

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 170/TD/2024**

**Coram:**

**Shri Jishnu Barua, Chairperson**

**Shri Ramesh Babu V., Member**

**Shri Harish Dudani, Member**

**Date of Order: 8<sup>th</sup> November, 2024**

**In the matter of**

Down-gradation of Inter-State Trading Licence under the Central Electricity Regulatory Commission (Procedures, Terms and Conditions for Grant of trading license and other related matters) Regulations, 2020.

**And**

**In the matter of**

**Saranyu Power Trading Private Limited (SPTPL)**

Plot No. XI-2 & 3,

Block - EP, Sector- V,

Salt Lake City-700091, Kolkata.

**...Petitioner**

**Parties present:**

Shri Arijit Maitra, Advocate, SPTPL

**ORDER**

The Petitioner, Saranyu Power Trading Company Pvt. Ltd. (formerly known as 'IPCL Power Trading Pvt. Ltd.'), has filed the present Application for down-gradation of inter-State trading licence in electricity from Category 'III' to Category 'V' from the date of coming into effect of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matter) Regulations, 2020 ('Trading Licence Regulations, 2020').



2. As per the facts stated in the Petition, *vide* order dated 10.2.2015, IPCL Power Trading Pvt. Ltd. ('IPCL') was granted a Category-III licence for inter-State trading in electricity in the whole of India, except the State of Jammu & Kashmir in accordance with the provisions of the Central Electricity Regulatory Commission (Procedure, Terms, and Conditions for grant of trading license and other related matter) Regulations, 2009 ('Trading Licence Regulations, 2009'). As per Regulation 3(3)(a) of the Trading Regulations, 2009, IPCL was required to have a minimum net worth of Rs. 5 crores in order to be categorized under Category-III licence, and the volume of electricity permitted to be traded in a financial year was not more than 500 MUs.. Subsequently, the Trading Licence Regulations, 2009 were repealed by the Trading Licence Regulations, 2020, and several changes were introduced in the criteria for minimum net worth and trading volume for different categories of licence. Under the Trading Licence Regulations, 2020, the minimum net worth required for a Category 'III' inter-State trading licensee has been increased to Rs. 20 crores. Therefore, the Petitioner has approached the Commission seeking a down-gradation of its trading licence from Category-III to Category-V, as per the Trading Licence Regulations, 2020.

3. The Petitioner has made the following prayers:

- (a) *Downgrade the license of the Applicant to Category-V of Inter-State Trading License;*
- (b) *Declare that the downgradation of the license of the Applicant to Category-V will be with effect from the date of coming into force of the 2020 Regulations;*
- (c) *Condone the delay, if any, in filing the present application seeking the downgradation of the Inter-state trading license of the Applicant;*
- (d) *Condone the delay, if any, in submitting Audited Special Balance Sheet to support the compliance net worth requirement;*
- (e) *Relax the provisions of Regulation 21(1) and proviso thereto;*

(f) *Pass any other or further orders as this Commission may deem fit and proper and in the interest of justice.”*

**Hearing dated 22.7.2024**

4. The matter was heard on 22.7.2024. During the course of the hearing, learned counsel for the Petitioner reiterated the submissions made in the Petition and prayed for the down-gradation of its inter-State trading licence from Category III to Category V, in terms of the Trading Licence Regulations, 2020. The Petitioner, vide Record of Proceedings for the hearing dated 22.7.2024, was directed to submit the following clarification/information:

(a) Reason as to why the Petitioner failed to file an application for category change within six months from the date of commencement of Trading Licence Regulations, 2020, if it, being an existing licensee, failed to meet the net worth, current ratio and liquidity ratio criteria specified in Regulation 9(2) of the Trading Licence Regulations, 2020.

