COURT-I

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

APPEAL NO. 27 OF 2015 &
IA Nos. 28 & 29 of 2015

Dated : 17th March, 2015

Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

In the matter of :

Spentex Industries Ltd. ...Appellant(s)
Versus
Maharashtra Electricity Regulatory Commission & Anr. ...Respondent(s)

Counsel for the Appellant(s)	:	Mr. Chinmoy Pradip Sharma Mr. Sayan Ray
Counsel for the Respondent(s)	:	Mr. G. Saikumar Mr. Raheel Kahil for R-2 Ms. Swapna Seshadri for R-3

O R D E R

As agreed by learned counsel for the parties, the main Appeal is taken up for final disposal.

The Appellant is challenging the Order dated 20.08.2014 passed by the 1st Respondent – State Commission. The only grievance of the Appellant is as regards observations made by the 1st Respondent in Paragraph 37 of the impugned Order. The said paragraph reads as under:

"37. The Commission is of the view that two consumers i.e., Facor Steels Ltd. and Spentex Industries Ltd. who asked for open access and did not consumed energy under open access have been irresponsible in their roles as shareholders in Group Captive Generating Plant and should be penalized to ensure that in future a few shareholder cannot jeopardize the agreement beneficial to many. The Commission therefore is of the opinion that such shareholder should be asked to pay a penalty. Accordingly, MSEDCL should submit a proposal for penalty to the Commission for approval."

The 1st respondent has been served on 19.01.2015. Affidavit of service has been filed. However, nobody is representing the 1st respondent. In the circumstances, we proceeded with hearing of this Appeal.

Counsel for the 2nd Respondent, on instructions, states that the 2nd respondent is not submitting any proposal for penalty to the 1st respondent and accordingly the 2nd respondent has written to the 1st respondent. Apart from this, on merits also we are of the opinion that the above order imposing penalty on consumers is not sustainable in law because the 1st respondent cannot impose any penalty on the consumers for not consuming energy corresponding to their share as shareholders in the group Captive Generating Plant.

In the circumstances, we allow the Appeal to the extent setting aside the direction issued in paragraph 37, which we have quoted here-in-above. Needless to say in view thereof the present Appeal is allowed in vterms of prayer clause 'C' of the Appeal, which reads as under:

"(C) Set aside the directions issued by Respondent No.1 against the Appellant in paragraph 37 of the impugned order."

The Appeal is disposed of.

(Rakesh Nath)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

Ts/vg