

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 348/MP/2024
with IA No.83/2024**

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V, Member
Shri Harish Dudani, Member**

Date of Order: 8th November, 2024

In the matter of:

Petition under Section 79(1)(a) and 79(1)(f) of the Electricity Act, 2003 and Regulation 6(6) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009, to disallow the belated claim of the Respondent NLCIL

And

In the matter of

Tamil Nadu Generation and Distribution and Corporation,
Regulatory Cell, 7th Floor, NPKRR Maaligai
144, Anna Salai, Chennai – 600 002

.... Petitioner

Vs

1. NLC India Limited,
No.135, E.V.R. Periyar High Road,
Kilpauk, Chennai – 600 010.
2. Southern Regional Load Dispatch Centre,
29, Race Course Cross Road,
Bangalore – 560 009.
3. Power Finance Corporation Consulting Ltd.
Regd. Office – 1st floor, “Urjanidhi”
1, Barakhamba Lane,
Connaught Place, New Delhi - 110001

.....Respondents

Parties present:

Shri Sanjay Sen, Senior Advocate, TANGEDCO
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri M. Sethuraman, TANGEDCO
Ms. R. Alamelu, TANGEDCO
Ms. R. Siva Preetha Shankari, TANGEDCO
Shri Anand K. Ganesan, Advocate, NLCIL
Ms. Swapna Seshadri, Advocate, NLCIL
Ms. Ritu Apurva, Advocate, NLCIL
Shri A. Srinivasan, NLCIL
Shri Tulsi Kumar, NLCIL
Shri Divya Prakash, NLCIL



ORDER

The Petitioner, Tamil Nadu Generation and Distribution and Corporation (in short 'TANGEDCO') has filed the present Petition seeking the following reliefs:

- (a) *Admit the Petition;*
- (b) *Dismiss the claim of the 1st respondent made after a lapse of seven years and render justice to end consumers.*
- (c) *Pass a direction against the 1st respondent to refrain from indulging in acts that are against the public interest.*
- (d) *Issue directions to the 3rd respondent to refrain from entertaining anything and everything put on its portal and to follow the law of limitation.*
- (e) *Issue directions to Ministry of Power not to interfere with the powers of this Hon'ble Commission under Sec. 79 of the Electricity Act, 2003 by enacting rules which affect the Regulatory Powers of the Commission under the relevant Regulations notified under Sec. 178 of the Electricity Act.*
- (f) *Issue appropriate directions for the formulation of a detailed procedure for the functioning of PRAAPTI.*
- (g) *To impose exemplary cost on the 1st respondent for misusing the PRAAPTI portal and coercing the petitioner to file the present petition.*
- (h) *Issue any other directions as may be deemed fit;"*

Background of the case

2. Petition No.149/MP/2015 was filed by the Respondent NLC India Limited (in short' NLC') before this Commission, seeking the approval of the revised lignite transfer price of its Standalone mines and Pooled mines for the period 2009-14, after truing up as per the MoC, GOI guidelines dated 11.6.2009. By order dated 20.3.2017, this Commission determined and approved the trued-up lignite transfer price of these standalone mines and pooled mines. Aggrieved by this order, the Respondent NLC filed Appeal No. 185/2017 before the Appellate Tribunal for Electricity (APTEL) on various issues viz imposition of escalation rate, ceiling rate @11.5% mine-wise, contrary to the MoC guidelines for the period 2009-14, the base year O&M expenses (2008-09) to be considered properly and inappropriate back calculation of O&M expense for the year 2009-10 with respect to Mine-II from the year 2010-11. The APTEL, vide its judgment dated 25.7.2023, set aside the Commission's order dated 20.3.2017 and remanded the matter to this Commission for consideration afresh. The relevant portion of the judgment is extracted below:



“xxxx

Consequently, the Order under appeal is set aside and the matter is remanded to the CERC for its consideration afresh. The CERC shall apply the very same modality of pooling, which was earlier adopted during the tariff determination exercise, and compute the O&M expenses, for the 5-year period 2009-14, at the true up stage also taking the actual cost into consideration.”

3. Thereafter, the Respondent NLC filed IA No. 62/2023 in Petition No. 149/MP/2015 (on remand) before the Commission for implementation of said APTEL order and the Commission, vide its order dated 14.3.2024 revised the O&M expenses of the various mines of the Petitioner for the period 2009-14, in terms of the findings and directions of the APTEL in its judgment dated 25.7.2023 in Appeal No. 185/2017. Subsequently, a corrigendum order dated 6.4.2024 was issued, correcting the error in the said order.

The relevant portion of the order dated 6.4.2024 is extracted below:

“ 32. As per the above notification, it was agreed that the O&M expenses would be trued up at the beginning of the next tariff period. Further also, consequent to the APTEL order dated 25.7.2023 in Appeal No. 185 of 2017 & IA No. 1071 of 2022, we consider the actual O&M incurred by the Petitioner for the period 2009-14 only. Accordingly, the O&M expenditure considered for the period 2009-14 is as under:

<i>(Rs in lakh)</i>					
O&M cost	2009-10	2010-11	2011-12	2012-13	2013-14
Pooled Mines	124848	148806	168008	179482	213721

xxx

35. The petitioner is directed to calculate the impact on variable charge for the tariff period 2009-14 for its different generating stations within three months and adjust the same in the tariff accordingly.

36. The IA No. 62/2023 in Petition No. 149/MP/2015 is disposed.”

4. In terms of the above order, the Respondent NLC raised an invoice dated 2.5.2024 on the Petitioner, seeking the total payment of Rs 694 crores (Principal of Rs 276 crores and Interest of Rs.417 crores). Against the Respondent NLC invoice dated 2.5.2024, the Petitioner filed a Writ Petition (W.P. No. 19053/2024) before the Hon'ble Madras High Court, seeking a stay of the invoice and directing the removal of the invoice from the PRAAPTI portal, stating that there was no dispute with regard to the standalone mines. Though the Hon'ble High Court disposed of the said writ



petition, vide order dated 23.8.2024, after being mentioned by the parties, the Court vide its order dated 9.9.2024, amended paras 3 and 5 as under:

“3. Learned Senior counsel appearing for the respondent submitted that as against the impugned debit note, there is an effective remedy available to the petitioner before CERC and hence the petitioner may be permitted to work out the same in the manner known to law.

xxx

5. Since there is an effective remedy available to the petitioner, the petitioner is directed to file appropriate petition in terms of Section 79(1)(f) of the Electricity Act, 2003 before the Central Electricity Regulatory Commission, along with stay petition, within a period of two weeks from the date of receipt of a copy of this order. If any such petition is filed, the Central Electricity Regulatory Commission is directed to dispose of the main petition itself, within a period of eight weeks from the date of filing such petition. Till such time, the respondents shall not take any coercive steps as against the petitioner”.