(b) As per Clause (3) of Regulation 7 of the Trading Licence Regulations, as amended from time to time, the Petitioner was required to pay the licence fee for the respective category. Reason for not paying the licence fee in terms of the above provision;

(c) As per Regulation 21(1) of the Trading Licence Regulations, 2020, the existing licensee was required to approach the Commission within a period of six months from the date of commencement of the Trading Licence Regulations, 2020, failing which, it was required to file an application for change of category within six months. Reasons for not complying with the above Regulations.

(d) Audited Special Balance Sheet as on any date falling within 30 days immediately preceding the date of filing of the present application.

5. In response, the Petitioner, *vide* its compliance affidavit dated 12.8.2024, has submitted as follows:



(i) Regarding the delay in approaching the Commission for the change of category of licence, since the Petitioner met the requirements under Regulation 3(3) of the Trading Licence Regulations, 2020, for a Category 'V' trading licence, it operated under the bona fide belief that it was authorized to trade in electricity as per the said category. Subsequently, due to the outbreak of the Covid-19 pandemic and its succeeding waves, the Petitioner was unable to approach the Commission within the six-month period as stipulated under Regulation 21 of the Trading Licence Regulations, 2020.

(ii) Regulation 21(1) mandates that the existing licensees shall meet the current ratio and liquidity ratio criteria specified in Regulation 9(2). Only upon the failure to meet such criteria does the requirement to apply for a change of a category within six months get attracted. Since the Petitioner has never failed to meet the current ratio and liquidity ratio criteria specified in Regulation 9(2), the deadline of six months does not apply to it. The Petitioner was required to file its application under Regulation 15(3) for the down-gradation of its licence to a lower category at any time.

(iii) Without prejudice to the prayers in the Petition, the requirement of approaching the Commission under Regulation 21 came to the knowledge of the Petitioner at a later stage. Also, the Petitioner did not intentionally disregard its obligation under the said regulation. Therefore, the Commission, by exercising its Power to Relax, as provided under Regulation 23, may relax the provisions. In this regard, reliance has been placed on the order of the Commission dated 4.3.2024 in Petition No. 313/TD/2023.

(iv) Regarding the non-payment of the licence fees for the respective category, there was an ambiguity in Regulation 7(3) of the CERC (Payment of Fees) (Second Amendment) Regulations, 2020. Therefore, the Petitioner started paying the annual licence fee based on the Category-V trading licence, in accordance with the *proviso* to the said clause.

(v) Additionally, although the dispensation in the *proviso* to Regulation 7(3) was applicable only for FY 2020-21, the Petitioner, due to the prevailing ambiguity, continued to pay the annual licence fee of Rs 2 lakh applicable to the

Category-V licence from FY 2022-23 onwards. However, the Commission, through its letters dated 31.7.2023 and 18.10.2023, informed the Petitioner that the applicable trading licence fee as per the existing Category-III licence was Rs. 6 lakhs, and Commission directed the Petitioner to pay the balance amount of Rs. 4 lakhs along with the Late Payment Surcharge in accordance with CERC (Payment of Fees) Regulations 2012. Accordingly, the Petitioner paid the balance of Rs. 4 lakh and the LPS amount of Rs. 71,867/- on 21.10.2023 and 1.11.2023, respectively.

(vi) Again, for FY 2023-24, the Petitioner submitted a license fee of Rs. 2 lakhs as applicable for a Category-V licence based on the premise that Regulation 15(3)(c) of Trading Licence Regulations, 2020 clearly specifies that while applying for down-gradation of licence, the trading licensee shall be required to pay the licence fee applicable for the category of licence for which the application is being submitted.

(vii) The details of payment of licence fees as under:

Financial Year	Licence Fee paid	Surcharge	Total
2019-20	6,00,000	0	6,00,000
2020-21	2,00,000	0	2,00,000
2021-22	2,00,000	0	2,00,000
2022-23	6,00,000	71,867	6,71,867
2023-24	2,00,000	0	2,00,000

(viii) In addition, the Petitioner has paid an amount of Rs 3 lakhs for FY 2020-21 and Rs. 1 lakh for FY 2021-22.

