

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

**Appeal No. 130 of 2008 & IA Nos. 167/08, 58/09 & 64/09**

**Appeal No. 169 & IA Nos. 225 & 227 of 2008**

**Appeal No. 1 of 2009 & IA No. 1 of 2009**

**Appeal No. 2 of 2009 & IA No. 3 of 2009**

**Appeal No. 8 of 2009 & IA Nos. 13/09 & 143/09**

**Appeal No. 10 of 2009 & IA No. 17/09**

**Appeal No. 17 of 2009 & IA No. 24/09**

Dated : 5<sup>th</sup> November, 2009

**Coram : Hon'ble Ms. Justice Manju Goel, Judicial Member  
Hon'ble Mr. H.L. Bajaj, Technical Member**

**IN THE MATTER OF :-**

**Inorbit Malls (India) Pvt. Ltd.**

Plot No. C-30, Block G,  
Opp. SIDBI Bandra Kurla Complex,  
Bandra (East),  
Mumbai – 400 051

... Appellant(s)

Versus

**1. Maharashtra Electricity Regulatory Commission**

World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005

**2. Reliance Infrastructure Ltd.**

(Earlier known as Reliance Energy Ltd.),  
Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.

... Respondent(s)

AND IN THE MATTER OF:

Globus Stores Private Limited,  
"Rahejas" Corner of Main Avenue,  
& VP Road, Santacruz (West),  
Mumbai 400 054

...Inventor No.1/ Applicant No.1

Infiniti Retail Limited,  
Bombay House  
24 Homi Modi Street,  
Mumbai- 400 001

...Inventor No.2/ Applicant No.2

Pantaloon Retail (India) Limited,  
"Knowledge House"  
Shyam Nagar  
Off Jogeshwari Vikroli Link Road,  
Jogeshwari (East)  
Mumbai- 400 060

...Inventor No.3/ Applicant No.3

Counsel for the Appellant(s) : Mr. M. G. Ramachandran  
Mr. Kunal Vajani &  
Mr. Rahul Malhotra

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieetaa Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC

**Appeal No. 169 & IA Nos. 225 & 227 of 2008**

1. **Trent Limited,**  
Having its registered office at  
Bombay House  
24 Homi Modi Street Fort,  
Mumbai 400 023  
(through its Company Secretary)

2. **Trent Hypermarket**  
Having its registered office at  
Taj Building, 2<sup>nd</sup> Floor,  
210, Dr. D.N. Road,  
Fort Mumbai 400 001  
(Through its Director)
  
3. **Landmark Limited,**  
Having its registered office at  
Enterprise Centre, 17/5, CST 55,  
Off Nehru Road, Beside Orchid Hotel  
Vile Parle (East), Mumbai 400 099  
(Through its Chief Operating Officer) .....Appellant

Versus

1. **Maharashtra Electricity Regulatory Commission**  
World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005  
(Through its Secretary)
  
2. **Reliance Energy Ltd.,**  
Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.  
(through its Company Secretary) ... Respondent(s)

Counsel for the Appellant(s) : Mr. M. G. Ramachandran &  
Mr. Avinash Menon

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieetaa Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC

**Appeal No. 1 of 2009 & IA No. 1 of 2009**

**Hypercity Retail (India) Limited,**

1<sup>st</sup> Floor, Paradigm A,  
Mindspace, Malad (W),  
Mumbai- 400 064

....Appellant

Versus

**1. Maharashtra Electricity Regulatory Commission**

World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005

- 2.** Reliance Energy Ltd.,  
Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.

... Respondent(s)

Counsel for the Appellant(s) : Mr. M. G. Ramachandran  
Ms. Hemlata Jain  
Mr. Kunal Vajani &  
Mr. Rahul Malhotra

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieetaa Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC

**Appeal No. 2 of 2009 & IA No. 3 of 2009**

**Shoppers Stop Limited,**

Eureka Towers, B Wing, 9<sup>th</sup> Floor,  
Mindspace, Link Road, Malad (W),  
Mumbai 400 064.

.....Appellant

Versus

**1. Maharashtra Electricity Regulatory Commission**

World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005

**2. Reliance Energy Ltd.,**

Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.

