

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in/www.merc.gov.in**

Case No. 7 and 11 of 2017

Dated: 30 March, 2017

**CORAM: Shri Azeez M. Khan, Member
Shri Deepak Lad, Member**

In the matter of
Petition filed by Ms. Anila Gupta seeking clarification of the MERC Order dated 28.10.2016 in Case No. 33 of 2016 in the matter of Truing up of the Aggregate Revenue Requirement (ARR) for FY 2012-13 to FY 2014-15, Provisional Truing Up of FY 2015-16, approval of ARR and determination of Multi Year Tariff for the third Control Period FY 2016-17 to FY 2019-20.

(Case No. 7 of 2017)

In the matter of
Petition filed by Uttam Dnyanu Gaikwad seeking review of the MERC Order dated 28.10.2016 along with the Corrigendum Order dated 17th November 2016 passed in Case No. 33 of 2016 in the matter of Truing up of the Aggregate Revenue Requirement (ARR) for FY 2012-13 to FY 2014-15, Provisional Truing Up of FY 2015-16, approval of ARR and determination of Multi Year Tariff for the third Control Period FY 2016-17 to FY 2019-20.

(Case No. 11 of 2017)

Ms. Anila Gupta
Shri. Uttam Dnyanu Gaikwad

... Petitioners

V/s

BEST Undertaking

... Respondent

Appearance

For the Petitioners:

Shri. Arijeet Lala (Adv)

Ms. Raksha Jain (Adv)

Ms. Vaidehi Naik (Adv)

For the Respondent:

Shri. H. Toor (Counsel)

Authorized Consumer Representative:

Dr. Ashok Pendse, TBIA

Daily Order

The Commission heard both Cases together as the issues are similar and the Advocates for the Parties are the same. The Commission heard the Advocate of the Petitioners and Counsel of the Respondent.

The Advocate of the Petitioners re- iterated the submissions made in the Petitions. He sought clarification of the Multi- Year Tariff (MYT) Order in Case No. 33 of 2016 on the issue of refund of Transport Division Loss Recovery (TDLR) charges in Case No. 7 of 2017. Review of the Order in Case No. 33 of 2016 on the issue of refund of TDLR charge was sought in Case No. 11 of 2017.

The Advocate of the Petitioners stated that the TDLR charge does not come under Section 62 (1) of the Electricity Act, 2003 as it was not a cost of electricity. Hence the refund should be allowed as per Section 62(6). He cited the Supreme Court Judgment in the matter of NTPC. The refund of TDLR who has switched over from BEST is not provided in the MYT Order. Hence review is sought on the ground of error apparent on the face of record.

To query of the Commission, the Advocate of Petitioner stated that, while the Petition for clarification may not stand, the Review Petition may be allowed.

Counsel of BEST stated that the entire matter is covered by Section 62 of the Electricity Act, 2003. The matter of TDLR is pending before the Supreme Court of India and hence the case is premature and cannot be pursued as an academic exercise. The TDLR charge was approved by the Commission in the Tariff Order and hence cannot be treated as an amount over and above or separate from the Tariff as per Section 62(6) of the Electricity Act, 2003. He further stated that the Supreme Court's Order in the NTPC matter cited by the Advocate of the Petitioner is completely different and hence not relevant to this matter. Both the Petitions are misconceived and not maintainable.

Dr. Ashok Pendse (TBIA, Authorized Consumer Representative) reminded the Commission of the matter of RLC refund in past. The Commission observed that the RLC charge was different as it was initially levied on specific consumer categories.

Both the Cases are reserved for Orders.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Azeez M. Khan)
Member**