### **Hearing dated 22.8.2024**

6. During the course of the hearing, learned counsel for the Petitioner reiterated the submissions filed in the compliance affidavit dated 12.8.2024. After considering the submissions of the Petitioner, the Commission reserved the matter for order. Further, the Petitioner was directed to submit on an affidavit, within two weeks the Special Audited Balance Sheet as on 31.7.2024, in terms of Trading Licence

Regulations, 2020. Subsequently, the Petitioner, *vide* its letter dated 18.9.2024, submitted the Special Audited balance sheet.

7. Further, the Petitioner, *vide* its submission dated 6.9.2024, submitted the notes of arguments wherein the Petitioner reiterated its request for condoning the delay in light of Covid-19 and Hon'ble Supreme Court orders pursuant thereto. The Petitioner further recapped its submissions relating to the non-application of Regulation 21 in the case of the Petitioner.

8. Apart from the above, the Petitioner, in its submission dated 6.9.2024, upon the filing of the Petition on 17.11.2023 under the heading "Regulatory Compliance Application," the Registry of the Commission returned the Petition with advised to file the Petition under the Category "Grant of Licence." Eventually, the revised Petition was filed on 18.4.2024. Under Regulation 6(d) of the 2012 Fees Regulations, the Petitioner had paid Rs 50,000/- under the Regulatory Compliance Application. However, the Petitioner paid another amount of Rs. 50,000/- under Clause (a) of the CERC (Payment of Fees) Regulations, 2012, *i.e.*, Misc. Application. Thus, the Petitioner has paid an excess filing fee of Rs. 50,000/-.

9. Further, the Petitioner has submitted that as per the CERC (Payment of Fees) (Second Amendment) Regulations, 2020, the annual license fee for a Category-V licence was Rs. 2,00,000/-. However, the Commission demanded Rs. 6 lakhs from the Petitioner for the year 2022-23, which was duly paid along with the LPS rate. From the period of notification of the 2020 Trading Regulations, the Petitioner has paid a total of Rs. 12 lakhs along with Rs. 71,867 (towards LPS in FY 2022-23).

## **Analysis and Decision**

10. We have considered the submissions of the Petitioner. In the present Petition, the Petitioner has sought reliefs pertaining to (i) the down-gradation of inter State trading licence granted to it from Category III to Category V (ii) the declaration of such down-gradation with effect from the date of coming into force of the Trading Licence Regulations 2020; (iii) condonation of delay in filing the present petition and in submitting Special Audited Balance sheets and (iv) Exercise Power to Relax thereby relaxing Regulation 21(1) of Trading Licence Regulations, 2020.

11. At the outset, we note that the Petitioner was granted a Category-III inter-State trading licence in accordance with the Trading Licence Regulations, 2009, *vide* order dated 10.2.2015 in Petition No. 355/TDL/2014. Subsequently, the Trading Licence Regulations, 2009 were amended and superseded by the Trading Licence Regulations, 2020, which came into effect on 31.1.2020. *Vide* the Trading Licence Regulations, 2020, Regulation 3(3), pertaining to the Financial Qualifications, including the Capital Adequacy and Liquidity Requirements, was revised.

<b>S.No.</b>	<b>Category of the trading licensee</b>	<b>Minimum Net worth (Rs Crores) as per 2009 Trading Licence Regulations, as amended</b>	<b>Minimum Net worth (Rs Crores) as per the 2020 Trading Licence Regulations</b>
1	Category-I	50.00	50.00
2	Category-II	15.00	35.00
3	Category-III	5.00	20.00
4	Category-IV	1.00	10.00
5	Category-V	-	2.00

12. The licence fee to be paid to the Commission is governed by the principal regulation, namely, the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. According to such Regulations, the annual licence fee is required to be paid by the licensee as per Regulation 7(3) as under:

