

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case Nos. 175, 178 and 179 of 2017**

**Date: 14 December, 2017**

**Coram: Shri Anand B. Kulkarni, Chairperson**  
**Shri Deepak Lad, Member**

**Interlocutory Application in CASE No. 175 of 2017**

Interlocutory Application of Sai Wardha Power Generation Limited seeking interim orders against the bills raised for cross-subsidy surcharge by MSEDCL and Tata Power for the year 2016-17

M/s. Sai Wardha Power Generation Limited (SWPGL) ..... Petitioner  
Maharashtra State Electricity Distribution Company Limited (MSEDCL)..... Respondent No-1  
Tata Power Company Limited. (TPC-D) ..... Respondent No-2

**Appearance**

For the Petitioner : Shri. Anand Ganesan, Adv.  
For the Respondent No-1 : Shri. Ashish Singh, Adv.  
For the Respondent No-2 : Shri Malcolm Desai, Adv.

**CASE No.178 of 2017**

Petition of INOX Air Products Private Limited seeking directions against MSEDCL for unjustified, illegal and arbitrary levy of Cross Subsidy Surcharge and Additional Surcharge on the open access consumption of the Petitioner for FY 2016-17 which is a part of Group Captive Power Plant by way of supplementary bill dated 05.12.2017.

M/s. INOX Air Products Private Limited (IAPPL) ..... Petitioner  
Maharashtra State Electricity Distribution Company Limited (MSEDCL) .... Respondent No- 1  
Sai Wardha Power Generation Limited (SWPGL) ..... Respondent No-2  
Maharashtra State Load Dispatch Center (MSLDC) ..... Respondent No-3

**Appearance**

For the Petitioner : Ms. Dipali Sheth, Adv.  
For the Respondent No-1 : Shri. Ashish Singh, Adv.  
For the Respondent No-2 : Shri. Anand Ganesan, Adv.  
For the Respondent No-3 : None

### **CASE No. 179 of 2017**

Petition of M/s. Lupin Limited seeking directions against MSEDCL for unjustified, illegal and arbitrary levy of Cross Subsidy Surcharge and Additional Surcharge on the open access consumption of the Petitioner for FY 2016-17 which is a part of Group Captive Power Plant by way of supplementary bill dated 05.12.2017.

M/s. Lupin Limited	.....	Petitioner
Maharashtra State Electricity Distribution Company Limited (MSEDCL)	.....	Respondent No-1
Sai Wardha Power Generation Limited (SWPGL)	.....	Respondent No-2
Maharashtra State Load Dispatch Center (MSLDC)	.....	Respondent No-3

### **Appearance**

For the Petitioner	: Ms. Dipali Sheth, Adv.
For the Respondent No-1	: Shri. Ashish Singh, Adv.
For the Respondent No-2	: Shri. Anand Ganesan, Adv.
For the Respondent No-3	: None

### **DAILY ORDER**

Heard the Advocates/Representatives of the Petitioners and Respondents. The Commission observed that, since similar issues have been raised in these Cases by the Petitioners they would be heard together, and the Commission would also consider a common Order.

### **Interlocutory Application Case No. 175 of 2017**

1. Advocate of the Petitioner stated that:
  - i) SWPGL has submitted its Petition dated 2 December, 2017 seeking declaration of Captive status for 2x 135 MW generating unit for FY 2016-17. As both MSEDCL and TPC-D has unilaterally raised the invoices for payment of Cross Subsidy Surcharge (CSS) and Additional Surcharge (ASC) on its captive consumers, SWPGL is constrained to file Interlocutory Application on 8 December, 2017 seeking urgent interim orders against the Respondents, restraining their unilateral action of raising demand for CSS and ASC.
  - ii) The Commission is requested to stay the invoices raised by MSEDCL and TPC-D and restrain them from taking any coercive action. The Commission in its Daily Order dated 6 December, 2017 in similar matter in Case No. 165 of 2017 has directed TPC-D to refrain from levying the CSS and not to take any coercive action on the supplementary bill of CSS issued by TPC-D. Similar dispensation may be given for Open Access consumer of SWPGL.

### **Case No.178, 179 of 2017 and Interlocutory Applications**

2. Advocate representing both the Petitioners (IAPPL and Lupin Limited), sourcing power from SWPGL under Group Captive Open Access arrangement, stated that:
  - i) It has filed the Petition seeking directions against MSEDCL for its arbitrary actions in issuing supplementary bill dated 5 December, 2017 levying CSS and ASC on the

power being availed from SWPGL as an Open Access consumer under the Group Captive power Plant (CPP) model for financial year 2016-17.

- ii) Due date for payment of supplementary bill is 19 December, 2017 and if the bill is not paid within the due date, MSEDCL will proceed with disconnection under Section 56(1) of the Electricity Act, 2003.
  - iii) The Commission is requested to stay the invoices raised by MSEDCL and restrain them from taking any coercive action. Similar dispensation as provided in Daily Order dated 6 December, 2017 in Case No. 165 of 2017 may be given for IAPPL and Lupin Limited.
3. The Advocate of MSEDCL stated that the CPP status of SWPGL is pending for last three years (i.e FY2014-15, FY2015-16 and FY2016-17) and it is admitted fact that SWPGL has injected some portion of the energy during FY2014-15 and FY2015-16 from its IPP. The documents/data provided by SWPGL for determining the CPP status are not sufficient. In the absence of requisite information, MSEDCL was constrained to levy CSS and ASC on IAPPL and Lupin Limited for their Open Access consumption for the FY2016-17 and accordingly raised the bills.
  4. In light of separate Petition submitted by SWPGL for ascertaining its Group CPP status for the FY2016-17 on 5 December, 2017 and earlier dispensation provided by the Commission in its Daily Order dated 6 December, 2017 in Case No. 165 of 2017, the Commission directs MSEDCL to refrain from levying the CSS & ASC and not to take any coercive action on the Supplementary bill of CSS issued by MSEDCL till the further Order of the Commission in the matter of determining Group Captive Status for the FY2016-17.

**The Cases (I. A. in Case No. 175 of 2017 and Case No.178, 179 of 2017 alongwith I.As.) are reserved for Orders.**

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

**Sd/-  
(Anand B. Kulkarni)  
Chairperson**