3. Accordingly, the Petitioner has filed the present petition on 19.9.2024 seeking the reliefs as quoted in Para 1 above, along with an interim application (I.A. No. 83/2024) seeking, amongst others, the stay of the payment of further instalments along with interest in terms of the debit note dated 2.5.2024. The submissions of the Petitioner are mentioned in the subsequent paragraphs:

Submissions of the Petitioner

4. The Petitioner, in the Petition, has mainly submitted the following:
- a) Petitioner is the major beneficiary, which procures around 1700 Mw of thermal power from the Respondent NLC under the various PPAs between them, as per the allocation done by the MoP, GOI.
 - b) Respondent NLC has integrated mines for each of its generating stations. The landed price of primary fuel (in this case, lignite) is based on the Lignite Transfer Price (LTP) determined as per the MoC guidelines and approved by this Commission. This Commission determines the LTP based on the MoC guidelines applicable for every tariff block. From the period 2019 onwards, this commission has framed specific regulations for the determination of LTP.
 - c) NLC has five mines in the State of Tamil Nadu (Mine-I, Mine-IA, Mine-II, Mine-I Expansion, and Mine-II Expansion), and the LTP for each mine is determined separately as per the MoC guidelines. Mine I was treated as a standalone mine linked to the NLC Thermal Power Station-I (600 MW). The LTP of Mine-IA, Mine-II, Mine-I Expansion, and Mine-II Expansion are pooled to determine the common LTP for supply to other integrated generating plants of the Respondent.



- d) By order dated 20.3.2017, this Commission determined and approved the trued-up LTP of the standalone mine and pooled mines, and the claim of the Respondent NLC was accepted as it is for the standalone mine. However, the Commission restricted the escalation of O&M expenses to 11.5% year-on-year at normative value or actuals, whichever is less in respect of each of the pooled mines. The difference between the provisional LTP and the trued-up LTP of standalone mines was to be claimed through the generation tariff of NLC Thermal Power Station – I. However, the said Respondent did not raise any debit note or invoice for the difference in tariff as per the Order dated 20.03.2017 for the period 2009-14 despite a specific direction to the Respondent in the order dated 20.3.2017.
- e) In Appeal No. 185/2017 filed by the Respondent before APTEL, challenging the order dated 20.3.2017, it neither raised any dispute nor challenged the order in respect of LTP of the standalone mines. By letter dated 5.5.2021, the Petitioner requested the Respondent NLC to give credit to the amounts liable to be paid by it to the Petitioner as per the orders of the Commission. In response, the Respondent NLC acknowledged that it was required to raise debit and credit notes as per the orders and Regulations of this Commission. However, no debit or credit notes were raised by the Respondent.
- f) No claim was made by the Respondent NLC in respect of the standalone mines in compliance with the order dated 20.3.2017. Though APTEL vide order dated 25.7.2023, set aside the Commission's order dated 20.3.2017 in respect of O&M of pooled mines, no observations were made by the APTEL regarding the standalone mines since Respondent NLC did not challenge the order in respect of standalone mines.
- g) Thus, the issue of standalone mines stood decided as of 20.3.2017 since the Respondent NLC did not challenge the determination of LTP in respect of the standalone mine in Appeal No. 185/2017. Based on the judgment dated 25.7.2023, the Respondent NLC filed IA No. 62/2023 to determine the O&M expenses of the pooled mines and to arrive at the LTP of pooled mines. In compliance with the order of APTEL, the Commission, after hearing the parties, passed an order dated 14.3.2024, thereby disposing of the said IA.
- h) Pursuant to the order dated 14.3.2024, the Respondent NLC raised a debit note dated 2.5.2024 claiming the difference in the Energy Charge Rate (ECR) based on the increase in LTP as per the order dated 20.3.2017, with respect to the approved LTP vide order dated 5.2.2014 in Petition No. 167/MP/2011 for the standalone mine for the period 2009-14.
- i) The debit note was also posted on the PRAAPTI portal by the Respondent NLC simultaneously. In this regard, the Petitioner raised a billing dispute on the PRAAPTI portal, stating that the claim is with an abnormal delay and not



in terms of Regulation 6(6) of the 2009-14 Tariff Regulations. Vide letter dated 17.5.2024, the Petitioner requested the Respondent NLC to withdraw the debit note for the reasons mentioned therein.

- j) Despite the Petitioner's objection, the Respondent NLC re-presented the invoice on 18.5.2024 on the PRAAPTI portal. The Petitioner reiterated the bill dispute on 21.5.2024 on the PRAAPTI portal, stating that the claim cannot be admitted after a delay of more than seven years.
- k) Respondent NLC failed to implement the order of the Commission dated 20.3.2017 as per directions contained in Para 29 of the said Order read with Regulation 6 (5) & 6(6) of the 2009 Tariff Regulations. Instead of raising relevant debit notes as per the order dated 20.3.2017, the Respondent NLC chose to ignore the order and the mandate of the Regulations till 2024. Now, the claim made by the Respondent NLC between the orders 20.3.2017 and 14.3.2024 is not permissible, as the order dated 20.3.2017 became final with respect to the standalone mines.
- l) Though the Respondent NLC had filed an appeal before the APTEL in respect of the pooled mines, there was no prohibition on the said Respondent to claim the difference between the LTP prior to true-up and after true-up for the standalone mines through ECR of TPS-I. The intentional non-compliance of the directions in the tariff order makes the claim inadmissible after seven years. The debit note dated 2.5.2024 raised after a delay of more than seven years from 20.3.2017 is time-barred and the Petitioner is not liable to entertain the claim.
- m) The statement of the Respondent NLC that it could not comply with the part order while challenging the other part is not acceptable. The Commission's order dated 20.3.2017 was in respect of the standalone mines integrated with TPS-I and pooled mines integrated with other generating stations of the said Respondent. The Respondent NLC ought to have complied with the Commission's orders in respect of all the mines, standalone as well as pooled mines. There was no restriction by any judicial order restraining the Respondent NLC from claiming the difference in tariff.
- n) Power Finance Corporation Consulting Ltd (the nodal agency for PRAAPTI) failed to direct the Respondent NLC to remove the invoice dated 2.5.2024 from the PRAAPTI portal as the debit note was time-barred and the Respondent NLC cannot circumvent the provisions of the Limitation Act. The question of the due date and trigger date will arise only if the debit note/invoice has been raised as per the Commission's order dated 20.3.2017 read with Regulation 6 (5) & 6(6) of the 2009 Tariff Regulations or within the limitation provided for under the law. The act of the Respondent intentionally and knowingly posting a time-barred debit note/invoice on the PRAAPTI portal to compel payment is an abuse of the payment mechanism under



PRAAPTI.