<b>Sr. No.</b>	<b>Category of Licence</b>	<b>Fee Per Annum (Rs. in lakh)</b>
1.	Category-I (No Limit)	40
2.	Category-II (up to 1500 MU annually)	15
3.	Category-III(up to 500 MU annually)	6
4.	Category-IV (up to 100 MU annually)	3

13. Subsequently, the Central Electricity Regulatory Commission (Payment of Fees) (Second Amendment) Regulations, 2020, were notified, which came into force with effect from 1.4.2020. Vide such an amendment, Regulation 7(3) of the Payment of Fee Regulations was substituted with the following revision:

*“7(3) Any person who has been granted or is deemed to have been granted licence by the Commission for inter State trading in electricity in accordance with Trading Licence Regulations, 2020 shall pay the annual licence fee at the rates specified hereunder:*

<b>S.No.</b>	<b>Category of Licence</b>	<b>Volume of Electricity Proposed to be traded in a Financial year</b>	<b>Annual Licence Fee (Rs. in Lakh)</b>
1.	Category I	No Limit	40
2.	Category II	Upto 7000 MUs	15
3.	Category III	Upto 4000 MUs	6
4.	Category IV	Upto 2000 MUs	3
5.	Category V	Upto 500 MUs	2

*Provided that the licensees shall pay the annual licence fee of their respective categories of licence under the Trading Licence Regulations, 2020 based on their Net Worth and volume of electricity, as determined in accordance with Regulation 21 of Trading Licence Regulations, 2020:*

*Provided further that the annual licence fee shall be paid for the financial year 2020-21 as under:*

*(a) Category III and IV licensees under Trading Licence Regulations, 2009 shall pay the annual licence fee as applicable for Category V licensee under the Trading Licence Regulations, 2020;*

*(b) Category II licensees under Trading Licence Regulations, 2009 shall pay the annual licence fee as applicable for Category IV licensee under the Trading Licence Regulations, 2020; and*



*(c) Category I licensees under Trading Licence Regulations, 2009 shall pay the annual licence fee as applicable for Category I or II or III or IV licensee, as applicable, under the Trading Licence Regulations, 2020 based on the volume proposed to be traded during 2020-21:*

*Provided also that the annual licence fee for the financial year 2020-21, paid as per (a), (b) or (c) of second proviso above, is subject to adjustment of fee as per the determination of category of trading licence in accordance with Regulation 21 of the Trading Licence Regulations, 2020.”*

14. As per the second *proviso* to Regulation 7(3) referred to above, the trading licensees holding Category ‘III’ (like the Petitioner) and Category ‘IV’ licensees under Trading Licence Regulations, 2009 were allowed to pay the annual licence fee for the FY 2020-21 as applicable for a Category ‘V’ licensee under the Trading Licence Regulations, 2020. It is pertinent to note that this dispensation of fees for Category ‘III’ and ‘IV’ trading licensees under 2009 Regulations was applicable for FY 2020-21 only.

15. Before delving further, it is imperative to refer to the following provisions of Trading Licence Regulations, 2020.

(a) Regulation 9(2) of the Trading Licence Regulations, 2020 provides as under:

*“The Trading Licensee shall maintain the Net Worth in accordance with Regulation 3 of these regulations at all times and shall maintain Current Ratio of 1:1 and Liquidity Ratio of 1:1 at the end of every financial year: Provided that if the current ratio or the liquidity ratio at the end of the financial year is less than 1:1, then the Trading Licensee shall be required to maintain additional Net Worth of 100% of the Net Worth stipulated for the respective category of trading licence.”*

(b) Regulation 9(4) of the Trading Licence Regulations, 2020 provides as under:

*“The Trading Licensee shall make an appropriate application accompanied by prescribed fees for up-gradation of its licence to a higher category or down-gradation of its licence to a lower category in*