... Respondent(s)

Counsel for the Appellant(s) : Mr. P.H. Parekh,  
Mr. M. G. Ramachandran  
Ms. Hemlata Jain  
Mr. Kunal Vajani &  
Mr. Rahul Malhotra

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieetaa Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC

**Appeal No. 8 of 2009 & IA Nos. 13/09 & 143/09**

**B.D. & P Hotels (India) Pvt. Limited,**

Hotel Le Meridian,  
Sahar Aairport Road,  
Andheri (East),  
Mumbai- 400 099

...Appellant

Versus

**1. Maharashtra Electricity Regulatory Commission**

World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005

**2. Reliance Energy Ltd.,**

Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.

... Respondent(s)

Counsel for the Appellant(s) : Mr. M. G. Ramachandran  
Mr. Kunal Vajani &

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieetaa Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC

**Appeal No. 10 of 2009 & IA No. 17/09**

**Multiplex Association of India**

C/o FICCI,

Krishanamai building, Sir Pochkanwala Road,  
Worli Mumbai 400 018.

...Appellant

Versus

**1. Maharashtra Electricity Regulatory Commission**

World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005

**2. Reliance Energy Ltd.,**

Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.

... Respondent(s)

Counsel for the Appellant(s) : Mr. M. G. Ramachandran  
Mr. Apoorve Karal  
& Ms. Neha Garg

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieeta Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC

**Appeal No. 17 of 2009 & IA No. 24/09**

**Blooming Buds Coaching Limited,**

Plot No. 313, 7 Station Road Junction,  
Linking Road, Prima Focus House,  
Opp. Citibank, Khar (West),  
Mumbai 400 052.

...Appellant

Versus

**1. Maharashtra Electricity Regulatory Commission**

World Trade Centre,  
Centre No.1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005

**2. Reliance Energy Ltd.,**

Reliance Energy Centre  
Santacruz (East),  
Mumbai- 400 055.

... Respondent(s)

Counsel for the Appellant(s) : Mr. M. G. Ramachandran  
Ms. Swapana Seshadri

Counsel for the Respondent(s) : Mr. J. J. Bhatt, Sr. Adv.  
Ms. Anjali Chandurkar &  
Ms. Smieetaa Inna for RIL  
Resp. No. 2  
Mr. Buddy A. Ranganadhan  
for MERC



## J U D G M E N T

### **Justice Manju Goel, Judicial Member**

These are seven appeals against the tariff order of the Maharashtra Electricity Regulatory Commission (Commission for short) dated 4.06.08 read with order of 17.06.08 whereby tariff viz-a-viz the appellants (who are consumers of electricity supplied by respondent No. 2) has increased substantially. The tariff category to which the appellants belong are LT II (Commercial) and HT II (Commercial). It may be stated here that the impugned tariff order describes the category in question as HT II (Commercial) but in the bill raised, the respondent No.2, the distribution licensee, describes the category as HT II (commercial). The parties have referred to it as HT II (Commercial). We describe the category as HT II (Commercial) in this judgment. The following table shows the category impugned in each of the eight appeals.

S. No.	Appeal No./ .	Cause Title	Category Involved
1	Appeal No. 130 of 2008	Inorbit Mall (India) Pvt. Ltd. -v- MERC & Anr.	HT-II (Commercial)
2	Appeal No. 169 of 2008	Trent Lt. & Ors. -v- MERC	LT-II (Commercial) & HT-II (Commercial)
3.	Appeal No. 1 of 2009	Hypercity Retail (I) Ltd. -v- MERC & Ors	LT-II (Commercial)
4	Appeal No. 2 of 2009	Shoppers Stop Ltd. -v- MERC & Ors.	LT-II (Commercial) & HT-II

			(Commercial)
5	Appeal No. 8 of 2009	B D & P Hotels (I) Pvt. Ltd. -v- MERC & Anr.	HT-II (Commercial)
6.	Appeal No. 10 of 2009	Multiplex Association of India Vs. MERC & Anr.	LT-II (Commercial) & HT-II (Commercial)
7	Appeal No. 17 of 2009	Blooming Buds Coaching Ltd. & Ors. Vs. MERC	LT-II (Commercial)

