

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**APPEAL NO. 9 OF 2019 &
IA NOS. 1667 & 1668 OF 2018 &
IA NOS. 364, 547, 548 & 1013 OF 2019**

Dated: 22nd May, 2019

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. Ravindra Kumar Verma, Technical Member**

In the matter of:

**M/s. Aavanti Solar Energy Private LimitedAppellant(s)
Versus
Gulbarga Electricity Supply Company Limited & Ors.Respondent(s)**

Counsel for the Appellant(s) : Mr. Prabhulinga Navadgi, Sr. Adv.
Mr. Shubhranshu Padhi
Mr. Ashish Yadav
Counsel for the Respondent(s) : Mr. G.S. Kannur, Sr. Adv
Mr. Nithin Saravanan
Ms. Arunima Singh
Ms. Priyasarshini for R-1 & R-2

ORDER

**IA No. 547 of 2019
(*Appls. for condonation of delay in filing reply*)**

For the reasons stated in the application, the application is allowed and reply is taken on record. Application is disposed of.

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We have heard both the parties. Reply of Respondent Discom placed on record, the statement showing the details of bill amount and as to how they have adjusted (deducted) the same against LD charges. From the statement we know that they have arrived at total LD charges of 15 crores. But to arrive at this

amount, how they have calculated the same and from what date and at what rate is not forthcoming, though, the learned counsel for Respondent Discoms says that it was generally in terms of Article 8.5 of the PPA.

2. However, learned Sr. Counsel, Mr. Prabhulinga Navadgi, arguing for the Appellant submits that at no point of time till the statement now placed on record, Respondent Discom informed the Appellant that monthly energy charges were deducted towards LD amount and inspite of 3 orders of the Court, now for the first time, the Respondent Discom is coming up with the explanation of monthly charges being deducted towards LD amount. Though, Counsels for Respondents submit that there was a direction by the Commission to them at the time of approval of supplementary PPA to charge LD charges, on 16.11.2017, nothing is placed on record. It is not clear whether such directions of the Commission is in the form of a letter was intimated to Appellant herein when the first energy bill was raised in the month of April, 2018. If they have intimated to the Appellant, the Respondent Discom should place such information on record.

3. We note from the records that first time when we directed Respondent Discom not to deduct LD charges, on 30.11.2018, there was no directions to deduct LD charges from monthly bills. However at this point of time, it was BESCOM who was a party to the proceedings and not GESCOM. Subsequently on 01.02.2019, the correct name of the Discom was brought on record. Such mistake occurred, since KERC order itself mentioned wrong Discom, i.e. BESCOM instead of GESCOM. However, from 01.02.2019 onwards, it was GESCOM, who is representing the Distribution Licensee.

4. On 25.03.2019, again when GESCOM appeared, we directed GESCOM to pay monthly charges as directed in the order dated 01.02.2019. From the statement, we note that from February, 2019 onwards, bills were paid but we do not have any calculation at what rate the unit of energy was paid. It is still to be furnished.

5. In the light of the above facts and circumstances, we direct Respondent discom to place on record the correspondence intimating the Appellant that they were deducting the LD amount from monthly charges from April, 2018 onwards.

6. Now, Senior counsel arguing for the Appellant categorically states that at no point of time such action of the Respondent Discom was intimated to the Appellant.

7. In the Order dated 30.11.2018, we were of the opinion that scheduled date of commissioning the project was compiled with by the Appellant and therefore the amount towards energy charges shall be paid. We direct the Respondent Discom to pay monthly charges at Rs. 5.06 paisa per KWH and not Rs. 4.36 paisa per KWH subject to outcome of appeal.

8. We direct the Managing Director of GESCOM to read this Order and file affidavit explaining the stand of the GESCOM by 4th July, 2019. Meanwhile, Respondents shall file reply, if any, with advance copy to the Appellant, who shall file rejoinder within two weeks thereafter after serving copy on the other side.

List the matter on **25.07.2019**

(Ravindra Kumar Verma)
Technical Member

pdt/mkj

(Justice Manjula Chellur)
Chairperson