

FRIDAY | 14 JULY 2023

Case Update



THE TATA POWER COMPANY LIMITED (DISTRIBUTION) V. MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, APPEAL NO. 369/2023, ORDER DATED 13.07.2023



In a landmark Order, Appellate Tribunal for Electricity has stayed the Tariff Order of Tata Power Company Limited-Distribution (“TPC-D”) passed by Ld. MERC, whereby Ld. MERC had arbitrarily increased the TPC-D’s tariff for FY 2023-24, in complete ignorance of the projections made by the TPC-D inter alia including the quantum and the power purchase cost. Essentially, the Ld. MERC had interdicted the proposal of the TPC-D to procure power from the cheaper sources, rather than the traditional embedded generation, which at time, had become expensive.

The consequential effect of such decision had caused artificial increase in the tariff of the TPC-D, which was such that TPC-D had been made extremely uncompetitive, which was against the mandate of maintaining a level playing field in the parallel distribution regime in Mumbai. It goes without saying that such arbitrary action of the Ld. MERC was against the statutory scheme of the Electricity Act, 2003 (“Act”) i.e., to promote consumer interest and competition in the market.

Taking note of such arbitrary acts of the Ld. MERC which were de hors the scheme of Act, and the discrepancies and infirmities creeping in the Order dated 31.03.2023, Hon’ble APTEL was impressed to set aside and stay the operation of the approved tariff schedule for 2023-24. The entire edifice of the Order dated 13.07.2023 passed by Hon’ble APTEL has been that Ld. MEC has failed in discharging its obligations under Section 61(d) of the Act i.e., safeguarding the consumer interest, by not adhering to the merit order principle which has resulted into unreasonable 12% increase in the Average Cost of Supply (“AcoS”) of the TPC-D.

As a result, it will be safe to state that the soul of the argument of the TPC-D that there cannot be fixing of tariff, higher than the sought by the licensee itself, has been granted the imprimatur of law, and therefore now it stands well settled that procuring power for supply to its consumers is the prerogative of the licensee.

Evidently, the seminal ruling by the Hon'ble APTEL also brings great relief for the consumers of the Mumbai, as same will give them the elbow room to opt for their choice of licensee, which will help in maintaining the level playing field and competition in the parallel distribution regime in Mumbai. Furthermore, such an Order will also enable TPC-D in providing electricity in an efficient and economical manner to its consumers, which will be in line of the scheme of the Act.

Link to access the Order: [Click Here](#)

TPC-D was represented by Mr. C.S. Vaidyanathan (Sr. Advocate) and Mr. B.P. Patil (Sr. Advocate) instructed by SKV Law Offices' team led by Mr. Shri Venkatesh (Managing Partner), Mr. Ashutosh K. Shrivastava (Counsel), Mr. Bharath Gangadharan (Senior Associate), Mr. Shivam Kumar (Associate), Mr. Aashwyn Singh (Associate), Mr. Nihal Bharadwaj (Associate), Siddharth Nigotia (Associate), and Mr. Kartikay Trivedi (Associate).