

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

ORDER
IN
APPEAL NO. 19 OF 2019 &
IA NO. 95 OF 2019
ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

Dated: 18th January, 2019

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

INOX Air Products Private Limited

7th Floor, Ceejay House,
Dr. Annie Besant Roade,
Worli, Mumbai – 400 018

..... Appellant

VERSUS

1. Maharashtra Electricity Regulatory Commission

Through its Secretary
World Trade Centre No.1, 13th Floor,
Cuffe Parade, Colaba,
Mumbai 400 001

2. Maharashtra State Electricity Distribution Company Limited

Through its Managing Director
5th Floor, Prakashgad
Bandra (East)
Mumbai-400 051

..... Respondents

Counsel for the Appellant (s) : Ms. Dipali Seth

The Appellant has sought the following reliefs in the instant appeal:

- A) Allow the appeal and set aside the Impugned order dated 07/01/2019 passed by the State Commission in Case No. 368 of 2018;
- B) Direct MSEDCL to grant LFI to the Appellant for the period from November 2018 onwards if the Appellant is eligible for LFI as per the Tariff Order;
- C) Direct MSEDCL to refund the LFI amounts for November 2018 and December 2018 as per the load factor mentioned in the monthly power bills;
- D) Direct MSEDCL not to include ASC and CSS in the bills of the Appellant as arrears or otherwise till the same is finally determined:
- E) Award costs of this Appeal against MSEDCL and in favour of the Appellant:
- F) Pass such other Oder(s) as this Hon'ble Tribunal may deem just and proper

The Appellant has presented the instant appeal for considering the following questions of law:

- 1) Whether the State Commission is right in holding that there is no violation of the Orders dated May 8 and July 31, 2018 of this Hon'ble Tribunal in OP No. 2 of 2018?
- 2) Whether the State Commission is right in rejecting the prayer of the Appellant on the ground that the validity of levy of ASC and CSS will be decided in Case No. 116 of 2018 and therefore LFI is merely deferred?

- 3) Whether the State Commission is right in rejecting the prayer of the Appellant on the ground that as MSEDCL is not seeking payment of ASC and CSS there is no violation of the Order of this Hon'ble Tribunal in OP No. 2 of 2018?
- 4) Whether the State Commission can burden the Appellant till Case No. 116 of 2018 is decided when the liability of ASC and CSS are stayed by this Hon'ble Tribunal vide its Orders dated May 8 and July 31, 2018 in O P No. 2 of 2018?

ORDER

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

1. We have heard the learned counsel, Ms. Dipali Seth, appearing for the Appellant for quite some time.
2. During the course of hearing, the learned counsel for the Appellant submitted that, the instant appeal may kindly be disposed of reserving liberty to the Appellant to redress their grievances before the Maharashtra Electricity Regulatory Commission, Mumbai (in short, the "Respondent Commission") and all the contentions of the Appellant may kindly be left open in the interest of justice and equity.
3. Submissions of the learned counsel for the Appellant, as stated supra, are placed on record.
4. In the light of the submissions of the learned counsel for the Appellant, the instant appeal, being Appeal No. 19 of 2019, filed by the

Appellant on the file of the Appellate Tribunal for Electricity, New Delhi stands disposed of reserving liberty to the Appellant to redress their grievances before the Respondent Commission, if they so advised or need arises.

5. All the contentions of the Appellant are left open
6. With these observations, the instant Appeal stands disposed of.

IA NO. 95 OF 2019

In view of the Appeal No. 19 of 2019 on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, on account of which, the relief sought in IA No. 95 of 2019 does not survive for consideration and, hence, stands disposed of.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member

vt/pk

(Justice N.K. Patil)
Judicial Member