

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 52, 53 & 54 of 2007

Dated: **8th November, 2010**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam,
Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member
Hon'ble Mr. Justice P.S. Datta, Judicial Member**

Appeal No. 52 of 2007

In the matter of:

**Western Electricity Supply Company
of Orissa Ltd. (WESCO),
123-A, Mancheswar Industrial Estate,
Bhubaneswar**

... Appellant

Versus

- 1. Orissa Electricity Regulatory Commission,
Niyamak Bhawan, Unit-VIII,
Bhubaneswar-751 012
Distt: Khurda, ORISSA.**
- 2. M/s Larsen & Toubro Limited,
Kansbahal Works: PO. Kansbahal,
Distt: Sundargarh, Orissa.**
- 3. State Public Interest Protection Council,
Talengabazar, Cuttack, Orissa.**
- 4. M/s Orissa Consumers' Association & FOCO,
Biswanath Lane, Cuttack, Orissa.**
- 5. S.E. Railway,
Garden Reach, Kolkata.**

6. **M/s Sambalpur District Consumers Federation,
Balaji Mandir Bhavan, Khetrajpur,
Sambalpur, Bhubaneswar.**
7. **Sundargarh District Employers' Association,
AL-1, Basanti Nagar, Roukela, Orissa.**
8. **Shri R.P. Mahapatra,
Plot No. 775 (Pt.), Lane-3,
Jayadev Vihar, Bhubaneswar, Orissa**
9. **Utkal Chamber of Commerce and Industry Ltd.,
N/6, I.R.C. Village, Nayapalli,
Bhubaneswar.**
10. **M/s Reliance Communications Limited,
6th Floor, Fortune Tower, CS Pur,
Bhubaneswar.**
11. **M/s Scan Steel Limited,
Main Road, Rajganpur,
Sundargarh, Orissa.**
12. **M/s Scan Steel Limited,
Q.1 Civil Township, Rourkela.**
13. **BSNL Electrical Circle,
92, Saheed Nagar,
Bhubaneswar.**
14. **All Orissa Layer Farmers Association,
N-3/69, Nayapalli,
Bhubaneswar.**

... Respondent(s)

Counsel for Appellant(s)

Mr. Buddy A. Ranganadhan
Mr. Hasan Murtaza,
Mr. Junaira Rehman &
Mr. K. Suri

Counsel for Respondent(s)

Mr. Rutwik Panda for OERC

Appeal No. 53 of 2007

In the matter of:

**North-Eastern Electricity Supply Company
of Orissa Ltd. (NESCO),
123-A, Mancheswar Industrial Estate,
Bhubaneswar**

... Appellant

Versus

- 1. Orissa Electricity Regulatory Commission,
Niyamak Bhawan, Unit-VIII,
Bhubaneswar-751 012**
- 2. State Public Interest Protection Council,
Tala Talengabazar,
Cuttack-753 009
Orissa.**
- 3. Life Line Club,
Soro, Balasore-756 045**
- 4. Kansa Bansa Sanskrutika Parishad,
Soro, Balasore-750 045**
- 5. M/s Ferro Alloys Corporation Ltd.,
GD-2/10, Chandrasekharpur,
Bhubaneswar-751 023**
- 6. M/s Orissa Consumers' Association & FOCO,
Devjyoti Upabhokta Kalyan Bhawan,
Biswanath Lane,
Cuttack-753 002,
Orissa.**
- 7. East Coast Railway,
Rail Vihar, Chandrasekharpur,
Bhubaneswar-751**

- 8. Chief Electrical Distribution Engineer,
S.E. Railway,
Garden Reach, Kolkata-700 043**
- 9. Tata Iron Steel Company Limited,
273, Bhouma Nagar,
Unit-IV,
Bhubaneswar-751 001**
- 10. Balasore Alloys Limited,
At-Balgopalpur, PO-Rasulpur-756 020
Balasore, Orissa.**
- 11. IDCOL Ferro Chrome & Alloys Limited,
Ferro Chrome Project,
Jajpur Road,
Jajpur-755 020**
- 12. Parikshita Swain,
258(P) CuttackRoad,
Near Okila Baag,
Bhubaneswar-751 006**
- 13. M/s Reliance Communications Limited,
6th Floor, Fortune Tower, CS Pur,
Bhubaneswar.**
- 14. M/s Jindal Stainless Limited,
50-HIG, BDA, Jaydev Vihar.
Bhubaneswar.**
- 15. Utkal Chamber of Commerce and Industry Ltd.,
N/6, I.R.C. Village, Nayapalli,
Bhubaneswar.**

**16. Shri R.P. Mahapatra,
Plot No. 775 (Pt.), Lane-3,
Jayadev Vihar,
Bhubaneswar-751 013
Orissa**

**17. BSNL Electrical Circle,
92, Saheed Nagar,
Bhubaneswar.**

**18. All Orissa Layer Farmers Association,
N-3/69, Nayapalli,
Bhubaneswar.**

... Respondent(s)

Counsel for Appellant(s)

Mr. Buddy A. Ranganadhan
Mr. Hasan Murtaza

Counsel for Respondent(s)

Mr. Rutwik Panda for OERC

Appeal No. 54 of 2007

In the matter of:-

**Southern Electricity Supply Company
of Orissa Ltd. (SOUTHCO),
123-A, Mancheswar Industrial Estate,
Bhubaneswar**

... Appellant

Versus

**1. Orissa Electricity Regulatory Commission,
Niyamak Bhawan, Unit-VIII,
Bhubaneswar-751 012**

**2. State Public Interest Protection Council,
Tala Talengabazar,
Cuttack-753 009
Orissa.**

- 3. Friends Colony, Dist: Gajapati,
Partakhemundi**
- 4. M/s Orissa Consumers' Association & FOCO,
Devjyoti Upabhokta Kalyan Bhawan,
Biswanath Lane,
Cuttack-753 002,
Orissa.**
- 5. East Coast Railway,
O/o the Chief Electrical Engineer,
B-2, Rail Vihar, Chandrasekharpur,
Bhubaneswr-751**
- 6. Dy. Electrical Inspector,
Government of Orissa,
Gajapati Nagar, Berhampur,
Ganjam**
- 7. Southern Orissa Electricity Consumers,
3rd Lane, Cooperative Colony,
(Vidya Sagar),
Rayagada-765 001**
- 8. M/s Jayashree Chemicals Limited,
P.O.-Jayshree-761 025,
Distt: Ganjam, orissa**
- 9. BSNL Electrical Circle,
92, Saheed Nagar,
Bhubaneswar.**
- 10. Utkal Chamber of Commerce and Industry Ltd.,
N/6, I.R.C. Village, Nayapalli,
Bhubaneswar.**
- 11. M/s Reliance Communications Limited,
6th Floor, Fortune Tower, CS Pur,
Bhubaneswar.**

