

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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MA No. 2 of 2019 in Case No. 174 of 2018

Date: 14 January, 2019

**CORAM: Anand Kulkarni, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member**

Interim application filed in Case No 174 of 2018 Review Petition of M/s Topworth Urja and Metals Limited under Sections 94 of the Electricity Act, 2003 Read With Regulation 85, 92 ,93 ,94 and 95 of the MERC (Conduct of Business) Regulations, 2004 with respect to the Order of the Commission dated 4 May, 2018 in Case No. 5 of 2016.

M/s TopworthUrja and Metals Ltd.(TUML) Petitioner

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) Respondent

Present during the hearing

For the Petitioner : Shri.Nikhil Padhye (Adv)

For the Respondent : Shri Satish Chavan (Rep)

Daily Order

Heard the Advocates of the Petitioner and the representative Respondent.

1. The Petitioner stated that:

- (i) The Commission has disposed off the Order dated 4 May, 2018 in Case No 5 of 2016. TUML filed review Petition on 14 June, 2018 in Case No 174 of 2018 for review of the Order dated 4 May, 2018 in Case No 5 of 2016.
- (ii) After filing review Petition TUML received Notice dated 9 July, 2018 from MSEDCL asking TUML to pay Cross Subsidy Surcharge (CSS) and payment for the extra units amounting to Rs. 32.66 Crores including interest at 18% from 30 December, 2015. TUML replied to the Notice on 16 July, 2018 informing MSEDCL that TUML has filed Petition to review the Order dated 4 May, 2018 and it was under scrutiny before the Commission. TUML further requested that during the pendency of review Petition no coercive action should be taken. It also sought detailed calculation of the amount of Rs. 32.66 Crores demanded by MSEDCL. However, same is not yet provided. Apprehending coercive action, it has also filed Miscellaneous Application dated 6 October, 2018 (M. A. No 18 of

2018) seeking stay to the communications of MSEDCL. The hearing in the matter was held on 19 December, 2018 and the Commission reserved the Case for Final Order.

- (iii) MSEDCL after its letter dated 9 July, 2018, did not take any action for almost 5 months. TUML was under the impression that MSEDCL would not take any action, hence during the hearing held on 19 December, 2018, it did not press for the stay on the communication of MSEDCL. After the matter was closed for final Order, MSEDCL has given directives to MSETCL vide letter dated 8 January, 2019 for temporary disconnection of the supply of TUML on the ground that TUML has not paid arrears of Rs 32.66 Crs. (including 18% interest) against payment of CSS on the units consumed for self use and exporting more than 49% units in FY 2013-14 by way of sale of power.
- (iv) TUML prays the Commission to stay the effect and implementation of the Order dated 4 May, 2018 in Case No 5 of 2016 and MSEDCL's communication dated 9 July, 2018 and 8 January, 2019

2. MSEDCL stated that:

As directed by the Commission in its Order dated 4 May, 2018 MSEDCL has evaluated the CPP status of TUML on the basis of Financial year and worked out various levies amounting to Rs 32.66 Crs (including 18% interest) on account of payment of CSS on the units consumed for the self use and for exporting units more than 49% units in FY 2013-14 by way of sale. Accordingly 15 days disconnection Notice was issued on 9 July, 2018. As the TUML has failed to pay the dues and there was no stay Order in respect of the disconnection notice, MSEDCL vide letter dated 8 January, 2019 has given directives to MSETCL for temporary disconnection.

3. The Commission heard both the parties. MSEDCL has precipitated the coercive process by demanding recovery of amount that goes back to the year 2013-14. Petitioner has challenged the merits of this levy in the review petition pending before Commission. Balance of convenience is in favour of petitioner and no irreparable loss would be caused to respondent for an ad interim stay to the coercive process. Hence the following Order,
4. MA No 2 of 2019 filed by TUML is disposed off with a direction to MSEDCL not to take any coercive action till issuance of final Order in Case No 174 of 2018.

The Case No. 174 of 2018 is reserved for Order.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson