

**APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)**

Appeal Nos. 14 & 15 of 2010

Dated: 31st August, 2010

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

Appeal No. 14 of 2010

In the matter of:

- 1. Induction Furnace Association of North India
Room No. 212, 2nd Floor,
Savitri Complex, G.T. Road,
Ludhiana-141 001**

...Appellant

Versus

- 1. Punjab State Electricity Board,
The Mall,
Patiala-147 001**
- 2. Punjab State Electricity Regulatory Commission
SCO No. 220-21, Sector 34-A,
Chandigarh-160 034**

... Respondents

Counsel for the Appellant(s) Mr. Puneet Jindal

**Counsel for the Respondent(s) Ms. Jayshree Anand with
Mr. K.K. Mahalik for PSEB
Mr. Sakesh Kumar for R-2**

Appeal No. 15 of 2010

In the matter of:

- 1. Hero Cycles Limited
G.T. Road, Hero Nagar,
Ludhiana-141 003**
- 2. Avon Ispat & Power Limited,
G.T.Road, Dhandari Kalan,
Ludhiana-141 m003**
- 3. Avon Ispat & Power Limited,
Phase-VII, Chandigarh Road,
Ludhiana-141 003**
- 4. Ralson (India) Limited,
G.T. Road, Raison Nagar,
Ludhiana-141 003**
- 5. International Tractors Limited,
Vill. Chak Gujran, P.O. Piplanwala,
Jalandhar Road,
Hoshiarpur-146 022**
- 6. Vallabh Textiles Company,
G.T. Road, Sahnewal,
Ludhiana-141 120**
- 7. Vardhman Industries Limited,
G.T. Road, Sahnewal,
Ludhiana-141 120**
- 8. Garg Acrylics Limited,
Kanganwal Road,
V & P.O. Jugiana,
Ludhiana-141 120**

...Appellants

Versus

1. **Punjab State Electricity Board,
The Mall,
Patiala-147 001**

2. **Punjab State Electricity Regulatory Commission
SCO No. 220-21, Sector 34-A,
Chandigarh-160 034**

... Respondents

Counsel for the Appellant(s) Mr. Puneet Jindal

**Counsel for the Respondent(s) Ms. Jayshree Anand with
Mr. K.K. Mahalik for PSEB
Mr. Sakesh Kumar for R-2**

JUDGMENT

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

1. Both these Appeals are being disposed of through this common judgment, as in both these Appeals common question of law and facts are involved and they arose out of the common order dated 08.09.2009 passed by the Punjab State Commission.

2. The Induction Furnace Association of North India is the Appellant in Appeal No. 14 of 2010. M/s Hero Cycles Limited and Others are Appellants in Appeal No. 15 of 2010. All the members of

the Appellant in Appeal No. 14 of 2010 and Appeal No. 15 of 2010 are having their large supply industrial connection on 66 KV Supply Voltage. All the Appellants have installed their own 66 KV Sub-Stations at their own expenses. It is claimed by the Appellants that the entire expenditure to install 66 KV lines was borne by the consumers themselves. Since there is a substantial saving in transformation loss and line loss on 66 KV supply compared to 11 KV supply voltage, a rebate was given to Extra High Tension (EHT) consumers. After coming into force of Electricity Act, 2003, apart from tariff orders issued year after year, 3% EHT rebate was reaffirmed and confirmed by the Electricity Board. In the impugned order dated 08.09.2009, the Rebate was withdrawn with effect from 01.04.2010.

3. In these Appeals, several grounds have been raised by the Appellants seeking to set aside the order relating to the withdrawal of the rebate, contending that the rebate had been withdrawn without any proposal being made by the Electricity Board and without issuing public notice on that said issue and, that therefore, the order impugned to that extent is required to be set aside.

4. While going through the entire record and the impugned order, we feel that it would suffice to consider the question whether the State Commission could exceed its jurisdiction while deciding to discontinue all the voltage rebates with effect from 01.04.2010 in the tariff order for FY 2009-10. On this question, the Appellants would contend that in the tariff order relating to FY 2009-10, the State Commission cannot decide about the rebate being withdrawn with effect from 01.04.2010 as this could be decided only in the next year's tariff order for FY 2010-11.

5. It is contended by the Appellant that in para 5.5.3 of the said order, the State Commission has specifically dealt with withdrawal of rebate holding that all voltage rebates are to be discontinued with effect from 01.04.2010. Admittedly, this is a single year tariff and not a Multi Year Tariff. Therefore, the State Commission is concerned only with the tariff application for FY 2009-10 to decide about the issue which arises for the period from 01.04.2009 up to 31.03.2010.

6. In this case, the decision has been taken by the State Commission in the application relating to FY 2009-10 that the rebate will be discontinued with effect from 01.04.2010 thereby the State Commission has exceeded its jurisdiction by deciding the withdrawal of the rebate with effect from 01.04.2010.

7. The Learned Counsel for the State Commission has pointed out that in para 5.5.1 and 5.5.2 the State Commission has given valid reasons showing the circumstances to withdraw the rebate. We do not propose to discuss about the validity of the reasonings for withdrawal of the rebate as contained in the para 5.5.1 and 5.5.2. But we are only to point out that the State Commission cannot decide about the issue relating to the FY 2010-11 in the application filed by the Respondent Electricity Board in relation to FY 2009-10.

8. So, without going into the merits of the reasons for withdrawal of rebate, we deem it fit to set aside the decision and direction given in para 5.5.3 with regard to withdrawal of rebate which would come into effect with effect from 01.04.2010.

9. We further make it clear that we are not giving any opinion in respect of reasons given for withdrawal of the rebate contained in para 5.5.1 and 5.5.2 of the impugned order. It is open to the State Commission to decide about the withdrawal of the rebate from 01.04.2010 in the application filed for the tariff determination in respect of FY 2010-11. The merits of the reasons may be considered by this Tribunal in the Appeals filed by the Appellants challenging the tariff order for the FY 2010-11.

10. With these observations, the finding given in para 5.5.3 of the impugned order alone is set aside. Consequently, these Appeals in 14 and 15 of 2010 are allowed.

No costs.

(Justice P.S. Datta)
Judicial Member

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

REPORTABLE/NON-REPORTABLE

Dated: 31st August, 2010

