

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.merc.gov.in

Date:- 30 March, 2021

CORAM:- Sanjay Kumar. Chairperson
I.M Bohari, Member
Mukesh Khullar, Member

Case No 240 of 2020 and MA Application No 4 of 2021

Case of RattanIndia Power Limited for issuing consequential Orders as directed by APTEL in Appeal 264 of 2018 dated 13 November, 2020

RattanIndia Power Limited (**RIPL**) :- Petitioner
Maharashtra State Electricity Distribution Company Limited (**MSEDCL**) :- Respondent

Appearance

RattanIndia Power Limited :- Shri Vishrov Mukharjee (Adv.)
Maharashtra State Electricity Distribution Company Limited :- Smt. Deepa Chavan (Sr Adv.)

Daily Order

1. Advocate of Respondent, MSEDCL took a preliminary objection on the continuation of this proceeding on account of the following:
 - a. The Appellate Tribunal for Electricity (**APTEL**) has allowed the Change in Law claims to RIPL in Appeal No 264 of 2018 based on its judgment in Appeal No 182 of 2019 dated 14 September, 2020 (APML Case) subject to MSEDCL's right to appeal the said judgement dated 14 September, 2020.
 - b. MSEDCL has challenged the APTEL Judgment in APML Case before Hon'ble Supreme Court and the Hon'ble Supreme Court has directed to maintain *Status Quo* in the matter.

- c. As the relief granted to RIPL by APTEL is based on its earlier judgment in APML Case and considering the *Status Quo* ordered to be maintained by the Hon'ble Supreme Court in that Case, it would not be appropriate to proceed further in the present matter. She further informed that next hearing in the matter of appeal filed before the Hon'ble Supreme Court is likely to be scheduled in first week of April 2021.
 - d. She also stated that if the Commission is deciding against her preliminary objection and allowing the present proceedings to be continued, then time should be allowed to MSEDCL for filing written submission on merits of the present Case.
2. While opposing preliminary objection of MSEDCL, Advocate of Petitioner stated that:
 - a. *Status Quo* ordered by the Hon'ble Supreme Court is on the APTEL judgment in Adani Case and not on judgment in RIPL's matter. Also, Hon'ble Supreme Court has not stayed the judgment of APTEL in the said matter and therefore said judgment needs to be implemented.
 - b. He further stated that next date of hearing in the matter of appeal filed before the Hon'ble Supreme Court is likely to be in the first week of April 2021.
 - c. As the two matters are different, RIPL requested the Commission to continue with present proceeding without putting it into abeyance. He suggested that hearing in the matter be scheduled after completing pleadings i.e. MSEDCL filing reply on merits and RIPL filing rejoinder, if any.
 - d. RIPL also requested to allow Miscellaneous Application No 4 of 2021 filed in Case no 240 of 2020 rectifying the computational errors in the change in Law claims along with associated carrying cost in the Original Petition.
3. MSEDCL has not objected to the MA No. 4 of 2021 filed by RIPL and suggested that the Commission may allow the same.
4. Having heard the Parties, the Commission directs as follows:
 - a. Miscellaneous Application No 4 of 2021 filed by RIPL in Case No 240 of 2020 is allowed.
 - b. As reported by both parties Hon'ble Supreme Court has ordered to maintain *Status Quo* in APML Case which has been relied upon by the APTEL in the present matter of RIPL.

Further, both parties have informed that next date of hearing in APML Case before the Supreme Court is likely to be scheduled in April 2021.

- c. In these circumstances, the Commission is of the opinion that matter pending before the Hon'ble Supreme Court has direct impact on the present proceedings. However, it is also a fact that Hon'ble Supreme Court has not stayed APTEL judgment but has only directed the parties to maintain *Status Quo* in APML Case.
- d. Therefore, the Commission is of the opinion that keeping the present matter (which relates to claim towards compensation on account of Change in Law for last 5-6 years) in abeyance will not serve any purpose. Therefore, the Commission directs parties to complete the pleadings in the present matter and update the Commission about outcome of appeal pending before the Supreme Court so that the Commission can take further appropriate steps in present proceedings, as may be required.
- e. Accordingly, the Commission grants three-week time for MSEDCL to file written submission. The copy of the same shall be served on Petitioner who may file a rejoinder within a further period of two week after receiving the submission/reply from MSEDCL.

On receiving the above submissions, next date of hearing will be intimated by the Secretariat of the Commission.

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I.M. Bohari)
Member**

**Sd/-
(Sanjay Kumar)
Chairperson**