

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 Retail supply tariff order for FY 2017-18 in Petition No 71/2016 and Review petition no. 21 of 2017

Order

Date of order: **29/09/2023**

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 : **Interveners**

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

The subject petition was filed by petitioner for reviewing of impugned Retail supply tariff order for FY 2017-18 issued on 31st March 2017 in P No 71/16. Vide order dated 27/12/17, the Commission disposed of the review petition being devoid of merits. Subsequently, petitioner had preferred an Appeal (Appeal 107/18) before the Hon'ble APTEL against the impugned Tariff order for FY17-18. Vide order dated 12.04.2019, Hon'ble APTEL has set aside the impugned MPERC order dated 31.03.2017 and directed MPERC to pass an appropriate order in the light of the observations made by Hon'ble APTEL.

2. In compliance to the order dated 12/4/2019 passed by the Hon'ble APTEL, the State Commission had issued notices to the parties to attend hearing on 28/05/2019. Subsequently, vide the Commission's order dated 31/05/2019, interveners/ new consumers, viz. M/s Venus Alloys Pvt. Ltd. Mandasaur and M/s Rathi Iron & Steel Industries, Indore, were allowed to participate in the petition. During the subsequent hearing held on 03.09.2019, the Respondents / Interveners, requested the Commission to adjourn the matter on the ground that they have approached to the Hon'ble Supreme Court challenging the order dated 12/04/2019 passed by the Hon'ble APTEL and till the Appeal is decided by the Hon'ble Supreme Court, the case should be kept in abeyance. Considering the submission of the interveners, the Commission decided to keep the matter in abeyance till the decision is pronounced by the Hon'ble Supreme Court in Civil Appeal No. 4542 of 2019.
3. Subsequently, the Commission while reviewing the status of the pending petitions during the FY 2021-22, noticed that no development has taken place in the matter

and therefore, to ascertain the development from the parties, the case was listed on 05/10/2021.

4. At hearing held on 05/10/2021, the Counsels for the Respondents, further, requested the Commission for adjournment of proceedings on the ground that the matter was under consideration before the Hon'ble Apex Court. During the hearing held on 9/11/2021, it was submitted by the interveners that the Hon'ble Supreme Court had issued notices in the Appeal / Stay Application filed by the interveners to all the respondents therein including the Commission and therefore the Commission should not proceed with the implementation of the judgment/order dated 12/04/2019 passed by Hon'ble APTEL.
5. 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/ Intervenors, 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.
6. In the subject petition, the Commission vide order dated 07/12/2021 has decided to keep the matter in abeyance and to file an application before the Hon'ble Supreme Court to seek the directions whether it may proceed further. The Commission also apprised Hon'ble APTEL regarding this development and so far there are no further directions from Hon'ble APTEL in the matter. While the Commission has filed the application in Hon'ble Supreme Court on 31/05/2022, directions from Hon'ble Supreme Court are still awaited.
7. While Hon'ble APTEL, in this matter is apprised, it is likely that directions of Hon'ble Supreme Court may not be available in near future. Therefore, it is appropriate that the petition be treated as disposed with the direction to Secretary of the Commission that as and when, directions in the matter from Hon'ble Supreme Court are available, case be reopened and put up before Commission for appropriate orders.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S. P. S. Parihar)
Chairman