**12. Shri R.P. Mahapatra,
Plot No. 775 (Pt.), Lane-3,
Jayadev Vihar,
Bhubaneswar-751 013, Orissa**

**13. All Orissa Layer Farmers Association,
N-3/69, Nayapalli,
Bhubaneswar.**

... Respondent(s)

Counsel for Appellant

Mr. Buddy A. Ranganadhan
Mr. Hasan Murtaza

Counsel for Respondent(s)

Mr. Rutwik Panda for OERC

JUDGMENT

**PER HON'BLE JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. The Appellants are distribution companies. They filed applications for approval of their ARR and for determination of retail supply tariff in respect of the FY 2007-08. Since some of the claims have been disallowed, all these Appellants have filed these three separate Appeals before this Tribunal, on being aggrieved over the same. Since the issues are the same, this common Judgment is being pronounced.

2. The short facts of the case are as follows:-

3. Prior to the promulgation of the Orissa Electricity Reforms Act, 1995, the Orissa State Electricity Board (**Electricity Board**) was entrusted with the duties of generation and distribution. After the introduction of the Reforms Act, 1995, the assets and liabilities of the Electricity Board got transferred to the two successive entities (1) Orissa Hydel Power Company and (2) GRIDCO. Thereupon, the distribution business was entrusted to four distribution companies being WESCO, NESCO, SOUTHCO & CESCO. According to them, from the beginning, the transmission and distribution loss level had always been severely understated by the State Commission and since FY 2001 to 2010 the retail supply tariff has remained more or less constant even though the Bulk supply tariff had increased.

4. All the 3 Appellants namely, WESCO, NESCO and SOUTHCO filed three separate applications before the State Commission in Application Nos. 58/06, 59/06 and 60/96 for approval of their ARR and for determination of the Retail supply tariff in respect of FY 2007-08.

5. In the meantime, the Retail supply tariff which was fixed by the State Commission in respect of FY 2006-07 was challenged by the Appellant before this Tribunal with a specific ground that though the bulk supply tariff was increased by about 15%, there was no corresponding increase in the retail supply tariff. These Appeals were disposed of by this Tribunal by the order dated 13.12.2006 remanding the matter to the State Commission for re-computation of the retail supply tariff. As against this order dated 13.12.2006,

the Respondents including the State Commission had filed Appeals before the Hon'ble Supreme Court and these Appeals are still pending.

6. In the meantime, the State Commission passed the impugned order dated 23.03.2007 in all these three applications in No. 58, 59 and 60 of 2006 in respect of FY 2007-08 disallowing some of the claims made by the Appellants. Challenging this order, the present Appeals have been filed in Appeals No. 52, 53 and 54 of 2007.

7. The Learned Counsel appearing for the Appellants has urged the following contentions on various issues while assailing the impugned order dated 23.03.2007

passed by the State Commission:-

(A) **Interest on NTPC Bonds**

In the initial years, the revenues of the distribution companies were not enough to meet the power purchase cost on account of understating the base line transmission and distribution loss level, natural calamities and gaps in Annual Revenue Requirements. This resulted in the default in payment of bulk supply tariff bills. In order to avoid crisis of power regulation by NTPC and as requested by GRIDCO the Appellants issued bonds in lieu of bulk power supply outstandings in favour of the GRIDCO based upon the Tripartite Minutes of the Meeting dated 24.10.2000. Subsequently, GRIDCO transferred these Bonds to NTPC.

GRIDCO reneged on the terms of the bonds and did not cede the first charge on receivables on pari passu basis in favour of NTPC. GRIDCO adjusted all amounts received from the Appellants only against Bulk Supply Tariff arrear dues rather than apportioning between the BST dues and Power Bond dues as per pari passu principle. Although the NTPC bonds carried an interest rate of 12.5%, it remained under serviced and unadjusted in GRIDCO's accounts. In September 2001, when tripartite negotiations for issue of bonds worth Rs. 400 crores to NTPC had reached finality, the Government of India announced one-time settlement of State Electricity Board dues by securitization. The Scheme provided for one time settlement of dues of Central PSUs such as NTPC, wherein tax free

bonds were to be issued to Central PSUs on relaxed terms at an interest of 8.5% only. It was assured to the Appellants that the terms of one time settlement scheme of Govt. of India would also be made applicable to Bonds already issued by them. Even though the liabilities of GRIDCO were covered in the one time settlement scheme of Govt. of India the Power Bonds of the Appellants were not covered in the said Scheme. GRIDCO has since settled the outstanding dues of Power Bonds. The amount of settlement has been confirmed in the accounts of NTPC. The State Commission also accordingly had worked out the interest rate of settlement made by GRIDCO at 7.83%. Despite the settlement entered with GRIDCO by the NTPC and even though the GRIDCO insisted upon the

Appellants to pay interest @ 12.5%, the State Commission instead of allowing the interest @ 12.5%, merely allowed the interest @ 8.5% in the ARR of the Appellants. The very same issue was raised before this Tribunal. In the earlier judgment dated 13.12.2006 in respect of the FY 2006-07, the Tribunal has ultimately allowed in its judgment that the distribution companies are entitled to the rate of interest @ 12.5% and the disallowance of 4% interest i.e. difference of 12.5% and 8.5% by the State Commission cannot be sustained. Therefore, whatever interest is payable by the Appellant to the GRIDCO shall be allowed as a pass through in the ARR of the Appellants.