- o) The act of the Respondent amounts to adopting a coercive method to get its time-barred claims paid by a distribution licensee, which is a pass-through to consumers. The matter of limitation has been settled by the Hon'ble Supreme Court in *AP Power Coordination Committee and Others Vs. M/s. Lanco Kondapalli Power Ltd and Others* (CA No. 6036 of 2012) dated 16.10.2015, wherein it has been held that a claim coming before the Commission cannot be entertained or allowed if it is barred by limitation prescribed for an ordinary suit before a civil court.
- p) The non-maintainability of a time-barred claim has been dealt with by APTEL vide its judgment dated 30.5.2023 in Appeal No.358 of 2022 wherein it was observed that the provisions of Limitation Act would, in the absence of anything inconsistent therewith in the Electricity Act, in view of Section 175 of the said Act, would apply to proceedings before the Commission.
- q) As per Regulation 7 of the Late Payment Surcharge Rules dated 3.6.2022, in case of non-payment within the trigger date, the procurement of power by the Petitioner from the Central Grid through long-term, medium-term, and short-term access will be suspended forthwith. The nodal agency, taking cognizance of the debit note, intimated the trigger date of 17.7.2024 for regulation of power supply to the Petitioner from the Central Grid in the event of non-payment. This led to the filing of the Writ Petition No. 19053/2024 before the Hon'ble High Court of Madras, wherein the Hon'ble Court on 10.7.2024 granted an interim stay on the payment of the interest portion by the Petitioner. However, in order to avoid regulation of the power supply, the Petitioner had no other option but to make payment of the principal amount in six instalments.
- r) The Hon'ble High Court vide order dated 23.8.2024 directed the Petitioner to file Petition before this Commission under Section 79(1)(f) of the Electricity Act, 2003 for the adjudication of the issue and also directed the Petitioner not to take any coercive action against the Petitioner till the disposal of this Petition. Subsequently, the said Order was modified by the Hon'ble High Court, clarifying that whatever amount was paid by the Petitioner by way of instalments under protest during the pendency of the Writ Petition shall be continued to be paid by the Petitioner.
- s) The mechanism of PRAAPTI under LPS Rules, 2022, cannot be applied retrospectively to a claim that the Respondent NLC was liable to make within three months from 20.3.2017. The Respondent NLC ought to have filed a petition for the recovery of dues under the order dated 20.3.2017. The claim of the Petitioner cannot be considered in terms of the judgment dated 9.5.2019 of the Hon'ble Supreme Court in CA No. 684/2007 and CA No. 13452/2015.



Hearing dated 7.10.2024

5. During the hearing through video conferencing, the Commission, after hearing the learned Senior counsel for the Petitioner, the learned counsel for the Respondent NLC, admitted the Petition and issued notice, with a direction to the parties to complete their pleadings. In compliance with the said directions, the Respondent NLC has filed its reply affidavit dated 11.10.2024, and the Petitioner has filed its rejoinder to the said reply, vide affidavit dated 18.10.2024.

Reply of the Respondent NLC

6. The Respondent NLC vide reply affidavit dated 11.10.2024 has mainly submitted the following:

- (a) The only ground of challenge taken by the Petitioner is that the alleged bills raised by the Respondent are time-barred. This contention proceeds on a basic misunderstanding of the law that limitation applies to a Respondent. As per the interim order dated 10.7.2024 of the Hon'ble High Court of Madras, the Petitioner has made the payment of Rs. 46 crores per month during the period from July 2024 to October 2024 (totaling Rs.184 crores). Pursuant to the order dated 23.8.2024 of the Hon'ble High Court, the Petitioner took the position that it is not liable to pay the balance three instalments of the principal amount and also sought to adjust the three instalments paid in the monthly bill for June 2024. The stand taken by the Petitioner is against the order issued by the Hon'ble High Court.
- (b) While the tariff is determined on the basis of estimates at the beginning of the tariff period, a truing-up exercise is undertaken based on the actual cost and expenses incurred after the tariff period is over. For the period 2009-14, the truing up exercise for LTP was undertaken by this Commission vide order dated 20.3.2017 in Petition No. 149/MP/2015. In the said truing up process, the Commission revised the LTP for the period 2009-14 for the lignite mines of the Respondent without considering the actual O&M expenses incurred.
- (c) In the said order dated 20.3.2017, there was a deviation from the provisions of the MoC guidelines with regard to the determination of LTP. More particularly, where MoC guidelines required the truing up based on the actual expenses incurred, this Commission determined the LTP based on the principle of actual or normative, whichever is lower. Further, this Commission also changed the methodology of pooling of the mines (apart from Mine I) in



the truing-up exercise.

