

## APPELLATE TRIBUNAL FOR ELECTRICITY

## SKV Law Offices represents Damodar Valley Corporation in landmark victory before APTEL in long-standing Non-Tariff Income dispute

April 24, 2026, New Delhi: SKV Law Offices had the privilege of representing Damodar Valley Corporation (“DVC”) in its long-standing dispute concerning the treatment of Non-Tariff Income (“NTI”) in DVC’s distribution tariff proceedings before the Jharkhand State Electricity Regulatory Commission (“JSERC”).

By its judgment dated 24 April 2026 in Appeal No. 227 of 2025, the Appellate Tribunal for Electricity (“APTEL”) has allowed DVC’s appeal on the issue of NTI and has directed JSERC to re-compute tariff by considering Delayed Payment Surcharge (“DPS”) alone as NTI.

### Findings of the Tribunal

The judgment is significant as APTEL has, inter alia, held that:

- NTI for JSERC’s tariff determination must be confined only to income relatable to DVC’s distribution business in the State of Jharkhand, and cannot extend to income arising from generation, transmission or other activities;
- the tariff for DVC’s generation and transmission business falls within CERC’s regulatory domain, and any income relatable to those functions cannot be brought into JSERC’s distribution tariff exercise merely because it may have some bearing on input cost;
- the mere reflection of an item under “Other Income” in the audited accounts cannot, by itself, justify its treatment as NTI for the distribution segment, unless a clear nexus with distribution activity is established;
- the test for treating any income as NTI is whether such income is incidental to the distribution business and derived from the use of distribution assets; and
- JSERC’s findings treating several “Other Income” components as NTI were set aside, with a specific direction to re-compute tariff by considering DPS alone as NTI.

### Impact on Tariff Computation

The judgment is expected to have a direct and tangible impact on tariff computation. As earlier tariffs had been reduced due to inflated Non-Tariff Income being adjusted against DVC’s Aggregate Revenue Requirement, the re-computation directed by APTEL will necessitate reversal of such reductions to the extent they were founded on impermissible NTI components, thereby restoring tariff discipline and regulatory correctness.

The dispute, which had spanned nearly three to four years across multiple financial years and involved several rounds of contested proceedings, has finally been brought to a close through this decisive ruling. The outcome marks a significant and hard-fought victory for DVC, achieved through SKV Law Offices’ sustained strategic advocacy and deep regulatory expertise.

### Significance of the Ruling

Most importantly, the judgment brings much-needed clarity to an issue that had repeatedly arisen in successive tariff proceedings, and reinforces a foundational regulatory principle: income cannot be mechanically adjusted in tariff determination unless it squarely falls within the jurisdictional and functional boundaries of the regulated business. The ruling stands as a strong reaffirmation of principled tariff jurisprudence and sectoral regulatory discipline, and is also beneficial for distribution licensees across the country, as it ensures that only legitimately attributable income is adjusted against ARR.

### Team

The matter was argued by Learned Senior Advocate, Mr. Vikas Singh, along with our Founding Partner, Mr. Shri Venkatesh. They were ably assisted by Counsel, Nihal Bhardwaj, Senior Associate, Surbhi Kapoor, and Trainee Associate, Urvi Bansal.

## FOR FURTHER INFORMATION PLEASE CONTACT

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