(B) **Unrealistic distribution Loss Targets**

This issue relates to unrealistic distribution loss targets. The State Commission has fixed the retail supply tariff of the Appellants by taking into account the projections of distribution losses which are not realistic and achievable. Further, it has no nexus with the actual distribution losses of the previous year. According to the relevant regulations in the Tariff Regulations, the State Commission shall approve realistic and achievable loss target for the year under review based on the opening loss level, licensee's filings, submissions and objections raised by the stakeholders. This issue was raised before this Tribunal in the previous judgment dated 13.12.2006 in respect of the earlier year. The Tribunal in the said

judgment directed the State Commission that it need not stick to its earlier views and it shall have a relook in this respect by taking a practical view of the ground realities instead of proceeding on assumptions and premises while undertaking trueing up exercise. Despite this direction, the State Commission has erred in setting unrealistic and impracticable target of reduction of distribution loss. The financial impact of the unachievable distribution loss on the Appellants is assessed as Rs. 73.54 Crore, 40.37 Cr. And 43.47 Cr. respectively on the three distribution companies in the FT 2007-08. Hence finding is unrealistic and unachievable.

(C) **Revenue Computation**

The next issue relates to Revenue Computation. The State Commission in the impugned order has taken an average billing rate for each voltage-wise tariff category as a whole. The tariff categories are broadly voltage-wise EHT, HT and LT. The tariffs were fixed slab-wise within each of these categories. Therefore, the revenue figures ought to be calculated for each slab separately and then totalled. According to the State Commission, the Appellants were directed to submit each individual bill of EHT and HT consumers for the FY 2006-07 so that the State Commission would be able to verify the rate per unit approved in the tariff order but the said records have not been submitted by the Appellants. But, according to the Appellants full

details month-wise for all EHT consumers in the requisite format was furnished to the Commission as part of the tariff proposal. Further, the very same issue had been raised in the previous Appeal before this Tribunal and the Tribunal in its judgment dated 13.12.2006 held that the State Commission has failed to estimate and assess the expected revenue by considering average realization in LT, HT and EHT on the basis of previous year's actual figures and at slab rates. On this finding, the Tribunal directed the State Commission to take up the truing up exercise at the earliest and to give a relook to assess the estimated sales at the slab. Despite this, the Learned State Commission wrongly estimated the projection of revenue by treating each category as a whole

instead of taking revenue for each slab separately and then totaling up.

(D) **Miscellaneous Income:**

On this issue, the State Commission projected the miscellaneous income such as one towards meter rent, commission for collection of electricity duty, miscellaneous charges, etc. in the ARR. According to the State Commission, the actual miscellaneous receipts of the distribution companies are much more than the proposed receipts filed in the ARR. Since the nature of receipts of delayed payment surcharge and overdrawing penalty is not certain, the State Commission excluded these amounts from miscellaneous receipts while considering the ARR. The issue here is inclusion of meter rent and commission on collection of Electricity

Duty in the Miscellaneous Income of the Appellants. In this case, the cost of the meters has not been included as a cost to the ARR on the basis of the State Commission's policy and therefore, the meter rent ought not to have been treated as revenue in ARR. As regards commission for collection of electricity duty, unless the Appellants are entitled to retain this commission, the same should not be included in the projected revenue for the year. When the issue relating to miscellaneous income was raised in the Appeal before the Tribunal in the order passed on 13.12.2006, this Tribunal specifically directed the State Commission to take this at the time of truing up exercise and assess the miscellaneous income of the three distribution companies and should give

consequential relief to them. Despite this, the State Commission has not granted this relief.

(E) **Employees' Cost and Administrative & General Expenses**

The next issue is regarding the Employee's cost and Administrative & General expenses. The main issue in Employees Cost is consideration of actuarial valuation of the pension and gratuity and terminal liabilities of the Appellants. The State Commission has held in the impugned order that the Corpus fund requirement for terminal liabilities, etc., has gone up by more than 3 times over a period of 7 years even though there has been a constant reduction of the number of employees as a result of superannuation and subsequent abolition of posts. The State Commission agreed with the

principle that the pension and gratuity liability should be met from the earning of the corpus fund only in full and the corpus fund should be created by the companies by regular contributions to the fund based on actuarial valuation. The State Commission directed the distribution companies to furnish information with regard to the corpus fund investment position of the trust in different bond or securities, year-wise cash outgo towards payment of pension and gratuity made but those information have not been furnished by the Appellant companies. The above finding of the State Commission that the requirement of fund has gone up even when there has been a reduction of employee's cost as a result of

superannuation, etc. is a contradiction in terms. The State Commission ought to have allowed greater requirement of the terminal funds due to increase in the number of superannuations and not lesser terminal benefit funds. Assuming that there were no investments at all, even then the requirement of the funds would have to be made up completely from the revenues generated from the tariff. As a matter of fact, in the next year's tariff, i.e. for FY 2008-09, the State Commission has in fact acted upon the actuarial valuation and given the benefit of the same. This would apply to this period also.

In regard to Administrative and General Expenses, two items of the additional cost towards administrative and general expenses

had been disallowed by the State Commission. They are: (1) additional expenses on undertaking of spot billing of consumers; and (2) additional expenses of conducting energy audit. As regards the additional expenses on spot billing, the State Commission has denied the same on the sole ground that details of the same have not been furnished by the Appellants. This finding is factually incorrect. All the elaborate details of such expenses had already been furnished before the State Commission in the tariff proposal. The non-introduction of the spot billing was taken as one of the grounds by the State Commission for seeking the revocation of the license of the Appellant. Hence, the Appellants have undertaken these additional expenses.

Therefore, the same cannot be denied to the Appellants.

As regards the additional expenses incurred on taking energy audit, the energy audit had been undertaken by the Appellants since the revocation proceedings had been initiated against the Appellants on that ground. Thus, on the one hand the licenses of the Appellants were sought to be revoked on the ground that spot billing was not introduced and not taking full energy audit and on the other hand, when the Appellants introduced the same, the State Commission had chosen to disallow the additional expenditure on these activities. This finding is wrong.

(F) **Truing up and amortization of regulatory assets**

The State Commission held out its first truing up exercise in the FY 2007-08 pursuant to the directions issued by this Tribunal to conduct the revenue truing up. Even this truing up exercise is bereft of details. On first principle, the truing up exercise is the process by which actuals are compared with the projections. The truing up cannot be a process where projections are compared with the projections. The State Commission itself in the impugned order mentioned that the truing up in the aforesaid order had not been undertaken on the basis of the audit of the past receivables and direction was given to the distribution companies to carry out an audit of the past receivables based on which the State Commission can take a

decision on the authenticity and the chances of recovery of these massive arrears. As a matter of fact, the Appellants had undertaken the reasonable audit as per the guidelines of the State Commission and submitted the same to the State Commission in March, 2008 itself. Therefore, the State Commission may be directed to revisit this issue after taking into account the audit of the past receivables of the Appellant.

