

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

**Review Petition No. 11 of 2010 in  
Appeal Nos. 154 & 155 of 2009**

**Dated : 19<sup>th</sup> January, 2011**

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

**Appeal No. 154 of 2009**

**In the matter of:**

Tata Motors Limited ... Appellant  
Vs.  
Maharashtra State Electricity  
Distribution Company Limited....Review Petitioner/Respondent  
And  
Maharashtra Electricity Regulatory  
Commission ...Respondent

**Appeal No. 155 of 2009**

**In the matter of:**

Nishkalp Energy Limited ... Appellant  
Vs.  
Maharashtra State Electricity  
Distribution Company Limited....Review Petitioner/Respondent  
And  
Maharashtra Electricity Regulatory  
Commission ...Respondent

Counsel for the Appellant(s): Mr. Abhishek Mitra for Review Petitioner/  
MSEDCL

Counsel for Respondent (s): Mr. M.G. Ramachandran,  
Ms. Ashesha Srivastava &  
Mr. Sarthak Nayak

## **ORDER**

### **Per Hon'ble Shri Rakesh Nath, Technical Member:**

1. This Review Petition has been filed by Maharashtra State Electricity Distribution Co. Ltd. against the judgment dated 28.4.2010 of this Tribunal setting aside the order dated 19.6.2009 of the State Commission, directing that the Appellants were entitled to claim the balance amount as per the settlement reached between the parties.

2. The Review Petitioner, the distribution licensee, was the Respondent in Appeals 154 and 155 of 2009 which were filed by Tata Motors Ltd. and M/s. Nishkalp Energy Limited before this Tribunal praying for monitory claim from the Review Petitioner/Respondent distribution licensee which were

dismissed by the State Commission. The Appellants in the main Appeal are Wind Power Developers, Respondents herein, supplying electricity to the Review Petitioner/Respondent.

3. The issue before the Tribunal in Appeal Nos. 154 & 155 of 2009 was as to what was the applicable rate for refund of 8% units by the Review Petitioner/Respondent distribution licensee to the Appellants for the period October 2001 to March 2004. The contention of the Review Petitioner/Respondent was that the 8% units were to be paid as per the “lowest slab of the high tension tariff (HT Tariff) applicable as on 31<sup>st</sup> March of the financial year”. The Tribunal decided that the adjustment should be based on the HTP-2 rates applicable during the financial year on month to month basis and not the lowest rate as applicable on the 31<sup>st</sup> March of the financial year.

4. The Review Petitioner in its submissions have given the same grounds for review as were submitted before the Tribunal

in the main Appeals. The Review Petitioner has also reiterated the arguments that were raised during the course of hearings in the main Appeals in support of its case.

5. We have heard the counsel for both the parties.

6. We find that no error apparent on the face of the record have been pointed out by the Review Petitioner. On the other hand, the Review Petitioner has requested for re-consideration of the whole issue.

7. However, subsequent to the hearing of the Review Petition, the Review Petitioner in its written submissions dated 15.12. 2010 has pointed out the following error apparent in the Judgment:

*“ It is respectfully submitted that even at para 10 of the judgment, this Hon’ble Tribunal has recognized that the contention of the Appellants was actually that the applicable rate for refund was “the lowest rate calculated on a ‘month-wise’ basis”. This Hon’ble Tribunal recorded:*

*“Admittedly, there is an agreement that such compensation shall be as per the latest HTP-2 rates as on 31<sup>st</sup> March of the financial year or as per the latest HTP rates prevalent during the financial year”.*

*However, the word ‘lowest’ has inadvertently been mentioned as ‘latest’.”*

8. We do not feel the Judgment needs a review. However, in view of the written submissions made by the Review Petitioner, we feel that there is a need to issue clarification.

9. The contention of the Appellants in the main appeal was that the 8% units have to be paid at lowest slab of HT tariff during the respective months of generation as per the agreement reached with the Review Petitioner/ Respondent distribution licensee. The Appellants had also raised invoices on the Review Petitioner/Respondent at the lowest slab of HT tariff (HTP-II) applicable during the corresponding period on month to month basis. The Tribunal has accepted the

contention of the Appellants Tata Motors Ltd. and Nishkalp Energy Ltd. and allowed them to claim the balance amount accordingly.

8. With the above clarification, we dispose off the Review Petition. No order as to costs.

9. Pronounced in the open court on this **19<sup>th</sup> day of January, 2011.**

**( Rakesh Nath )  
Technical Member**

**(Justice M. Karpaga Vinayagam)  
Chairperson**

REPORTABLE / NON-REPORTABLE.

VS