*order to fulfill the conditions of these regulations in accordance with the procedure specified in Regulation 15 of these regulations.”*

- (c) Further, Regulation 15(3) provides as under:

*“Down-gradation of licence:*

*(a) The Trading Licensee may file an application to the Commission for down-gradation of its licence to a lower category at any time:*

*Provided that the Trading Licensee shall not be allowed to apply for upgradation of licence within the same Year.*

*(b) The Trading Licensee shall be required to upload the audited special balance sheet to support the compliance of Net Worth requirement for lower category licence.*

*(c) While applying for down-gradation of licence, the Trading Licensee shall be required to pay the licence fee applicable for the category of licence for which the application is being submitted.”*

- (d) Regulation 21 also requires special mentioning at this juncture:

*“21. Additional provisions in respect of Existing Licensees*

*(1) The Existing Licensees shall meet the Net Worth, Current Ratio and Liquidity Ratio criteria specified in clause (2) of Regulation 9 and submit an audited special balance sheet within a period of six months from the date of commencement of these regulations to support the compliance of Net Worth requirement:*

*Provided that in case the Existing Licensee fails to comply with the above, the Existing Licensee shall submit an application for category change within six months from the date of commencement of these regulations.*

*(2) The Existing Licensees shall charge trading margin in accordance with Regulation 8.*

*(3) The Existing Licensees shall pay the licence fee as may be specified by the Commission from time to time:*

*Provided that the licence fee when revised, shall be payable by the Existing Licensees on pro rata basis from the date of such revision till the end of the Year.”*

16. Considering the relevant provisions of the Trading Licence Regulations, 2020 (supra), we note that the existing licensee was required to approach the Commission within a period of six months from the date of commencement of the Trading Licence Regulations, 2020, failing which, it was required to file an application for change of category within six months.

17. It is the case of the Petitioner that it was meeting the requirements as provided under Regulation 3(3) of the Trading Licence Regulations, 2020 for Category V trading licensee. On perusal of the application, the Petitioner, being an existing trading licensee, fulfils all technical requirements for the grant of a Category V inter-State trading licence. As regards the net worth requirements for Category V, Regulation 3(3)(a) of the Trading Licence Regulations, 2020 provides that a person applying for a Category 'V' trading licence should have a net worth of Rs. 2 crores and should have maintained minimum current ration and liquidity ratio of 1:1 on the date of audited special balance sheet accompanying the Petition. It is also relevant to mention here that the audited special balance sheet was filed on 18.9.2024 after a delay of 5 months from the date of filing of the present Petition.

18. Based on the audited special balance sheet as on 31.7.2024, its net worth has been worked out as under:

<b>(Rs. in lakh)</b>	
<b>Net worth (Asset approach), Current Ratio &amp; Liquidity Ratio computation</b>	<b>As per Audited Special Balance sheet as on 31.7.2024</b>
<b>A) Non-current Assets</b>	
A.1 Net block of Tangible Asset	13.10
A.2 Net Block of Intangible Asset	0.00
A.3 Capital work in progress	0.00
A.4 Intangible Assets under development	855.50