8. In reply to the above grounds urged by the Appellants, the Learned Counsel for the State Commission have submitted the following:-

(A) The finding given by the State Commission in the impugned order is wholly based upon the long-term tariff strategy and the business plan. The

long-term tariff strategy is MYT strategy. These LTTS directions and business plan orders have attained finality as they have not been challenged. As per Regulation 5.1 (1)(b), (f) and (g) of Orissa Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2004, the State Commission may require a long-term business plan from each licensee for adopting multi-year tariff regime, which the licensee shall scrupulously comply with and the accounting policy and the chart of account, as determined by the State Commission from time to time shall be followed by the licensee. It also further provides that in regard to distribution loss the licensee will have to share with the consumers part of the financial gains arising from achieving higher loss reduction, and

losses on account of underachievement of loss reduction target will be entirely borne by the licensee. Similarly, Regulation 9 of the Regulations, 2004 would provide that the State Commission may issue orders and directions in regard to implementation of Regulations and the procedure to be followed on various matters and the same shall be complied with by the distribution companies. Further, if the distribution companies do not achieve their targeted performance, they have to bear the cost of their non-performance under the LTTS orders and the Regulations.

- (B) The State Commission rightly approached and considered the items of NTPC bond terminal benefits, employees cost, administrative and general cost, etc. as per the relevant provisions of

the Regulations, LTTS principle and business plan. On earlier occasion, this Tribunal in the order passed on 13.12.2006 has not considered the factual background and as a matter of fact, the Tribunal has specifically observed in the said order that it may not be necessary to set out the factual matrix. As a matter of fact, in respect of the miscellaneous receipts, the State Commission has been directed by the Tribunal to consider the miscellaneous receipts as proposed by the distribution companies in the ARR filing and in pursuance of the same a careful study was made and it was found out that the actual miscellaneous receipts of distribution companies are much more than the proposed receipts filed in the ARR. Therefore, the State Commission has excluded these amounts which form

miscellaneous receipts, while considering the ARR. For this purpose, the State Commission has relied upon the latest Audit Report and approved the same. Therefore, the impugned order is justified.

9. On the basis of the rival contentions of the parties, the following questions would arise:

- i) Whether the State Commission was right in not allowing the actual interest @ 12.5% incurred by the Appellants on NTPC bonds issued by them against outstandings and restricting it to 8.5% as envisaged in Tax Free Bonds under the One Time Settlement Scheme of Govt. of India?
- ii) Whether the State Commission has set unrealistic targets for reduction of the

distribution loss thus denying the legitimate revenue to the Appellants?

- iii) Whether the State Commission has erred in computing the revenue of the Appellants from consumers by taking average billing rate voltage- wise categories as a whole rather than calculating for each tariff slab within the voltage category and then adding up?
- iv) Has the State Commission erred in projecting a higher Miscellaneous income by wrongly including some components as income?
- v) Was the State Commission right in disallowing some expenses under Employees cost and Administrative and General Expenses as incurred by the Appellants?

vi) Has the State Commission erred in not considering the truing up impact in ARR in line with the principles set up by the Tribunal?

10. Let us now discuss each of the issues.

11. The first issue is **Interest on NTPC Bonds**.

12. According to the learned counsel for the Appellants, this Tribunal in its earlier Judgment dated 13.12.2006 in relation to the Financial Year 2006-2007 allowed the claim on this issue and held that the Distribution Companies are entitled to the rate of interest @ 12.5% p.a. In this Judgment, the Tribunal gave a specific direction to the State Commission to allow the difference of 4% interest payable for the NTPC bonds and to allow the same as pass through in the tariff. Despite this direction, it is

stated that the State Commission allowed only the interest @ 8.5% p.a.

13. In the initial years, the revenues of the Distribution Companies were not enough to meet the power purchase cost. This resulted in the default in payment of bulk supply tariff bills. In order to avoid crisis of power regulation by NTPC, the Appellants issued bonds in lieu of bulk power supply outstanding in favour of the GRIDCO based upon the Tripartite Minutes of the Meeting dated 24.10.2000. Subsequently, GRIDCO transferred these bonds to NTPC.

14. All the amounts received by the GRIDCO from the Distribution Companies were adjusted only against the bulk supply tariff arrear dues instead of apportioning the same between the bulk supply tariff dues and

Power Bond dues as per pari-passu principle. According to the Appellant, this adjustment by GRIDCO not only violated the Terms and Conditions of the Bonds issued, but was also against the prudent commercial practice, which calls for servicing high cost borrowings on priority basis. Although the NTPC bonds carried an interest rate of 12.5%, it remained un-serviced and unadjusted in GRIDCO's Accounts, notwithstanding the fact that the State Commission had directed GRIDCO to adjust first towards NTPC dues. In September 2001, when tripartite negotiations for issue of bonds worth Rs. 400 crores to NTPC had reached a finality and consequently, the Government of India announced the One-Time Settlement by securitization. The scheme provided for one time settlement of dues of Central PSUs wherein tax-free bonds were to be issued to Central PSUs on relaxed

terms and carrying an interest of only 8.5%. The Appellants then were assured that one-time settlement terms would apply to Rs. 400 crores bonds already issued and the same would be converted into tax-free bonds under One Time Settlement Scheme. However, GRIDCO ignored Rs. 400 crores bonds of the Appellant's Distribution Companies and on the other hand, GRIDCO settled the outstanding dues of power bonds by a one time cash payment of Rs. 216 crores after adjustment of refunds from NTPC towards downward revision of tariff by the State Commission for Rs. 276.7 crores.

15. Despite the aforesaid settlement entered with GRIDCO by the NTPC and GRIDCO charging interest @ 12.5% from the Appellants, the State Commission allowed the interest @ 8.5% p.a. instead of allowing interest @ 12.5% p.a. It is submitted by the

Appellants that whatever rate of interest is payable by the Appellants to GRIDCO in respect of the said bonds, the Appellants are entitled to recover the same on the basis of the actuals in their Annual Revenue Requirements.

16. The learned counsel for the State Commission submitted that the Commission following the One-Time Settlement Scheme propagated by the Govt. of India allowing tax free bonds @ 8.5% interest had written to Govt. of Orissa seeking its views and decision on securitization of bonds of Rs. 400 crores by the Appellants under the One-Time Settlement Scheme. There is however, no response on this issue till date. Only GRIDCO informed that their negotiations with NTPC are still underway. In spite of no result forthcoming on the issue for last many years and GRIDCO persistently charging interest @ 12.5%

from the Appellants, the Commission allowed only 8.5% in the ARR of the Appellants, thus resulting in gap in revenues of the Appellants.

