

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

**Appeal No. 12 of 2011**

**Dated :22<sup>nd</sup> July, 2011**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson**  
**Hon'ble Mr. V.J. Talwar, Technical Member**

**GMR Hyderabad International Airport Ltd. ...Appellant(s)**

**Versus**

**A.P.E.R.C. & Anr. ....Respondent(s)**

**Counsel for the Appellant(s): Mr. Gopal Jain**  
**Counsel for the Respondent(s): Mr. K.V. Balakrishnan for Mr. K.V. Mohan**  
**for R.1**  
**Ms. Surbhi Sharma for R.2**

**ORDER**

The question as to whether the Appellant can be put in HT – II Commercial Category raised in this case has already been dealt with and a decision has been arrived at in Appeal Nos.195 of 2009 dated 31.05.2011 and Appeal No. 144 of 2009 dated 18.07.2011.

In these Judgments, this Tribunal held that the Appellant could not be put in the commercial category, and on the other hand the Appellant must be put in a separate category and different tariffs shall be determined. The findings and directions given by this Tribunal in the said Judgment in Appeal No. 195 of 2009 are as under:

*“As mentioned above, once the categorization of the Appellant under the HT-II commercial category is set aside by this Tribunal, it is not proper for the State Commission to put the Appellant in the same category by charging the commercial tariff from the Appellant. The scope for differential tariff was made in the Remand Order dated 26.2.2009 to allow the distribution licensee to charge commercial rate from establishments in the airport carrying out purely commercial activities. As discussed above, the absence of metering cannot be the reason to equate the airport services with the purely commercial activities and not re-determining the tariff of the Appellant.*

*Our Findings are summarized below:*

*(a) The Judgment dated 26.2.2009 of the Tribunal specifically directing the State Commission not to put the Appellant in Commercial Category but to put it in a different special category was a limited Remand and not an Open Remand.*

*(b) The State Commission is bound to act within the scope of the Remand. It is not open to the State Commission to do anything but to carry out the terms of the Remand in letter and spirit.*

*(c) The State Commission should re-determine the tariff for the Appellant strictly in view of the findings and observations made by the Tribunal.*

*(d) The State Commission could have differential tariff for the aviation as well as for the purely commercial activities, such as shops, restaurant, etc, at the airport. However, if it is not feasible to have separate metering arrangements for the aviation activities and purely commercial activities, then the State Commission could re-categorize the Appellant in a separate category other than HT Commercial II and determine the composite tariff for aviation and the commercial activities of the Appellant.*

These above findings would apply to the present Appeal also.

In view of the above, we deem it appropriate to set aside the impugned Order and allow the Appeal in terms of the above Judgments with a direction to the State Commission to pass appropriate consequent Orders and implement the same as expeditiously as possible after hearing the parties.

Accordingly, the impugned Order is set aside. The Appeal is allowed. There shall be no order as to costs.

**( V.J. Talwar )**  
**Technical Member**

**(Justice M. KarpagaVinayagam )**  
**Chairperson**

**TS/KS**