Rs.200/-</i></p>
		<p><i>(iii) Review Petition filed by any organisation registered under the Companies Act, 1956 (C.A. 1 of 1956) or any firm or Corporate Body other than the entities covered by sub-item (iv) against the orders in a Miscellaneous Petition</i></p>	<p><i>Rs.3000/-</i></p>
		<p><i>(iv) Review Petition Filed by registered association of consumers or generators against the orders in a miscellaneous Petition</i></p>	<p><i>Rs.20000/-</i></p>
		<p><i>(v) Review Petition filed against the orders in a Dispute Redressal petition (DRP)</i></p>	<p><i>10% of the fees paid in the original DRP</i></p>

No change”

8. Perusal of the said Regulation would reveal that no court fees is payable under Regulation 4(8)(i) when a petition is filed for correction of any order of the Commission on account of typographical or clerical error or mistake. Regulation 4(8)(v) envisages payment of court fee @10% of the fee paid on the original DRP when the Review Petition is filed against the order passed in the DRP.

9. In the instant case, admittedly, the Appellant had filed the Petition No. 3 of 2021 seeking review of the order dated 6th July, 2021 passed by the Commission in DRP No. 23 of 2020. It is not the case of the Appellant itself that by way of the said Review Petition No. 3 of 2021, it has sought correction of the order of the Commission on account of any typographical or clerical error or mistake. To clarify, we reproduce here the prayer made by the Appellant in Review Petition 3 of 2021.

“This petition in R.P. No.3 of 2021 in D.R.P. No.23 of 2020 has been filed to review/modify the observation in para 6.1 of the order dated 06.07.2021 in D.R.P.No. 23 of 2020 that the petitioner has not denied their liability in respect of the demand for Rs.4,44,25,923/-, and instead may consider adding that the question regarding the petitioner’s liability for the sum of Rs.4,44,25,923/- may be left open. However, without prejudice to the petitioner’s contentions, the Respondents, for the present, may be given liberty to withhold such sum of Rs.4,44,25,923/- and may be directed to pay the balance as claimed in the Petition within the time already specified in the order.”

10. It is thus manifest that the Appellant has not sought correction of any typographical or clerical error or mistake in the order dated 6th July, 2021 but had sought review/modification of the said order on the ground mentioned in the Review Petition. Therefore, the court fee payable on the Review Petition has been rightly computed as 10% of the court fee paid by the Appellant on the original DRP in terms of Regulation 4(8)(v) of the above Regulations.

11. Hence, we do not find any legal flaw in the order of the Commission on this aspect. The Appeal is found to be devoid of any merit and is hereby dismissed.

Pronounced in the open court on this 15th day of February, 2024.

(Virender Bhat)
Judicial Member

(Sandesh Kumar Sharma)
Technical Member (Electricity)

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REPORTABLE / ~~NON-REPORTABLE~~

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