- (d) The challenge by the Respondent NLC before APTEL in Appeal No. 185/2017 was on both aspects, namely on the segregation of mines in truing up exercise and not on adopting the actual O&M expenses incurred by applying the methodology of actual or normative, whichever is lower and that too mine wise. The appeal was allowed by the APTEL, which set aside the findings of the Commission, both on the aspect of not adopting the pooled cost and also on applying the methodology of actual or normative, whichever is lower. Accordingly, the matter was remanded to this Commission for a fresh determination. Pursuant to the order dated 14.3.2024 read with the Corrigendum order 6.4.2024 in Petition No. 149/MP/2015 redetermining the LTP of the Respondent, the determination in the original order dated 20.3.2017 had been revised.
- (e) As regards Mine-I (standalone), this Commission noticed that there would be no change in the O&M cost, considering the actual O&M cost being within the normative parameters previously adopted. However, there would be a change with regard to the figures of pooled mines considering the actual figures for the period 2009-14.
- (f) Since there were debits and credits that were applicable upon passing of the order dated 20.3.2017, which was already subjected to appeal by the Respondent, the adjustments related to the period 2009-14 were not carried out awaiting the outcome of proceedings before the APTEL, in case there was any revision in the LTP. There was no proceeding whatsoever initiated by the Petitioner either for any credit to be given or any amount to be paid by the Petitioner pursuant to the order dated 20.3.2017 pending disposal of the said appeal. Upon the LTP being settled by the order dated 14.3.2024, which was fully accepted by both parties and not subjected to any further challenge, the final adjustments are to be made by the parties.
- (g) The Commission, vide its order dated 14.3.2024, after coming to a finding on both the standalone mine and also the pooled mines, had directed to calculate the impact on variable charge for the period 2009-14 for its different generating stations within three months and adjust the same in tariff accordingly. The Respondent NLC raised the invoice dated 2.5.2024 on the Petitioner providing for mutual debits and credits for adjustment of tariff pursuant to the revision in the LTP.
- (h) The Petitioner has not disputed the tariff amounts that have arisen on account of revision in the LTP pursuant to the order dated 14.3.2024. The only issue raised by the Petitioner is on the time when the said amount was required to be raised for inter-se adjustments between the parties and the claim for the interest on the amounts to be adjusted. The Petitioner's challenge on the claim for interest raised by the Respondent is incorrect as the same has not been



raised for delayed payment or as a penal measure, but is a part of tariff adjustment in terms of the Tariff Regulations.

- (i) For any such adjustments made from time-to-time, interest automatically forms part of such tariff adjustment, which is only to recognize the time value of money. Any revision of tariff at any subsequent point of time, relating to the costs and expenditure incurred during the period 2009-14 would automatically include interest adjustments also as part of the tariff. Interest charged is based on the provisions of Regulation 6 of the 2009 Tariff Regulations and is not based on any principles of equity or default in payment, etc., as is sought to be suggested by the Petitioner. The Hon'ble Supreme Court in NTPC vs MPSEB & ors. (2011) 15 SCC 580 has recognized the fact that such a statutory provision is required for interest adjustments in case of tariff revisions.
- (j) Even when the order dated 20.3.2017 was passed by this Commission, there was an interest liability in terms of Regulation 6 of the 2009 Tariff Regulations for raised for inter se adjustment of tariff between the parties. The same provision would apply upon the order dated 14.3.2024 and the consequent adjustments in tariff payments to be made between the parties. It was never the case of the Petitioner at any point in time that certain adjustments were to be made during the year 2017, while the others could be made after the decision of APTEL and consequential orders of this Commission.
- (k) In any event, the above would not make any difference to enter the total amount that would become due or the interest component on the same. Assuming certain adjustments were undertaken in the year 2017, the amounts payable or receivable between the parties would get inflated by the amount that already stood adjusted in the year 2017 upon the Order dated 14.03.2024. Such inflated amounts would also carry interest in terms of Regulation 6 of the 2009 Tariff Regulations. It is for this reason that the Petitioner also did not at any point in time raise any issue with regard to the tariff adjustments to be undertaken pending the adjudication by APTEL, as the entire issue of arrears payable or receivable, with interest, would get settled upon the decision of APTEL.
- (l) The reliance placed by the Petitioner on the judgment of the Hon'ble Supreme Court in AP Power Coordination Committee v Lanco Kondapalli Power Limited(2016) 3 SCC 468 is misplaced. The judgement only holds that to maintain a petition under Section 86 (1) (f) of the Electricity Act, 2003, a limitation period of 3 years would be applied. Thus, in the present case, if the Petitioner were to make a claim, it would have to satisfy this Commission that the same is within 3 years of the cause of action.
- (m) A party may not be able to go to Court and get an adjudication because of the bar of limitation. However, the Limitation Act does not extinguish a defense. The



only effect of limitation being applicable (even if applicable) is that a person may not be able to file a suit for recovery of amounts. Limitation by no means applies to Respondents or Defendants in any proceedings.

- (n) The Respondent NLC has not filed the present Petition or a suit to agitate its claim before any court of law. It has revised the bills as per the Commission's order dated 14.3.2024/corrigendum order dated 6.4.2024, redetermining the LTP. The ground of limitation is, therefore, frivolous. The principle of limitation has been prescribed in order to prevent parties from inordinately delaying in making claims in court proceedings. The fact that a petition is barred by limitation would only mean that the claim cannot be enforced through judicial proceedings. Limitation does not destroy the rights of parties. (Reliance placed upon the judgments of the Hon'ble Supreme Court in *Bombay Dyeing & Mfg. Co. Ltd. v. State of Bombay*, AIR 1958 SC 328; *CIT v. Sugauli Sugar Works (P) Ltd.*, (1999) 2 SCC 355 and *Punjab National Bank v Surendra Prasad Sinha* (1993) Supp 1 SCC 499.
- (o) The question of limitation does not apply to tariff proceedings, including trying up proceedings and for settlement of the accounts based on such tariff determined. The Petitioner has contended that certain adjustments were to be made in 2017, and failure to do so cannot result in interest obligation or otherwise make any difference to the net effect between the parties. Firstly, it was never the case of the Petitioner that at any point of time certain adjustments were to be made in the year 2017, while the others could be made after the decision of the APTEL and the consequent order passed by the Commission.

Rejoinder of the Petitioner

7. The Petitioner, vide its rejoinder affidavit dated 18.10.2024, has mainly submitted the following:

- (a) Without prejudice to the fact that the claim is time-barred, the Petitioner has objected to the working methodology of arriving at the pooled LTP and communicated the same to the Petitioner vide letter dated 17.5.2024. As per the working of the Petitioner, the Respondent NLC has to refund an amount of Rs 1147 crore in respect of the pooled mines. Instead of arriving at the LTP mine-wise, on the actual CUF achieved, the Respondent has pooled the extraction cost of the mines and divided the total cost with the normative CUF%.
- (b) The submission of the Respondent that the Petitioner, after the order dated 23.8.2024, had taken the stand that it was not liable to pay the balance of three installments is denied. The Writ Petition was filed by the Petitioner before the Hon'ble High Court seeking to quash the entire invoice dated 2.5.2024 raised in respect of the standalone mine, including the Principal and the interest claim, as a whole. Further, in the judgment dated



23.8.2024, the Hon'ble High Court has recorded that the Petitioner has been paying the principal amount with interest under protest.

