

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL NO. 121 OF 2018 &
IA NO. 408 OF 2018

Dated : 6th March, 2019

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

In the matter of:

Punjab State Power Corporation Ltd. Appellant(s)
Versus
Punjab State Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Mr. Avijeet Lala
Ms. Astha Sharma
Mr. Arman Grover

Counsel for the Respondent(s) : Mr. Manu Seshadri
Mr. Samarth Chowdhary for R-1

Mr. Praveen Kumar for R-2

ORDER

The Appellant has presented the instant Appeal seeking the following reliefs:

- a) Allow the present appeal and set aside the Impugned Order dated 03.01.2018 passed by the Commission in Petition No. 52 of 2017 to the extent the same has been challenged in terms of the facts and grounds indicated above;

- b) Pass such further or other order(s) as this Tribunal may deem fit in the facts and circumstances of the case.

The Appellant has presented this Appeal for considering the following Questions of Law:

- a) Whether the Commission has erred in law by giving retrospective effect to the Amendment Regulations while allowing refund of CSS for the period 2011-2013?
- b) Whether the Respondent No.2 was entitled to claim exemption from the CSS under the Open Access Regulations prior to its amendment w.e.f. 18.09.2014.
- c) Whether there has been any non-compliance on the part of the Appellant calling for proceeding under Section 142, 146 and 149 of the Act?
- d) Whether the Commission has misdirected itself in as much as it has allowed the Respondent No.2's claim for the amount recovered on account of CSS for the period 2011-2013 in compliance of the order of this Tribunal dated 01.08.2014?

ORDER

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

In the instant Appeal, Punjab State Power Corporation Ltd. in short, the "Appellant") is questioning the legality and validity of the Impugned Order dated 03.01.2018 passed by the Punjab State Electricity Regulatory Commission, Chandigarh in Petition No. 52 of 2017.

The learned counsel Mr. Avijeet Lala appearing for the Appellant at the outset submitted that the instant Appeal filed by the Appellant may be disposed of reserving the liberty to the Appellant to file Review Petition before the Respondent No.1/the State Commission for reviewing order impugned dated 03.01.2018 passed in Petition No. 52 of 2017 on the file of Punjab State Electricity Regulatory Commission, Chandigarh

within a period of four weeks from the date of receipt of copy of this order.

Further, the learned counsel appearing the for Appellant submitted that the State Commission may be directed to pass appropriate order on the Review Petition to be filed by the Appellant clarifying the order impugned passed by the Respondent No.1/the State Commission so far as it relates to second Respondent only.

Per contra, the learned counsel appearing for the Respondent No.2 interalia contended and fairly submitted that the submissions made by the learned counsel appearing for the Appellant may be placed on record and appropriate order may be passed to meet the ends of justice.

The submissions of the learned counsel appearing for both the parties, as stated supra, are placed on record.

In the light of the statements made by the learned counsel appearing for both the parties, the instant Appeal filed by the Appellant stand disposed of permitting the Appellant to file Review Petition before the 1st Respondent/the State Commission for reviewing the order impugned dated 03.01.2018 passed by the Punjab State Electricity Regulatory Commission, Chandigarh in Petition No. 52 of 2017 within a period of four weeks' time from the date of receipt of copy of this order.

The 1st Respondent/the State Commission is directed to dispose of the Review Petition as expeditiously as possible at any rate within a period of three months from the date of filing of Review Petition by the Appellant so far as it relates to second Respondent case only.

With these observations, the instant Appeal being Appeal No. 121 of 2018 stands disposed of.

The relief sought in IA No. 408 of 2018 does not survive for consideration and accordingly dismissed as having become infructuous.

(Ravindra Kumar Verma)
Technical Member
mk/ss

(Justice N.K. Patil)
Judicial Member