17. As pointed out by the learned counsel for the Appellants, the very same issue was raised before this Tribunal in the earlier Judgment dated 13.12.2006 in which it has been specifically held this issue in favour of the Appellants and directed the State Commission to allow the difference of 4% interest payable for the NTPC bonds till the tariff period as well as the instalments which have already accrued due during the year 2005-06, 2006-07 and 2007-08 and allow the same to pass through the tariff. In pursuance of this order, the State Commission had constituted an Inter-Ministerial Committee to resolve the outstanding issues between the GRIDCO and the Appellants with a view to facilitate the system up-gradation of the

distribution sector in the State. One of the issues being considered by the said Committee is the issue of the “interest payable” in the said NTPC Bonds. It is pointed out that the report of the said Committee is awaited. In the light of the Minutes of the Tripartite Meeting held on 24.10.2000 and also the findings given by the Tribunal in the earlier Judgment dated 13.12.2006 and the fact that the GRIDCO continues to charge the interest @ 12.5% on NTPC bonds, we are of the view that whatever interest cost is payable by the Appellants to GRIDCO on the account shall be allowed as a pass-through in the Annual Revenue Requirement of the Appellants. This point is decided in favour of the Appellants.

18. The second issue relates to the unrealistic distribution loss targets. According to the Appellants, the State Commission has fixed the Retail Supply

Tariff of the Appellants by taking into account targets/ projections of distribution losses which are neither realistic nor achievable or have any nexus with the actual distribution losses of the previous year. According to the relevant regulations in the Tariff Regulations, the State Commission shall approve realistic and achievable loss target for the year under review based on the opening loss levels, licensee's filings and objections raised by the stakeholders. This issue was raised before this Tribunal in the previous judgment dated 13.12.2006 in respect of earlier years. The Tribunal in the said judgment specifically directed the State Commission that it need not stick to its earlier views and it shall take a re-look in this respect by taking a practical view of the ground realities instead of proceeding on assumptions and premises while undertaking truing up exercise. Despite this

direction, the State Commission has set unrealistic and impracticable target of reduction of distribution loss.

19. The learned counsel for the State Commission has argued that the Commission has set the distribution loss targets in accordance with Long Term Tariff Strategy Order (LTTS) dated 18.6.2003 and Business Plan Order dated 28.2.2005. According to the Appellants the Business Plan also contained provisions for financial restructuring of distribution losses and targets of infusion of funds besides the distribution loss targets. It would not be possible to achieve the loss reduction targets without financial restructuring and infusion of funds.

20. In this connection, it would be relevant to reproduce the excerpts from the report of the Kanungo

Committee constituted by Govt. of Orissa in May, 2001 to review the power sector reforms in Orissa:

“5.15. To bring reform back on rails, the World Bank and the DFID who helped Orissa initially and hopefully have retained their interest in the reform, should come forward with a suitable revenue gap in the intervening years. Without this interim financing estimated at Rs. 3240 crores, there seems hardly any prospect of the reform coming to fruition. The Govt. of India should not only persuade them to do so but also extend a helping hand in sharing the responsibility of interim financing of the revenue gap.

5.16. Once a decision is taken on interim financing and its apportionment, the Discos and GRIDCO may be pinned down to specific

performance parameters by desegregating the proposed T&D loss reduction Disco-wise”.

21. It has been submitted by the Appellants that the said infusion of funds never happened. On the other hand, the Appellants Distribution Companies were starved of finances as the tariffs approved by the State Commission did not cover the approved costs. Even though Bulk Supply Tariff have been increased, there has not been any increase in tariff since 2001-2002. The learned counsel for the Appellants has explained that monies collected by the distribution licensees are escrowed to GRIDCO to service Bulk Supply Tariff Bills and loan repayment. Consequently, the distribution licensees have no control over cash flows and have to approach the State Commission and GRIDCO for relaxation of escrow to meet essential

expenses. The cash proceeds of current operation on Trading of Power and Unscheduled Inter-charge instead of reducing the input costs and consequently inject liquidity has been used to effect losses of period prior to privatization. The Distribution Companies are facing difficulties in recovery of electricity dues from Government Departments, Local Bodies and State Public Sector Undertaking and also find it difficult to disconnect them. All their distribution assets are also hypothecated to GRIDCO making it difficult for them to raise loans from Financial Institutions. Under these circumstances, unless the recovered revenue gap in ARR are taken care of by the State Commission infusion of finances for capital investment in distribution may not be possible. In our opinion, there is force in arguments of the Appellants that the loss reduction targets have been approved by the State

Commission in the impugned Order without keeping in view the ground realities and infusion of funds required to achieve the targets.

22. As a matter of fact, the table produced by the Appellants would reveal that the financial impact on account of setting up unrealistic targets for the FY 2007-2008 would be Rs.73.35 crores in the case of WESCO, Rs.40.37 crores in the case of NESCO and Rs.43.47 crores in the case of SOUTHCO. It is, therefore, clear *prima-facie* from the table produced by the Appellants that in the year in question, the approved reduction with respect to estimated losses for previous year in the case of WESCO was 11.5 % in respect of SOUTHCO 13% and 6.8 % in respect of NESCO. These targets are very high and are considered unrealistic. Moreover, the Distribution Licensees have given valid reasons for non-availability

of funds for strengthening of the distribution system which is necessary to reduce the losses. As such, the finding on this issue rendered by the State Commission which relates to the un-realistic distribution loss targets is unacceptable. So, this point is decided in favour of the Appellants.

23. The next issue relates to Revenue Computation. The question that arises on this issue is whether the projections of revenue are to be done slab-wise within a tariff category or by treating each tariff category as a whole? In this impugned order, the State Commission has taken an average billing rate for each voltage-wise tariff category as a whole.

