

APTEL SETS ASIDE JSERC'S TARIFF ORDER ON ACCOUNT OF JURISDICTIONAL OVERREACH



In a landmark decision, the Appellate Tribunal for Electricity (APTEL) addressed a contentious issue between Damodar Valley Corporation (DVC) and the Jharkhand State Electricity Regulatory Commission (Jharkhand Commission) and DVC's consumers in the said State.

The dispute pertained to JSERC's tariff order for DVC of Financial Years 2006-07 to 2011-12, which was challenged due to the erroneous treatment of certain incomes of DVC as non-tariff income without any regard to the fact that such incomes were generated across its various business segments of DVC i.e., generation, transmission, distribution, and others.

DVC argued that JSERC's approach lacked a nuanced understanding of its consolidated account, which amalgamated earnings from its diverse operations spanning Jharkhand and West Bengal. DVC contended that JSERC unjustly categorized its entire consolidated non-tariff income as pertaining solely to its distribution business in Jharkhand, thereby overlooking the distinct nature of income from other states and business functions.

During the proceedings, APTEL found merit in DVC's argument, noting JSERC's jurisdictional overreach in including non-tariff income from non-distribution activities of DVC for tariff computation in the State of Jharkhand. Thus, by its order dated 05.02.2024 APTEL was pleased set aside the impugned order and direct the JSERC to redetermine DVC's revenue requirements by considering only the non-tariff income from DVC's distribution activities.

This ruling not only addresses the immediate dispute between DVC and JSERC but also sets a precedent for future regulatory evaluations, advocating for a balanced approach that recognizes the diverse nature of operations of DVC.

Our Managing Partner, Mr. Shri Venkatesh, assisted by Mr. Bharath Gangadharan, Senior Associate, Mr. Nihal Bhardwaj, Associate, and Mr. Aashwyn Singh Associate, represented DVC in the aforesaid proceedings.

The Order dated 05.02.2024 can be accessed [here](#).