A.5 Non-Current investments	0.00
A.6 Deferred Tax Assets	53.12
A.7 Long-term loans and advances	0.00
A.7.1 Less: Loans & Advances given to Associates included in above	0.00
A.7.2 Net Long Term Loans & Advances (A.7 - A.7.1)	0.00
A.8 Other non-current asset (Right of use assets, capital advances and prepaid expenses, etc.)	0.00
A.9 Deferred expenditure (including Misc. Expenses) not written off (Not considered for net worth computation)	0.00
<b>Total Non-Current Assets</b>	<b>921.72</b>
<b>Total Non-Current Assets considered for net worth (1)</b>	<b>921.72</b>
<b>B. Non-Current Liabilities, Preferential Share &amp; Share Application money and Reserves other than free reserves</b>	
B.1 Share application money pending allotment	0.00
B.2 Preference Share Capital	0.00
B.3 Long term Borrowings	0.00
B.4 Deferred tax Liabilities	0.00
B.5 Other Long Term Liabilities	128.35
B.6 Long Term provisions	15.84
B.7 Reserves other than free reserves	0.00
<b>Total Non-Current Liabilities, Reserves other than free reserves considered for Net worth (2)</b>	<b>144.19</b>
<b>C. Current Assets</b>	
C.1. Current Investments	0.00
C.2. Inventories	0.00
C.3. Trade Receivables	39.38
C.4. Cash and cash equivalents	583.29
C.5 Short Term Loans & Advances	17181.46
C.5.1 Less: Loans and Advances given to associates	0.00
C.5.2 Net Short Term Loan and Advances (C.5 - C.5.1)	17181.46
C.6 Other current assets	346.50
C.7 Deferred Expenditure	0.00
Total Current Assets	18150.63
<b>Total Current Asset considered for Net worth (3)</b>	<b>18150.63</b>
<b>D. Current Liabilities</b>	
D.1. Short-term Borrowings	129.00

D.2. Trade payables	17560.30
D.3. Other Current liabilities	843.59
D.4. Short-term provisions	0.55
<b>Total Current Liabilities considered for Net worth (4)</b>	<b>18533.44</b>
<b>Net worth ((1-2)+(3-4))</b>	<b>394.72</b>

19. Based on the above, the net worth, current ratio, and liquidity ratio of the Petitioner are as under:

(Rs. in lakh)

Sr. No.	Particulars	As per Audited Special Balance sheet as on 31.7.2024
1	Net Worth	394.72
2	Current ratio	0.98
3	Liquidity ratio	0.98

20. As per the above special audited balance sheet dated 31.7.2024, the Petitioner fulfils the requirement of net worth for a Category 'V' trading licensee, i.e., Rs. 2 crores. However, the Petitioner has failed to meet/ maintain the requirement of the current ratio and liquidity ratio specified in Regulation 3(3)(b) read with Regulation 9(2) of the Trading Licence Regulations. In this regard, the proviso to Regulation 9(2) states that if the current ratio or the liquidity ratio at the end of the financial year is less than 1:1, then the Trading Licensee shall be required to maintain an additional net worth of 100% of the Net Worth stipulated for the respective category of trading licence. In the instant case, the required net worth shall be Rs. 4 crores. However, the Petitioner's net worth as on 31.07.2024 is Rs. 3.94 crores. Given the Petitioner is already an inter-State trading licensee, carrying out the trading business from the grant of a trading licence, and considering the facts in view of the regulatory requirements and the circumstances involved, we find it appropriate to downgrade the inter-State licence granted to the Petitioner from the Category 'III' to Category 'V' from the date of the

filing of the instant Petition, subject to the condition that the Petitioner company shall meet all financial criteria by 31.3.2025 and shall place on record the compliance along with auditor certificate in this regard. The licensee shall remain bound by the terms and conditions contained in the order dated 10.2.2015, whereby it was issued with a Category 'III' trading licence.

21. The Petitioner has contended that it was under a bonafide belief that it could trade in electricity as per Category 'V' trading licensee as per the Trading Licence Regulations, 2020. However, the Petitioner could not approach the Commission within six months in terms of Regulation 21 due to the outbreak of the Covid-19 pandemic after the enactment of the Trading Licence Regulations, 2020, followed by the multiple waves of the said pandemic. Thus, the Petitioner has requested to exercise its Power to Relax and provide a similar dispensation with respect to the condonation of delay in approaching the Commission as already done vide order dated 4.3.2024 in Petition No. 313/TD/2023.