24. The tariff categories are broadly; voltage-wise, EHT, HT and LT. The tariffs were fixed slab-wise within each of these categories. Therefore, the revenue

figures ought to be calculated for each slab separately and then totalled up. However, the Appellants were directed by the State Commission to submit each individual bill of EHT and HT consumers for the FY 2006-07. The State Commission appears to have given such a direction on the impression that the State Commission would be able to verify the rates per unit approved in the tariff order. The relevant portion of the impugned order is quoted as under:-

“5.22.1. For the purpose of computation of expected revenue from sale of power it is necessary to know the per unit average revenue realizable from each class of consumer to be multiplied by the number of units sold for arriving at energy charges. To this the revenue realized from demand charge is also to be added alongwith other charges as per the tariff regulation. It is found that the distribution licensees are compiling

and furnishing the average rate p/u figure from each class of consumer voltage wise which merely includes demand charge, energy charge and other charge. It is a fact that there cannot be substantial change in the per unit collection in revenue unless there is some abnormal change or change in tariff structure. In view of that the Commission for the purpose of calculation of expected revenue takes into consideration the average revenue from April to December 2006-07 as the base for estimation purpose. The representative of WESCO, NESCO and SOUTHCO were directed in the public hearing to submit each individual bill of HT and EHT consumers for the FY 2006-07 so that the Commission would be able to verify the average rate per unit approved in the tariff order and the actual average per unit to find out inaccuracies if any between the two figures. They are supposed to submit within a period of one week which they have not done. Therefore, the

Commission is convinced that determination of expected revenue per unit based on actual figures submitted by the licensee to be adopted for the next FY is a reasonably good measure of assessment of expected revenue and goes on to determine on the aforesaid basis as the licensee have failed to establish to the contrary”.

25. The above observations of the State Commission would indicate that the State Commission is convinced that the determination of expected revenue is based on the actual figures submitted by the licensee. In this context, we have to point out that the very same issue had been raised in the previous judgment rendered by this Tribunal dated 13.12.2006. In the said judgment, the Tribunal held that the State Commission has failed to estimate and assess the expected revenue by considering average realization in LT, HT and EHT on

the basis of previous year's actual figures. On the basis of this finding, the Tribunal in the earlier judgment directed the State Commission to take up the truing up exercise at the earliest and to give a relook to assess the estimated sales at the slab. The relevant part of the judgment of this Tribunal is referred below:-

“28. Taking up Point ‘G’, it is contended by the learned counsel for the appellants that the Regulator has not computed the revenue, slab wise and category wise as prescribed in the OERC approved tariff formats, instead it has undertaken an ad hoc calculation which will not reflect the correct figures. It is contented that OERC has assumed higher realization rates at LT, HT & EHT voltage levels as seen from Table 20, while approving the revenue by sale of power. It is

contended that this is nothing but an inflated income of the Discoms without reference to realities. The learned counsel rightly pointed out that the Regulator has failed to estimate and assess the expected revenue by considering average realization in LT, HT and EHT on the basis of previous year's actual figures and at the slab rates. The approach of the Regulator in this respect definitely requires interference. The learned counsel appearing for the Regulatory Commission in this respect merely stated that when taking up the actuals, the same will be subject to truing up. By such an approach, the projection will be rendered futile but reflects on the finance of the Discoms and its retail tariff. The truing up at the end or after the year is of no value or effect. If it is allowed to await the truing up such an approach

will seriously affect the estimates. This requires a re-look and we are confident that the Commission in the future years to come to assess the estimated sales at the slab or at least take the actuals of the previous tariff year as the base and proceed to assess. We direct the Regulatory Commission to take up truing up exercise at the earliest and complete the same atleast, if necessary on half yearly basis and such truing up is possible in these days when the entire accounting is computerized. This point is answered accordingly”.

26. The above paragraph would clearly reveal that the Tribunal has given a clear finding that the State Commission has not computed the revenue, slab wise and category wise and instead it has undertaken an ad-hoc calculation which will not reflect the correct figures. On the basis of such findings, a direction, as

referred to above, had been issued by the Tribunal to the State Commission. Despite this direction, the State Commission wrongly estimated the projection of revenue by treating each category as a whole. In our view, there is no need or occasion to ask for all the bills especially when the EHT and HT consumers have a contract demand connections with the Appellants and month wise data of actual maximum demand recorded during the previous year had been furnished to the Commission by the Appellants. In view of the above findings, this issue is also decided in favour of the Appellants.

27. The next issue is relating to Miscellaneous Income. The question which arises in the present issue is whether the Commission is correct in projecting the miscellaneous income such as one towards meter rent, commission for collection of

electricity duty, miscellaneous charges, etc., in the Annual Revenue Requirement? On this issue the State Commission projected the miscellaneous income such as meter rent, commission for collection of electricity duty, miscellaneous charges, etc. According to the State Commission, since the nature of receipts of Delayed Payment Surcharge and over drawl penalty is not certain, the Commission excluded these amounts from miscellaneous receipts while considering the Annual Revenue Requirement. In this case, the cost of the meter has not been included as a cost to the Annual Revenue Requirement on the basis of the State Commission's policy. Therefore, the meter rent ought not to be treated as revenue in the Annual Revenue Requirement. As regards the commission for collecting the electricity duty, the same is a disputed question as to whether a distribution licensee, a private company,

has a right to retain such commission. Unless the Appellants are entitled to retain this commission, the same should not be included in the projected revenue for the year.

28. In this context, we have to point out that the issue of Miscellaneous Income was raised before this Tribunal in the previous Judgment dated 13.12.2006 whereby this Tribunal directed the State Commission to assess the miscellaneous income of the three distribution companies at the time of truing up exercise and give a consequential relief to them. The relevant portion of the observation and direction given by the Tribunal is as follows:

“21. Taking up Point D, it is contended that as seen from para 6.52.17 of the RST order for FY 2006-07, the miscellaneous income had been assessed on the basis of account of FY 2003-04. In other words

F.Y. 2003-04 has been taken as the base year to decide miscellaneous income for FY 2007. While taking up the same, the commission has chosen to ignore its direction issued in RST order for the FY 2005-06, where the provision relating to levy of delayed payment of surcharge at 2% per month in respect of various categories of consumers has been done away and there could be no imposition of delayed payment surcharge during the subsequent years. According to the appellants, the Regulatory Commission should have taken or adopted audited accounts of the year 2004-05 as the base and computed the miscellaneous income of the Discoms. Such an over-assessment of miscellaneous income affects the appellants. The appellants also placed the figures relating to first four months and the expected income for the

remaining part of the year. It is pointed out that there are obvious errors and this has been erroneously factored into the tariff. Instead of ourselves deciding, we direct Regulatory Commission to take this at the time of truing up exercise and assess the miscellaneous income of the three Discoms and give consequential relief to them. Point D is answered as above”.

