

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub: In the matter of directions by Hon'ble APTEL vide order dated 12.04.2019 in Appeal No. 107 of 2018 in respect of Review petition no. 21 of 2017**

**Order**

(Hearing through Video Conferencing)

Date of order: **07 /12/2021**

**M/s S D Bansal Iron and Steel Private Limited, Bhopal : Petitioner**

Vs.

**1. M. P. Power Management Co. Ltd. (MPPMCL) : Respondents**

**2. M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd.**

*And*

**3. M/s Venus Alloys Pvt. Ltd, Mandasaur : Intervenors**

**4. M/s Rathi Iron & Steel Industries ,Indore**

Shri Ayush Bajpai, Advocate appeared on behalf of the Petitioner. Shri Manoj Dubey, Advocate and Shri V.D. Joglekar, GM appeared on behalf of M.P. Power Management Co. Ltd. Shri A.K. Jatav, CGM appeared on behalf of Central Discom. Shri Pradeep Aggarwal, Advocate, appeared on behalf of Intervenors.

- 1 The petitioner had filed an appeal before Hon'ble APTEL against the Retail Supply Tariff Order dated 31/03/2017 for FY2017-18 issued by the Commission. Pursuant to the order dated 12.04.2019 passed by Hon'ble APTEL in this Appeal no. 107/2018, the notices were issued to petitioner and Respondents to attend the hearing on 28.05.2019 in the matter. Subsequently, vide Commission's daily order dated 31.05.2019, Intervenors viz. M/s Venus Alloys Pvt. Ltd., Mandasaur and M/s Rathi Iron & Steel Industries, Indore were allowed to participate in the petition. The Intervenors had made their submissions with requisite fee in accordance with the provisions of the Regulations for enlisting them as intervenors in this case .

- 2 Subsequently, the Commission held hearings in the subject matter. At the hearing held on 03.09.2019, it was observed that the petitioner had not appeared before the Commission for third consecutive hearing. At the aforesaid hearing, the representatives who appeared for the respondents & the interveners had requested the Commission for adjournment in this matter mentioning that they have preferred an appeal before the Hon'ble Supreme Court, against the Hon'ble APTEL's aforesaid order. Considering their request, the Commission vide daily order dated 05.09.2019 decided to keep the matter in abeyance till the decision of the Hon'ble Supreme Court in aforesaid Civil Appeal filed by the Respondents/interveners.
- 3 While reviewing the status of petitions during FY2021-22 , it was observed that this petition has been kept in abeyance since September, 2019. It was observed that the above mentioned order passed by the Hon'ble APTEL in Appeal No. 107/2018 has been challenged before the Hon'ble Supreme Court in Civil Appeal No 4542 of 2019 by the Respondents/interveners, and since then, apparently no further development had taken place in this matter. Therefore, the Commission decided to take up this matter and the case was fixed for hearing on 05/10/2021.
- 4 At the hearing held on 05/10/2021, the Counsels for Respondents requested for adjournment of proceedings before the Commission on the ground that the matter is under consideration before the Hon'ble Apex Court. The Commission enquired from the petitioner whether any specific directions/instructions have been issued by Hon'ble Supreme Court in said Civil appeal. In response, the Counsel for petitioner requested the Commission for short adjournment to enable him to furnish desired details on proceedings in said Civil Appeal. Having heard the submissions made by the parties, the Commission vide daily order dated 06.10.2021 directed the parties to file their written submissions within two weeks so as to further proceed in the matter. The parties were specifically asked to inform the latest status in the matter of Civil appeal No. 4542 of 2019 & IA for stay applications filed before the Hon'ble Supreme Court.

- 5 At the next hearing held on 09.11.2021, the Commission observed that the Ld. Counsel for Petitioner has filed written submission, wherein it has been stated that Hon'ble Supreme Court has not granted any stay on operation /execution of the APTEL's order dated 12.04.2019 in Appeal no. 107/2018 and therefore, the Commission may proceed to comply with the directions of the APTEL and pass an appropriate order in the matter. In response, Ld. Counsels for Respondents and Interveners informed the Commission that petitioner has not served the copy of his written submission to them till date and therefore, they are unable to submit their written submissions in the matter. Ld. Counsels stated that the Hon'ble Supreme Court (in Civil appeal no. 4542 of 2019 & IA for stay application filed by Respondents/Interveners ) had heard the matter and directed to issue notices on the appeal and stay application to all the Respondents including this Commission. Considering the request made by the parties, the Commission vide daily order dated 10.11.2021 directed the petitioner to serve the copy of its reply to Respondents and Interveners within three days. The Respondents and Interveners were directed to file their response on the reply of petitioner within one week, thereafter. The case was fixed for hearing on 23.11.2021.
- 6 At the hearing held on 23.11.2021, the Commission observed that interveners have filed their written submissions while Respondents have not filed their reply in the matter. The Commission , therefore, decided to close the opportunity to respondents to file reply.
- 7 At the same hearing , Ld. Counsel for Interveners pleaded that the matter be kept in abeyance. The petitioner also pleaded to keep the matter in abeyance till the decision of the Hon'ble Supreme Court in IA. Having heard the submissions made by the parties, the Commission vide daily order dated 25.11.2021 decided to pass an appropriate order in this regard.

**The Commission's observations and findings**

- 8 The Commission observed that the aforesaid order passed by the Hon'ble APTEL in Appeal no. 107/2018 has been challenged before the Hon'ble

Supreme Court in Civil Appeal No 4542 of 2019 by the Respondents /interveners. As the matter was kept in abeyance since September 2019, the Commission decided to ascertain latest status in the matter before the Hon'ble Supreme Court. Accordingly, the proceeding was recommenced and matter was heard on 05/10/2021, 09/11/2021 and 23/11/2021. During aforesaid hearings, the Respondents /Interveners drew attention of the Commission by informing that Hon'ble Supreme Court in respect of aforesaid Civil appeal & IA for stay application, heard the matter and directed to issue notices on the appeal and stay application to all the Respondents including this Commission. It was also brought to the knowledge of the Commission that so far, no stay has been granted by the Hon'ble Supreme Court in the matter.

- 9 The Commission has perused the submissions made by the parties. In the submissions, all the parties including petitioner have requested to keep the matter in abeyance till the order is pronounced by Hon'ble Supreme Court in aforesaid IA of Civil appeal for stay on impugned order. The Commission noted that aforesaid Civil appeal & IA for stay application filed by Respondents/ Interveners, was heard by Hon'ble Supreme Court, and directed to issue notices on the appeal and stay application to all the Respondents including this Commission.
- 10 In view of the above circumstances, the Commission has decided to keep the matter in abeyance and to file an application before the Hon'ble Supreme Court to seek directions whether it may proceed further in subject matter as per directions of Hon'ble APTEL at this stage. The Commission also decided to apprise Hon'ble APTEL regarding these developments.

**(Shashi Bhushan Pathak)**  
**Member (Law)**

**(Mukul Dhariwal)**  
**Member**

**(S.P.S. Parihar)**  
**Chairman**