

APTEL SETS ASIDE TATA POWER - DISTRIBUTION'S MID-TERM REVIEW TARIFF ORDER IN PART WHILE MAKING ITS INTERIM STAY ORDER ABSOLUTE, DIRECTS MERC TO PASS AN INTERIM OR FINAL ORDER PROMPTLY FOR THE FISCAL YEAR 2023-24 WHILE CONSIDERING ITS OBSERVATIONS



On 05.01.2024, the Appellate Tribunal for Electricity (“APTEL”) has set aside the Mid-Term Review (“MTR”) Order dated 31.03.2023 passed by MERC in Case No. 225 of 2022 (“Impugned Order”) (apart from the True up part of the Order) for Tata Power Company Limited-Distribution (“TPC-D”), while making its interim stay order dated 13.07.2023, absolute.

The appellant, TPC-D, had sought interim stay of the tariff schedule for the fiscal year 2023-24, as per the Impugned Order of the Maharashtra Electricity Regulatory Commission (“MERC”). The interim stay was granted by APTEL on 13.07.2023, but Adani Electricity Mumbai Limited – Distribution (“AEML-D”), a similarly paced distribution licensee, appealed against the same before the Supreme Court, which allowed the AEML-D to take necessary steps to implead itself in the proceedings challenging the MERC’s Impugned Order before APTEL. The Supreme Court, while refraining from interfering with the APTEL’s order, clarified that it hadn’t expressed an opinion on the merits.

Subsequently, AEML-D filed an application seeking modification of the Supreme Court’s order, however, the Supreme Court dismissed the said application. In the current proceedings, the second respondent argued that the appellant had accepted the MERC’s true-up order for the fiscal years 2021-22 and 2022-23 and hence the same ought to be given effect to in TPC-D’s tariff. In view of the same, APTEL in its order dated 05.01.2024 acknowledged that the true-up part of the Impugned Order continued to remain in force.

Thus, APTEL set aside the Impugned Order, excluding the true-up part and directed MERC to pass an interim or final order promptly for the fiscal year 2023-24, considering the observations made by APTEL in the Interim Order and the events subsequent to it, after giving an opportunity to all parties to place their submissions. TPC-D was also granted liberty to file a fresh appeal, only to challenge the true-up part of the MERC’s order dated 31.03.2023. The appeal was disposed of accordingly.

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) and Mr. Aashwyn Singh (Associate), Mr. Nihal Bharadwaj (Associate), Siddharth Nigotia (Associate), and Mr. Kartikay Trivedi (Associate).

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