- (c) The Commission, vide its order dated 20.3.2017 (in Petition No.149/MP/2015) examined the issue of O&M expenses and held that (a) there will be no change in the claim of O&M expenses made by the Respondent NLC, in respect of standalone Mine-I and (b) in respect of the pooled mines, the O&M expenses be restricted to the normative 11.5% or actuals, whichever is less. The Respondent NLC was also directed to calculate the impact of the variable charge for the period 2009-14 and capacity charge during 2014-19 for its different generating stations within three months and adjust the same tariff. The Respondent did not comply with the order and did not raise any invoices. The Respondent is trying to dilute the fact that there has been a willful non-compliance of the order and is trying to suppress the same.
- (d) The submission of the Respondent that the MoC guidelines stipulate that the truing-up shall be based on the actual expenditure incurred is misleading. There is no mention about truing-up at actual cost, but has only stated that the base price for 2009-14, shall be the actual price incurred during 2008-09.
- (e) All the prayers made in the said appeal filed by the Respondent before the APTEL were restricted to pooled mines only, as the Commission had approved the claim of the Respondent in respect of the standalone mine, without any curtailment. APTEL, vide its judgment dated 25.7.2023 has set aside the order dated 20.3.2017, remanding the matter to the Commission for consideration afresh. The Respondent NLC did not file any application seeking a stay of the impugned order, and there was no stay stopping the Respondent from acting on the directions of the Commission in an order dated 20.3.2017. Further, in the appeal, the Respondent had raised prayers seeking the intervention of the APTEL only with regard to the pooled mines, and the standalone mine was not in dispute at all. There was no appeal filed by the Respondent against the finding of the Commission relating to a standalone mine in an order dated 20.3.2017. The pendency of the appeal filed by the Respondent cannot be the reason for not claiming the dues from the Petitioner, as per directions in an order dated 20.3.2017.
- (f) For calculating the LTP, the extraction cost post application of CUF is to be divided by the mining capacity as per the mining plan. The calculations made by the Respondent NLC are on a wrong application of the MoC guidelines. There is no revision of tariff involved in the present petition. The issue is restricted to time-barred claims after seven years, in addition to the wrong calculations made by the Respondent NLC. The claim of the Principal amount made now for the standalone mine is itself wrong as it is



time-barred, much less the interest part. In case the claim of interest is considered, the same will result in undue shock to the end consumers.

- (g) APTEL, in its judgment dated 30.5.2023 in Appeal No.358/2022 (against the Commission's order dated 20.7.2022 in Petition No. 76/MP/2019), has clearly stated that directing the appellant therein to make the payment of a time-barred debt with interest to the Respondent therein is illegal. This judgment may be considered in the present case.

Hearing dated 28.10.2024

8. After hearing the learned Senior counsel for the Petitioner and the learned counsel for the Respondent NLC at length, the Commission reserved its order in the matter. However, the parties were granted time to file their written submissions. In compliance thereof, the Petitioner and the Respondent NLC have filed their written submissions on 30.10.2024 and 1.11.2024 respectively.

Written Submissions of the Petitioner

9. The Petitioner, in its written submissions, has reiterated the submissions made in its petition and the rejoinder filed thereof. In addition to this, the Petitioner has stated the following:

- (a) The limitation Act applies irrespective of the Petitioner/Respondent since the Limitation Act is applicable on the time-barred invoice raised by the Respondent. Respondent NLC ought to have raised the invoice for the difference in tariff due to truing-up within three months from the date of order (19.6.2017) in respect of both the Standalone and Pooled mines. However, the Respondent continued to raise the monthly bills considering the LTP based on the previous orders of the Commission. Thus, the claim of the Respondent is barred under the Regulation, as well as under the Limitation Act and also the order of this Commission. Since no invoice was raised by the Respondent NLC within the time period, there was no acknowledgement of any dues whatsoever by the Petitioner.
- (b) Respondent NLC has opted not to make any claim in compliance with the order within the time limit provided under law with an ulterior motive and thus forfeited the right to make any fresh claim and cannot impose huge liability on the Petitioner and on the end consumers. Once there is a willful violation with an ulterior motive, then the repercussions will be forfeiture of the entire claim.
- (c) The Commission, in an order dated 17.10.2024 in Petition No.8/MP/2024, held



that the mere filing of an appeal would not affect the enforceability of the order of the Commission. Hence, as per the law laid down by the APTEL and the limitation Act, the claim of the Respondent under the order dated 20.3.2017 is time-bared and hence liable to be set aside

Written Submissions of the Respondent NLC

10. The Respondent NLC, vide its written submissions, has also reiterated the submissions made in its reply, as above. However, in addition, the Respondent has submitted the following:

- (a) While the issue of truing up for each mine separately and not on a pooled basis was only in respect of the pooled mines, the issue of the application of the principle of 11.5% escalation or actual cost, whichever is lower, was in respect of all the mines, including the standalone mines. The Commission's order dated 14.3.2024 having attained finality, it was not open to the Petitioner to contend that the decision of the Commission is contrary to the directions of APTEL or that the issue remanded was only for the pooled mines or any such similar grounds. Both parties proceeded on the basis that the debit and credit adjustments would be undertaken only after the final decision of the APTEL, and therefore, it was not open to the Petitioner to contend to the contrary, particularly when the Commission has, in its order dated 14.3.2024, decided the issue for all generating stations and mines of the Respondent NLC, which order has attained finality.
- (b) The challenge in Appeal No. 185/2017 was inter-alia, on the principle of normative or actuals, whichever is lower. In fact, as recorded by the contention of NLCIL was that either the normative or actuals, should be taken. APTEL decided that actuals should be taken. This has to be applied uniformly for all of the mines, including the standalone mine. If it was decided that normative 11.5% should be taken, the same would also apply to all the mines.
- (c) The contention of TANGEDCO in the remand proceedings was, in fact, that the entire issue including the base price, should be decided afresh. This contention of TANGEDCO was accepted. At no point had TANGEDCO contended, either in appeal or in the remand proceedings, that the issue was time-barred. In fact, it was further argued that the entire issue was to be reviewed and that the cap of 11.5% was to be applied afresh. Further, the issue of proportionate reduction of O&M cost corresponding to normative CUF of 85% was also raised.
- (d) The consideration and decision of this Commission from paragraphs 20 to 24 in the order dated 14.3.2024 is for all the mines, including the standalone mines. In para 26, there is a specific finding that for the standalone mine, the actual is less than the normative, and therefore, there will not be any



corresponding change in the O&M expenses. This a fresh decision of the Commission, after going through the entire process of determining the base price and other considerations. If the decision of the APTEL was that only a normative value of 11.5% was to be taken, then the figure would also change for the standalone mine.