02) The principal ground for challenge in all these appeals is rise in cross subsidy level in the year in question compared to that in the previous year's level. Admittedly, the average cost of supply in the year 2008-09 has increased by 10.22% over the immediately preceding period. The tariff for the appellant have however increased by a larger extent. For LT-II (above 20 kW and upto 50 KW) tariff has increased from Rs. 5.91 per KWH to Rs. 9.75 per KWH which means an increase by 65% and for LT-II (above 50 W) from Rs. 5.91 per KWH to Rs. 10.97 per KWH showing an increase by 85%. Similarly for HT-II (Commercial) tariff has risen from Rs. 6.26 per KWH to Rs. 11.31 per KWH which mean a rise of 90%.

03) The category of LT-II in the distribution area of the respondent No. 2 was the subject matter in appeal No. 98/08 Spencer Retail Limited vs. MERC & Anr. Vide our judgment dated 27.01.2009, we set aside the tariff for the LT-II category with sanctioned load above 20 KW but below 50 kW and with sanctioned load of 50 kW and above. Hence the present appeals

to the extent they challenge tariff category LT II with sanctioned load of 20 KW to 50 kW and with sanctioned load above 50 kW stand decided vide our judgment dated 27.01.2009. Tariff for HT-II (Commercial) category for the year 2008-09 for the distribution licensee Maharashtra State Electricity Distribution Company Ltd. was set aside in a batch of appeals No. 131/08, 05/2009 and 11 of 2009 filed by three consumers, who are also appellants herein vide our judgment dated 23.10.2009. Tariffs for the above categories were set aside on the ground that cross subsidy could not have been increased by such extent in view of the National Electricity Policy, the National Tariff Policy as well as the Electricity Act 2003. For the same reasons the tariff of the impugned category HT-II (Commercial) charged by the respondent No.2 also has to be set aside. We do so accordingly.

04) In our judgment dated 01.07.2009 in appeal No. 107/08 we set aside the tariff order vis-à-vis MSEDCL for LT-II (Commercial) category sanctioned load of above 50 kW and HT-II (commercial) category for similar reasons.

05) Hence we allow the appeals and direct the Commission to re-determine the tariff for the categories LT-II (commercial) with sanctioned load of above 20 kW and upto 50 kW and above 50 kW and HT-II (Commercial). The respondent No. 2 Reliance Energy Limited shall adjust the excess amount received from the appellants against the amount payable by them for further

consumption by equally adjusting the same in twelve monthly bills which will be raised hereafter. The Commission is also directed to make suitable adjustment in the ARR of the respondent No.2 so as not to deprive it from its ARR.

06) Before parting with the appeal we also direct the Commission that while formulating new order in pursuance to this judgment it will give similar relief to all consumers who are placed similarly with the appellants herein so that other consumers similarly placed are not made to approach this Tribunal and cause avoidable expenses and consequent rise in tariff.

07) The judgment in appeal No. 107 of 2008 has been challenged before the Hon'ble Supreme Court. The Hon'ble Supreme Court has been pleased to stay the operation of our judgment in appeal No. 107 of 2008 by its order dated 17.07.09 which is as under :

*“Taken on Board.*

*The civil appeal is admitted.*

*Until further orders, operation of the impugned order shall remain stayed.*

*It is directed that in case the appellant fails in this appeal, it will have to adjust the amount of interest at the rate of nine per cent per annum.*

*Tag the appeal with Civil Appeal No. 1602 of 2009.”*

08) In view of the above order of the Hon'ble Supreme Court we direct that the operation of this judgment will remain in abeyance till the Hon'ble Supreme Court vacates the order of stay quoted above. We further add that the respondent No. 2 shall be liable to adjust the interest @ 9% per annum in the same manner in which the Hon'ble Supreme Court has directed in its order date 17.07.09.

09) With this all the IAs in the above appeals stand disposed of.

Pronounced in open court on this **5<sup>th</sup> day of November, 2009.**

**( H. L. Bajaj )  
Technical Member**

**(JusticeManju Goel )  
Judicial Member**

**Reportable** ✓ / Non-reportable