29. Despite this direction, the State Commission has not chosen to grant this relief without any valid reason. However, in the present Appeal the issues are inclusion of meter rent and commission on collection of electricity Duty in Miscellaneous income of the Appellants. In our view, if the cost of meters is not allowed in the ARR of the Appellants, the meter rent also should not be included as Miscellaneous income. Similarly, if the Appellants are not getting the

commission on collection of Electricity Duty the same could not be included in the Misc. income of the Appellants. Electricity duty is collected by the Appellants from the consumers on behalf of the State Government. Unless the State Government agrees to give the commission to the Appellants for collection of the Electricity Duty the same could not be included in the Miscellaneous income of the Appellants. Therefore, this point is answered in favour of the Appellants.

30. The next issue is with reference to the Employee's cost and Administrative & General expenses. In regard to the Employee's cost, the short question which would arise is as to whether the State Commission has considered the actuarial valuation of the Pension and Gratuity and terminal liabilities of the Appellants. The State Commission in the impugned order has held that

the fund requirement has gone by more than 3 times over a period of 7 years. In the light of the fact that there has been a constant reduction of employees number as a result of superannuation and subsequent abolition of posts, the State Commission was not convinced to allow the terminal benefit liability based on the actuarial valuation. It is also observed by the State Commission in the order that the Commission needs to verify the official receipts from the trust and till such time, the Commission provisionally allowed an amount towards payment of terminal liabilities in proportion of the total of basic pay and DA, similar to the proportion allowed in the previous tariff order for the FY 2006-07. The above findings of the State Commission to the effect that the requirement of fund has gone up in the light of the fact that there has been a reduction of employees cost, as a result of

superannuation, etc., is a contradiction in terms. The State Commission did not notice that increase in the number of superannuation would result in greater requirement in the terminal benefit fund not a lesser terminal benefit fund. It is noticed that as a matter of fact, the State Commission in the next tariff year 2008-09, has acted upon the actuarial valuation and given the benefit of the same. In our view, this benefit would apply to the Appellants in respect of this period also.

31. In regard to the Administrative and General Expenses, two items of additional costs had been disallowed by the State Commission in the impugned order. They are:

- (1) Additional expenses on introduction of spot billing on consumers; and
- (2) additional expenses on conducting energy audit.

32. As regards the additional expenses on spot billing, the State Commission has denied the same on the sole ground that the details of the same were not furnished by the Appellants. The relevant portion of the findings of the impugned order is as follows:-

“6.1.2.6. Additional expenditure for spot billing does not appear to be justified as this is intended to replace the existing system of billing on which expenditure is being incurred from the current A&G head. However, the expenditure under this head will be permitted as and when the companies come out with the details of such expenditure subsequently”.

33. According to the Appellants, this finding is factually incorrect as per Annexure-3, which has been produced before this Tribunal. All the elaborate details of such expenses had already been furnished

before the State Commission in the tariff proposal but this was not taken into consideration by the State Commission. Further, it is to be noted that the non-introduction of the spot billing was taken by the State Commission as one of the grounds for seeking revocation of the licence of the Appellants. Under those circumstances, the Appellants have undertaken these additional expenses. Therefore, there is no valid reason for the State Commission to dis-allow the additional expenses on spot billing.

34. As regards the additional expenses on conducting the energy audit, it is to be stated as pointed out by the State Commission, that energy audit had been undertaken by the Appellants since the revocation proceedings had been initiated against the Appellants on the ground the Appellants had not undertaken full-scale energy audit. In those circumstances, the

Appellants had to incur additional expenses towards conducting the energy audit. The above factors would reveal that on the one hand, the license of the Appellants is sought to be revoked on the ground that spot billing was not introduced and not taking full energy audit and on the other hand, the Appellants introduced this spot billing and energy audit, the State Commission had chosen to disallow the same. Therefore, the finding by the Commission on this issue cannot be held to be valid. Accordingly, this point also is answered in favour of the Appellants.

35. The last issue is relating to the Truing up and Amortization of regulatory assets. In the present case the truing up exercise was carried out by the State Commission in pursuance of the directions issued by this Tribunal in the year 2007-08. According to the Appellants this is the first truing up exercise in the

State of Orissa for the Distribution Companies. On going through the impugned order, it is evident that truing up exercise was carried out without clear details. As per the first principle, the truing up exercise is in the process by which actuals are compared with the projections. The truing up cannot be a process where projections are compared with the projections. The State Commission itself in the impugned order mentioned that the truing up in the aforesaid order had not undertaken the audit of the past receivables and directed the Distribution Companies to carry out an audit of the past receivables based on which the State Commission can take a decision on the authenticity and the chances of recovery of these massive arrears. According to the Appellants, they had undertaken the receivables audit as per the guidelines of the State Commission and

submitted the same to the State Commission in the month of March, 2008 itself. In the light of the above statement, it would be appropriate to direct the State Commission to revisit this issue after taking into account the audit of the past receivables of the Appellants. Accordingly, it is so directed.

36. While defending the impugned order, the learned counsel for the State Commission has contended that the impugned order of the Commission has been passed in accordance with the Long Term Tariff Strategy Order (LTTS) dated 18.06.2003 and the Business Plan Order (BPO) dated 28.02.2005 and in the absence of the challenge to those orders, the findings rendered by the Commission cannot be questioned. This contention, in our view, does not deserve acceptance. LTTS order does not contain any specific target of distribution losses to be achieved.

The Business Plan Order also is not relevant since it contains provisions for financial restructuring of distribution losses as also targets of infusion of funds and targets of distribution loss levels to be achieved. The Business Plan Order must be read as a whole. It would not be possible to try and implement any one part of the order without implementing the entire order as a whole. Unless the financial restructuring and infusion of funds were to take place as envisaged in the Business Plan Order, the targets of distribution loss levels cannot be insisted upon. As pointed out by the Appellants, certain components of the Business Plan Order cannot be isolated from the rest of the Order and insisted on by the Commission. In other words, the question of challenging the said Order would not arise since if the order has to be implemented as a whole, the Appellants cannot but be

expected to reduce Distribution Loss Levels. In the absence of one, the other cannot be insisted upon.

37. Our findings are summarized as under:-

i) The first issue is interest on NTPC bonds.