22. We note that the Petitioner was holding a Category 'III' trading licence since 2015. The Trading Licence Regulations, 2020 came into force on 31.1.2020, and as per Regulation 21(1) of the said Regulations, the existing licensees were to meet the net worth, current ratio, and liquidity ratio criteria specified in Regulation 9(2) and submit an audited special balance sheet within a period of six months to support the compliance of the net worth requirement. Contrary to what has been argued/ submitted by the Petitioner, the Trading Licence Regulations, 2020 did not automatically re-classify the categories of the existing trading licensee, and instead gave them a period of six months to comply with the financial qualifications prescribed under Regulation 9(2), in view of the enhanced volume of electricity allowed to be traded against such

categories. The *proviso* to the said Regulation also specified that in the case the existing licensee fails to comply with the above, it shall submit an application for the change of category within six months from the date of commencement of the Regulations. Therefore, the Petitioner, being the existing trading licensee, had the period of six months from 31.1.2020 for seeking the down-gradation of its licence to Category 'V' in the event it did not meet the financial qualification prescribed under Regulation 9(2) of Trading Licence Regulations, 2020 for the Category 'III' trading licence. However, the Petitioner has failed to do so and has approached the Commission for the down-gradation of its licence to Category 'V' only on 18.4.2024.

23. The Petitioner has also submitted that Regulation 15(3) permits the trading licensee to file an application for down gradation of its licence at any time. The said Regulation indeed permits a trading licensee to file an application for down-gradation of its trading licence at any time. However, the said liberty cannot be read in isolation from the specific mandate of Regulation 21(1) on the existing licensee, as noted above. Indubitably, the special provisions contained in Regulation 21(1) – requiring specific compliances on the part of the existing licensees upon the commencement of the Regulations, would prevail over the liberty allowed in Regulation 15(3). Similarly, the averment of the Petitioner that it was not aware of Regulation 21 also does not hold any merit. The Petitioner was well aware of the fact that the Commission has directed the Petitioner to pay the annual licence fee for a Category 'III' licensee, in accordance with the provisions of the CERC (Payment of Fees) Regulations, 2012. In fact, ignorance of the law is no excuse for claiming any relief. Besides this, if that was the case, the Petitioner ought to have approached the Commission and sought clarification at that point in time. The Petitioner has placed reliance on the

Commission`s order dated 4.3.2024 in Petition No. 313/TD/2023. It is to be noted that the Commission, while granting the relaxation in the said order dated 4.3.2014, had held that it is a special case, with the applicant meeting the criteria and having paid the requisite fee, relaxed the provisions of Regulation 21(1) and further categorically held that such relaxation shall not be quoted as a precedent for future. Therefore, the reliance on the above order is not tenable, and the prayer of the Petitioner to relax the provisions of Regulation 21(1) and the proviso thereto of the Trading Licence Regulations, 2020 is not sustainable.

24. Nevertheless, the Petitioner, in its Petition filed on 18.4.2024, has sought the condonation of the Covid-19 period in light of the Hon`ble Supreme Court orders. In this regard, we observe that the Hon`ble Supreme Court, *vide* its order dated 23.3.2020 in *Suo Motu* Writ Petition (C) No.3/2020, had taken *suo motu* cognizance of the difficulties faced by the litigants in filing petitions/ suits/appeals/all other quasi proceedings, within the period of limitation due to outbreak of Covid-19 pandemic, and had directed the extension of the period of limitation, in all proceedings before all Courts/Tribunals *w.e.f.* 15.3.2020 till further orders. On 8.3.2021, the order dated 23.3.2020 was superseded by permitting the relaxation of the period of limitation between 15.3.2020 and 14.3.2021. Thereafter, *vide* order dated 23.9.2021, in M. A. No. 665/2021 (in *Suo Motu* Writ Petition (C) No.3/2020), the limitation period in all proceedings before the Courts/ Tribunals was further extended till 2.10.2021. Subsequently, *vide* order dated 10.1.2022 in M.A. No. 21/2022, the Hon`ble Supreme Court had directed that the period from 15.3.2020 till 28.2.2022 shall stand excluded for the purpose of limitation, as may be prescribed under general or special laws, in respect of all judicial or quasi-judicial proceedings.