- (e) The interest accrues from the relevant period 2009 onwards till 2024, when the Order was passed by the Hon'ble Commission and invoices were raised. The earlier Order dated 20.03.2017 has been set aside by the APTEL and Petitioner cannot rely on the said order at this stage. Further, limitation only applies to the Petitioner approaching a court to enforce a time-barred claim. Limitation has no application to the defense taken by the Respondent. (Reliance placed on the judgments of the Hon'ble Supreme Court in Punjab National Bank & Ors vs Surendra [1993 Supp (1) SCC 648 (Para 5), Shrimant Shamrao Suryavanshi & ors. vs Prahlad (2002) 3 SCC 676 (Para 18). Assuming certain adjustments were undertaken in the year 2017, the amounts payable or receivable between the parties would get inflated by the amount that already stood adjusted in the year 2017 upon the order dated 14.03.2024 being passed by the Central Commission. Such inflated amounts would also carry interest in terms of Regulation 6 of the 2009 Tariff Regulations.

11. Based on the rival submissions of the parties, the issue which emerges for consideration is:

“Whether the debit note/invoice dated 2.5.2024 raised by the Respondent NLC on the Petitioner, in terms of the Commission’s order dated 14.3.2024/6.4.2024 is barred by limitation?”

Analysis and Decision

12. The main contention of the Petitioner is that since the Commission, in its order dated 20.3.2017, had not curtailed the claim of the Respondent NLC with respect to the standalone Mine I but had restricted the O&M expenses in respect of the Pooled mines only at actuals or normative, whichever is less, the claim of the Respondent NLC vide invoice dated 2.5.2024 in respect of the Standalone mine is barred by limitation. Referring to the observations of the Commission in the order dated 20.3.2017 that the O&M cost of Mine-I standalone for the period 2009-14 is within the escalated rate of 11.5% on previous year actuals and that there is no change in the claim, the Petitioner has pointed out that the Respondent NLC in its appeal filed before



APTEL, had sought reliefs, only with regard to the O&M expenses being restricted in respect of the Pooled mines at actuals or normative, whichever is less. Pointing out that the pendency of appeal cannot be a reason for not claiming the dues from the Petitioner, as per the directions contained in para 29 of the order dated 20.3.2017, the Petitioner has argued that the Commission in the order dated 14.3.2024 has only made a passing remark of the fact that there is no change regarding the Standalone mine as approved in an order dated 20.3.2017. The Petitioner has contended that since the Respondent neither sought any stay of the order dated 20.3.2017 nor was prevented from acting on the directions contained in the said order, it ought to have implemented the said order. Accordingly, the Petitioner has contended that the claims of the Respondent seeking the payment of the amounts (both principal and interest) after a period of seven years are barred by limitation under the Tariff Regulations and Section 3 of the Limitation Act, 1963.

13. *Per contra*, the Respondent NLC has contended that the Commission's order dated 20.3.2017 was challenged on aspects, namely the (i) segregation of mines during the truing-up exercise and (ii) Commission applying the methodology of computation of O&M expenses on actuals or normative, whichever is lower and that too mine-wise, instead of adopting the actual O&M expenses incurred. Pointing out that both the parties proceeded on the basis that the debit and credit adjustments would be undertaken only after the final decision of APTEL in the said appeal, the Respondent has contended that it was not open to the Petitioner to argue to the contrary when the Commission vide its order dated 14.3.2024 in the remand proceedings, had decided the issue in respect of all the generating stations and the Mines of the Respondent. The Respondent has argued that the claim is not hit by limitation as the same is in terms of the Commission's order dated 14.3.2024 and that no reliance can be placed by the Petitioner upon the order dated 20.3.20017, as the



same was set aside by APTEL in its judgment dated 25.7.2023. Accordingly, the Respondent has submitted that the Petitioner is liable to pay the amounts along with interest for the relevant period from 2009 to 2024, in terms of the invoices raised by it.

14. The above submissions of the parties have been examined. It is pertinent to mention that the Commission, vide its order dated 20.3.2017 in Petition No. 149/MP/2015, had trued up the LTP of the NLC mines for the period 2009-14, based on the MOC guidelines dated 11.6.2009. The Commission, in the said order, held that the O&M expenses should be computed mine-wise and not be pooled up, and the modality of the normative 11.5% or actuals, whichever is less, should be applied mine-wise. Aggrieved by the said order, the Respondent NLC approached APTEL by way of Appeal No.185/2017, challenging the application of the principle of 11.5% escalation or actual cost, whichever is lower, and also the truing up for each mine separately, and not on a Pooled basis. It is evident from the submissions of the parties in the appeal proceedings before APTEL that the challenge to the Commission's order dated 20.3.2017 was on the principle of computation of the O&M expenses on normative or actuals, whichever is lower, and was not confined only to the Pooled mines (as contended by the Petitioner). In this regard, the extract of the submissions made by the parties in the proceedings before APTEL are as under:

“Mr. Anand Ganesan, learned counsel for the Appellant, would submit that the CERC, having applied the methodology of pooling up at the tariff determination stage, could not have changed the rules at the true up stage, and applied the modality of taking the actual cost of lignite or 11.5% whichever is less, for each mine separately, instead of applying the earlier modality of pooling up.

Xxx

Mr. Anand Ganesan, learned counsel for the Appellant, would submit that the Appellant's grievance is not that 11.5% should not have been applied, but only that the CERC should have either have taken actuals or normative value of 11.5%, uniformly for all mines together, into consideration;

Mr. S. Vallinayagam, learned counsel for the 2nd Respondent, would contend that a bare reading of clause 4.5 of the order of the Government of India dated 11.6.2009, makes it clear that, even at the true up stage, the annual increase of 11.5% can alone be applied, and the actuals cannot be taken into consideration.



15. It is in the backdrop of the above submissions that APTEL, vide its judgment dated 25.7.2023, set aside the Commission's order dated 20.3.2017 and remanded the same to the Commission for consideration afresh. The relevant portion of the findings of APTEL in the said judgment is extracted below:

"In short, the CERC held that O&M expenses should be computed mine wise and not be pooled up; and the modality of 11.5% or actuals, whichever is less, should be applied mine wise.