The Appellants issued bonds worth Rs. 400 crores in favour of GRIDCO to be assigned to NTPC in terms of the Minutes of Tripartite Meeting dated 24.10.2000 at an interest rate of 12.5% to scrutinize the outstanding payments to NTPC. Subsequently, in September, 2001, Government of India announced the Scheme of One time Settlement of dues of Central PSUs wherein tax free bonds were to be issued to Central PSUs on relaxed terms and carrying an interest of only 8.5% while GRIDCO securitized its own

outstandings to NTPC under the One Time Settlement Scheme of Government of India at an interest rate of 8.5% and also subsequently finally settled the outstandings by one time cash payment, the Bonds issued by the Appellants continued to carry interest of 12.5 %. The State Commission took the matter with Government of Orissa seeking its views and decision on securitization of bonds of 400 Cr. of the Appellants under One Time Settlement Scheme. There is however no response from Government of Orissa. Only GRIDCO informed that their negotiation with NTPC on the issue are still underway. In spite of the fact that GRIDCO has been charging interest

@ 12.5% from the Appellants for last many years the State Commission has been allowing interest rate of 8.5 % on NTPC bonds in the ARR of the Appellants. In the impugned Order also interest rate of 8.5 % has been allowed. This Tribunal in its Judgment dated 13.12.2006 relating to the FY 2006-2007 decided this issue in favour of the Appellants and directed the State Commission to allow interest @ 12.5 % on NTPC bonds in the ARR of the Appellants as a pass through. We are of the view that whatever interest cost is paid by the Appellants to GRIDCO should be allowed as pass through in the ARR of the Appellants. This point is decided in favour of the Appellants.

ii) The second issue is relating to unrealistic distribution loss targets. According to the Appellants, the State Commission has fixed unrealistic distribution loss targets without considering the ground realities. This Tribunal in its earlier Judgment dated 13.12.2006 in respect of ARR for 2006-2007 had specifically directed that State Commission to take a relook in this respect by taking a practical view of the ground realities instead of proceeding on assumption and premises while undertaking trueing up exercise. According to the learned counsel for the State Commission, the distribution loss targets have been set up in accordance with Long Term Tariff Strategy Order dated

18.06.2003 and Business Plan Order dated 28.02.2005. According to the Appellants the Business Plan also contained provisions for financial restructuring of distribution losses and targets of infusion of funds, which did not take place. The distribution companies were starved of finances as the tariffs approved by the State Commission did not cover the approved costs. Even though Bulk Supply Tariff has been increasing, there has been no increase in retail supply tariff since 2001-2002. In the FY 2007-2008 the approved reduction in the distribution losses with respect of the previous year was 11.5 % for WESCO, 6.8% for NESCO and 13 % for SOUTHCO. As such we feel

that the targets set up by the State Commission for the FY 2007-2008 were unrealistic. This point is also decided in favour of the Appellants.

iii) The next issue relates to Revenue Computation. The Commission has made the projection based on average tariff for previous years data for nine months period for each voltage-wise tariff category as a whole. According to the Appellants, this method would give erroneous result and the projection has to be done slab-wise in each voltage category and then totalled up. The very same issue was considered by this Tribunal for the Year 2006-2007 and the Tribunal in its

Judgment dated 13.12.2006 found fault with the methodology adopted by the State Commission and directed it to take up the truing up exercise to give a relook to assess the estimate slab-wise in each voltage based tariff category. The State Commission wanted the Appellants to submit all the bills raised on the HT and EHT consumers for the FY 2006-2007 to verify the average rate per unit approved in Tariff Order. According to the Appellants the month-wise data of actual maximum demand recorded during the previous year was furnished to the Commission by them. In our view, the slab-wise assessment within the same voltage category will give more accurate

assessment of the revenue. Accordingly this issue is also decided in favour of the Appellants.

- iv) The next issue is relating to Miscellaneous Income. According to the Appellants, the cost of meters has not been included in the ARR as per the State Commission's policy and therefore meter rent ought not be treated as revenue in the ARR. Similarly it is disputed question as to whether the distribution licensee has right to retain Commission for collecting the electricity duty. Unless the Appellants are entitled to retain this Commission, the same should not be included in the projected revenue for the year. In our view, if cost of meters is not allowed in**

the ARR of the Appellants, the meter rent shall also not be included in the miscellaneous income of the Appellants. Also unless the Appellants are entitled to retain the Commission on collection of electricity Duty the income on the Commission ought not be included in the Miscellaneous income. Therefore, this point is answered in favour of the Appellants.

- v) The next issue is with reference to Employees Cost and Administrative and General Expenses. The State Commission has provisionally allowed the amount towards payment of terminal liabilities similar to the previous year. The findings of the State Commission that the**

requirement of the fund has gone up in the light of the fact that there has a reduction in employees cost, as a result of superannuations is a contradiction in terms. In fact, the increase in the number of superannuations would result in increase in requirement of terminal benefit fund. In the Financial year 2008-2009, the Commission has acted upon the actuarial valuation and given the benefit for the same in the ARR. In our view, this benefit would apply to the Appellants in respect of FY 2007-2008 also. In regard to Administrative and General Expenses, the State Commission has also disallowed the additional costs on account of distribution of spot billing on consumers and

conducting of energy audit. These activities were initiated by the Appellants as non introduction of the spot billing and not conducting energy Audit were some of the grounds for seeking revocation of the license of the Appellants by the State Commission. However, the expenditure on carrying out their activities was not allowed in the ARR for FY 2007-2008 even though the Appellants had submitted details of the expenditure to the State Commission. Therefore, findings of the State Commission on this issue can not be held valid. Accordingly, this point is also answered in favour of the Appellants.

- vi) The last issue is relating to the Truing up and amortization of regulatory assets.**

The truing up cannot be a process where the projections are compared with the projections. According to the Appellants, they had undertaken the audit of the past receivables as per the guidelines of the state Commission and submitted the same to the Commission in the month of March 2008. We, therefore, direct the State Commission to revisit this issue after taking into account the audit of the past receivables of the Appellants.

38. In view of the above discussion, all the issues referred to above, are decided in favour of the Appellants. In terms of the findings, the State Commission is directed to implement the same as expeditiously as possible.

39. These Appeals are allowed. There is no order as to cost.

(Justice P.S. Datta) (Rakesh Nath) (Justice M. Karpaga Vinayagam)
Judicial Member Technical Member Chairperson

Reportable/Non-Reportable

Dated: 8th November, 2010