25. Considering the relaxation provided by the Hon'ble Supreme Court in the order (*supra*) and bearing in mind the circumstances of the present matter, by excluding such period, i.e., 15.3.2020 till 28.2.2022, the Petitioner, as per Regulation 21, was required to approach the Commission within six months from the date of commencement of Trading Licence Regulations, 2020, i.e., 30.7.2020. Even removing such period, i.e., 15.3.2020 till 28.2.2022, from the purview of the limitation period, the Petitioner ought to have prudently approached the Commission for the change of the category of its trading licence by 15.7.2022. However, the instant Petition was filed only on 18.4.2024, i.e., after a delay of 644 days. Hence, we are not inclined to condone the delay of the Petitioner in approaching the Commission, considering the unreasonable justifications cited by the Petitioner in the present case.

26. As a result, the Petitioner's prayer that the down-gradation of its category of licence from Category 'III' to Category 'V' to have effect from the date of commencement of the Trading Licence Regulations, 2020, cannot be considered. Accordingly, we hold that the category of the licence granted to the Petitioner shall stand revised from Category III to Category V with effect from the date of filing of the Petition. The licensee shall remain bound by the terms and conditions contained in Order dated 10.2.2015 in Petition No. 355/TDL/2014, whereby it was issued trading licence and by the provisions of Trading Licence Regulations, 2020, as amended from time to time.

27. In accordance with Regulation 15(3) (c) of the Trading Licence Regulations, 2020, the Petitioner is required to pay the licence fee applicable for Category 'V' of licence for the FY 2024-25 from the date of filing of the application, i.e., 18.4.2024. Prior to such period, i.e., up to 18.4.2024, the Petitioner is obligated to pay an annual

licence fee as Category 'III' licensee in terms of the Trading licence Regulations, 2024. Accordingly, the contention of the Petitioner that it has paid an excess annual licence fee of Rs 4,71,867/- up to FY 2023-24 is misplaced. In the foregoing paragraphs, we have refused to condone the delay on the part of the Petitioner to approach the Commission for down-gradation of its trading licence as well as to give effect to such down-gradation with effect from the commencement of the Trading Licence Regulations 2020. In fact, the Commission has approved the down-gradation of the Petitioner's trading licence to Category V only with effect from the date of filing of the Petition, and as a result, the Petitioner shall be liable to pay the annual licence fees corresponding to the respective category along with applicable surcharge in terms of Regulations 7 (3) and 11 of the Payment of Fees Regulations. In view of the above, the Petitioner is directed to remit the pending fee along with the applicable surcharge as under:

<b>YEAR</b>	<b>Fee Payable (Rs.)</b>	<b>Fee Paid (Rs.)</b>	<b>Fee Pending (Rs.)</b>	<b>Fee Payable with LPS (Rs.)</b>
2021-22	6,00,000	2,00,000	4,00,000	5,68,000
2022-23	6,00,000	6,00,000 (with LPS)	0	0
2023-24	6,00,000	2,00,000	4,00,000	4,72,000
2024-25 (up to date filing of Petition)	27,945		27,945	27,945
<b>TOTAL</b>				<b>10,67,945</b>

28. Let an extract copy of this order be sent to the Central Government in the Ministry of Power and the Central Electricity Authority in terms of Section 15(7) of the Electricity Act, 2003, for their information and record.

29. We direct that necessary endorsement be made on the licence issued to the Petitioner with regard to the change of Category of the licensee.

30. Accordingly, Petition No. 170/TD/2024 is disposed of in terms of the above discussions and findings.

Sd/-  
**(Harish Dudani)**  
**Member**

sd/-  
**(Ramesh V. Babu)**  
**Member**

sd/-  
**(Jishnu Barua)**  
**Chairperson**