In the light of the law declared by the Supreme Court, in BSES Rajdhani Power Limited, the CERC could not have, at the true up stage, changed the rules / methodology used in the initial tariff determination exercise, by changing the basic principles, premises and issues involved in the initial projection of ARR, thereby setting the tariff determination process at naught at the "true-up" stage. Consequently, the modality adopted at the tariff determination stage of pooling lignite, procured by the Appellant from all its mines, and the amount so arrived at being apportioned equally among all its generating stations, ought to have been applied at the true-up stage also. The change in methodology, which is to the detriment of the appellant, is therefore liable to be set aside

A plain reading of clause 4.5, of the GOI order dated 11.06.2009, does not accord with this submission. All that was stated therein is that 11.5% escalation per annum would be provided for the period 2009-2014, and O&M expenses would be trued up at the beginning of the next tariff year period. The only manner in which O&M expenses can be trued up is on the basis of actuals, and not at the normative rate of 11.5% per annum

We are satisfied, therefore, that the CERC has erred in deviating from the basic principles and premises on which the tariff order was passed, and in having changed the rules mid-way on the eve of the true-up stage.

Consequently, the Order under appeal is set aside and the matter is remanded to the CERC for its consideration afresh. The CERC shall apply the very same modality of pooling, which was earlier adopted during the tariff determination exercise, and compute the O&M expenses, for the 5 years period 2009-14, at the true up stage also taking the actual cost into consideration."

16. Thus, the contention of the Petitioner that all prayers made in the appeal were restricted to the Pooled mines only and there was no change in the claim of standalone Mine-I is not acceptable. APTEL had set aside the Commission's order dated 20.3.2017 and directed to consider the matter afresh. Hence, the Commission was duty-bound to implement the same. Accordingly, the Commission, after hearing the parties afresh, had passed the order dated 14.3.2024 (corrigendum order dated 6.4.2024) in Petition No.149/MP/2015. Consequent upon the above, the Petitioner cannot place reliance on the order dated 20.3.2017 and contend that the Respondent NLC's claim vide invoice dated 2.5.2024 is barred by limitation. Therefore, the



submissions of the Petitioner on this count are misconceived and stand rejected.

17. It is noticed that during the remand proceedings before the Commission for the implementation of APTEL judgment dated 25.7.2023, as above, the Petitioner herein was permitted by the Commission to file its submissions on 'maintainability' as well as on 'merits,' as prayed for. However, the Petitioner, while seeking the determination of tariff afresh, re-argued the case on merits, justifying the application of the principle (of actuals or normative, whichever is lower) for the computation of O&M expenses, as evident from its reply affidavits dated 9.10.2023 and 22.12.2023. This is despite the fact that APTEL had not accepted this stand of the Petitioner in its judgment dated 25.7.2023. Except for the above submissions, not even a whisper was made by the Petitioner in the remand proceedings on the issue of APTEL judgment being confined only to the issue of Pooled Mines or with regard to the non-compliance of the Commission's order dated 20.3.2017 by the Respondent or with regard to the payments to the Respondent being barred by limitation. That being so, the Petitioner cannot at this stage contend that there has been non-compliance with the Commission's order dated 20.3.2017 and that the claim of the Respondent vide invoice dated 14.3.2024 is barred by limitation. To us, the invoice dated 2.5.2024 raised by the Respondent NLC cannot be said to be belated and is in terms of Regulation 6(6) of the 2009 Tariff Regulations and the Commission's order dated 14.3.2024, directing the adjustment of the tariff for the period 2009-14 for its different generating stations within three months from the date of the order. The submissions of the Petitioner, to the contrary, are not acceptable and stand rejected accordingly.

18. One more contention of the Petitioner is that the Respondent had not filed any application for a stay of the Commission's order dated 20.3.2017, and since there was no stay, the mere filing of an appeal will not affect the enforceability of the said order.



In this regard, the Petitioner has relied upon the Commission's order dated 17.10.2024 in Petition No. 8/MP/2024. Accordingly, the Petitioner has submitted that the Respondent, having not obeyed the order or the Regulations had instead filed an appeal and, after the lapse of seven years, sought to implement the said order with interest, the claim may be dismissed as illegitimate. While it is a settled law that the mere filing of an appeal, in the absence of any stay, will not affect the enforceability of the orders of the Commission, the same cannot be made applicable in the present case. As demonstrated earlier, the question of the application of the principle of actuals or normative 11.5%, whichever was less, was pending consideration of APTEL in Appeal No.185/2017, and hence, the parties appear to have proceeded on the basis that the debit and credit adjustments are to be undertaken only after a final decision of the APTEL. Thus, there was no communication whatsoever between the parties at the relevant time. However, in response to the Petitioner's letter dated 5.5.2021 seeking credit note (and not debit note) in terms of the Commission's order dated 20.3.2017, the Respondent NLC had vide letter dated 27.5.2021 clarified that both debit and credit notes will be raised after a final decision of APTEL in the said appeal. The Respondent in the said letter, also sought the reconciliation of the amounts payable by the Petitioner. No amount was reconciled, nor was any objection raised by the Petitioner with regard to the non-payment of the credit note by the Respondent. It is, however, noticed that the Petitioner, during the appeal proceedings in APTEL, had orally submitted that the appellant (the Respondent herein) had failed to comply with the directions of this Commission in para 29 of the order dated 20.3.2017. In response, APTEL, while refusing to intervene on this issue, observed that the Petitioner herein was at liberty to avail such other remedies as available to it under law in case the Respondent herein had violated the directions of the Commission in para 29 of the said order. The relevant portion of the APTEL judgment dated 25.7.2023 is extracted



below:

“Mr. S. Vallinayagam, learned Counsel for the 2nd Respondent, would submit that despite specific directions by the CERC, in Para 29 of the Order under appeal, the appellant has failed to comply with the said directions. It must be borne in mind that it is the appellant herein who has chosen to prefer the appeal against the order passed by the CERC, and not the 2nd Respondent. Having failed to do so, the 2nd Respondent cannot seek a direction against the Appellant in the appeal preferred by them. Needless to state that the order now passed by us shall not disable the 2nd Respondent from availing such other remedies as are available to them in law, in case the Appellant has violated the directions issued by the CERC in Para 29 of the impugned Order...”

19. Para 29 of the order dated 20.3.2017 in Petition No. 149/MP/2015 provides as under:

“29. The petitioner is directed to calculate the impact on variable charge for the tariff period 2009-14 and in capacity charge during 2014-19 for its different generating stations within three months and adjust the same in the tariff accordingly”

20. It is therefore evident while the Petitioner pleaded for the implementation of the order dated 20.3.2017, it had not sought the enforceability of the same in accordance with law, despite the grant of liberty to it by APTEL, as stated above, apparently awaiting the final decision of APTEL. Pursuant to the APTEL setting aside the Commission order dated 20.3.2017 and remanding the matter to the Commission for determination afresh, the Petitioner had reargued the case on merits, albeit without raising any issues on the non-compliance of the Commission's order 20.3.2017 or the claim based on it, being barred by limitation. It is only after the passing of the order dated 14.3.2024 and the Respondent NLC raising invoice dated 2.5.2024 that the question of the claims being time-barred has been raised by the Petitioner. It is astonishing to note that while the Petitioner, on one hand, had not availed of the liberty granted to it till the passing of the remand order dated 14.3.2024 in Petition No.149/MP/2015, it has, on the other hand, refused to make the payments to Respondent, after the passing of order dated 14.3.2024, on frivolous grounds viz., there has been non-compliance of the order dated 20.3.2017 by the Respondent and



that the said claim after a period of seven years is barred by limitation. These contentions of the Petitioner, in our view, are an afterthought intended only to deny the legitimate claims/ payments to the Respondent NLC. As stated, the Petitioner has not challenged the Commission's order dated 14.3.2024 implementing the APTEL's judgment dated 25.7.2024, and the same has, therefore, attained finality. The Petitioner's attempt to traverse beyond the APTEL's judgment dated 25.7.2023 and the Commission's order dated 14.3.2024 cannot be permitted. We, therefore, reject the submissions of the Petitioner and hold that the invoices raised by the Respondent NLC seeking the payment of the Principal amount along with interest, are legitimate and are not time-barred. In our view, the Respondent is entitled to seek the payment of the balance amounts from the Petitioner in terms of the orders dated 14.3.2024/6.4.2024. We direct accordingly. Consequent upon the above decision, the other reliefs sought by the Petitioner are also rejected.

21. The Petitioner has also contended that the claim of the Respondent NLC for the Principal amount, along with interest, is squarely covered by the decision of the APTEL in its judgment dated 30.5.2023 in Appeal No. 358/2022, wherein it was held by APTEL that the payment of time-barred debt with interest to the Respondent therein is illegal. We notice that in the said case, RRVPNL had approached the Commission through Petition No. 76/MP/2019 filed on 14.2.2019, seeking directions upon PSPCL to make the payment of Rs 8.37 crore in respect of an invoice raised by it and payable by 25.10.2003. PSPCL contended that no claims of RRVPNL were maintainable, as the same was barred by limitation. Rejecting the submissions of PSCPL, the Commission vide order 20.7.2022, held that the claim of RRVPNL was not barred by limitation, as the parties were involved in a reconciliation process through the exchange of letters, deputation of officials, etc., and also that PSCPL in the 25th Commercial sub-Committee meeting of NRPC held on 24.12.2013, informed that the matter was under



consideration and that the debt was consistently being acknowledged by PSCPL. On an appeal filed by PSPCL challenging this order before APTEL, the order of the Commission was set aside by APTEL, vide judgment dated 30.5.2023, mainly holding that the repeated letters or exchange of communications do not extend the period of limitation and that the time spent by RRVPNL before the commercial sub-committee of the NRPC, from 2008 till the filing of the petition on 14.2.2019, cannot be excluded in computing the period of limitation. Thus, the facts in the present case are distinguishable from the facts in the aforesaid case. In the present case, the Respondent had challenged the order dated 20.3.2017 before APTEL, and as stated, both the parties, during the pendency of the said appeal (185/2017) proceeded on the basis that debit and credit adjustments were to be made after final decision of APTEL, keeping in view that the principle applied by the Commission for the computation of O&M expenses (actuals or normative @ 11.5%, whichever is lower) was involved. Further, in response to the Petitioner's letter dated 5.5.2021 seeking credit notes in terms of the Commission's order dated 20.3.2017, the Respondent NLC vide letter dated 27.5.2021 clarified that both debit and credit notes will be raised after a final decision of APTEL in the said appeal. Though the Respondent in the said letter sought reconciliation of the amounts payable by the Petitioner, no amount was reconciled, nor was any objection raised by the Petitioner with regard to the non-payment of the credit note by the Respondent. Moreover, Pursuant to the remand order of APTEL to consider the matter afresh, the Petitioner herein re-argued the case in the remand proceedings (with no grounds on limitation being raised) before the Commission, thereby resulting in the order dated 14.3.2024, based on which the Respondent NLC has raised the invoice dated 2.5.2024 on the Petitioner. By no stretch of imagination can the said invoice be considered to be time-barred, as contended by the Petitioner. In our view, the judgment of the APTEL dated 30.5.2023 in Appeal No.358/2022, as



referred by the Petitioner above, is not applicable to the present case. Therefore, the submission of the Petitioner on this count is rejected.

22. It is noticed that the Hon'ble Madras High Court vide its order dated 10.9.2024 has clarified as under:

"It is further clarified that whatever amount paid by the Petitioner by way of instalments under protest, during the pendency of the writ petition, shall be continued to be paid by the petitioner. Except for this clarification, the remaining part of the order dated 23.8.2024 shall stand unaltered."

23. It is noticed from records that a total amount of Rs 694.33 crore (Principal of Rs 276.70 crore plus Interest of Rs 417.63 crore) was raised by the Respondent on the Petitioner in respect of the Standalone Mines, in terms of the Commission's order dated 14.3.2024. Out of this, the Petitioner has paid the Principal amount of Rs 46.12 crore each in three monthly installments as on the date of filing of this petition. Subsequently, on 19.9.2024, the Petitioner had paid one more installment of the Principal amount of Rs 46.12 crore to the Respondent. Hence, as on date, a balance amount totaling Rs 509.86 crore (which comprises the Principal amount of Rs 92.23 crore and Interest of Rs 417.63 crore) is due for payment by the Petitioner. Accordingly, we direct the Petitioner to make the payment of the aforesaid amount of Rs 509.86 crore to the Respondent in terms of the bills raised by it within three months from the date of this order. We direct accordingly. Needless to say, in case of any delay in the payment of the amounts by the Petitioner, the provisions of the LPS Rules 2022 shall kick in.

24. Petition, along with the IA, is disposed of in terms of the above discussions and findings.

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

Sd/-
(Jishnu Barua)
Chairperson

