

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

**Review Petition No. 8/RP/2025 in
Petition No. 87/MP/2024**

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member**

Date of Order: 25th December, 2025

In the matter of

Review Petition under Section 94(1)(f) of the Electricity Act, 2003, read with Regulation 52 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023, seeking review of the order dated 5.6.2025 in Petition No. 87/MP/2024.

And

In the matter of:

Kreate Energy (I) Pvt. Ltd.,
Unit No.1002, 10th Floor, Antriksh Bhawan,
22 Kasturba Gandhi Marg,
New Delhi-110001

...Petitioner

VERSUS

D.B. Power Limited,
5th floor Office Block 1A,
DB City Park, DB City Area Hills,
Opposite M.P. Nagar Zone-I, Bhopal- 462016,
Madhya Pradesh

...Respondent

Parties Present: Shri Gopal Jain, Sr. Advocate, Kreate
Shri Adarsh Tripathi, Advocate, Kreate
Shri Ajitesh Garg, Advocate, Kreate
Shri Deepak Khurana, Advocate, DB Power
Shri Shaurya Nirwal, Advocate, DB Power

ORDER

This Review Petition has been filed by the Review Petitioner, Kreate Energy (I) Private Limited (KEIPL), seeking a review of the Commission's order dated



5.6.2025 in Petition No. 87/MP/2024 (the 'impugned order'), whereby the Review Petitioner/KEIPL was given a notice under Section 19(3) of the Electricity Act, 2003 (hereinafter referred to as 'the Act'), read with Regulations 9 and 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 (hereinafter referred to as the '2020 Trading Licence Regulations'), to show cause as to why the licence for inter-State trading of electricity should not be revoked due to various violations detailed in the impugned order. The Commission also directed KEIPL to submit its response within three months from the date of issuance of the impugned order and observed that the reply submitted by KEIPL would be considered when deciding on the notice of revocation of licence under Section 19(1)(a) and Section 19(1)(b) of the Act.

2. According to the Review Petitioner, the Commission erred in applying Section 19 of the Act by treating revocation as inevitable. Additionally, the Review Petitioner challenged the impugned order on various grounds, namely, (a) reliance on undecided and unadjudicated matters, (b) failure to consider recoverable dues of the Review Petitioner, cascading adverse effects on ongoing transactions, and lack of creditor actions, and (c) mischaracterisation of defaults and Forum Shopping.

3. The Review Petitioner has made the following prayers in this Review Petition:

“(a) Condone the delay of 8 days in filing this Review Petition.

(b) Admit the present Review Petition.

(c) Review and set aside the Order dated 05.06.2025 in Petition no. 87/MP/2024.

(d) Keep the said Order in abeyance till disposal of this Review Petition.

(e) Pass any such further orders as this Hon'ble Commission may deem just and appropriate in the facts and circumstances of the case.”

Submissions of the Review Petitioner

4. The Review Petitioner/KEIPL has mainly made the following submissions:
 - i. KEIPL is an inter-State trading licensee engaged in power trading activities since its licence was granted by this Commission under the Act, and it has undertaken several contractual trading transactions with various DISCOMs, including the Respondent.
 - ii. KEIPL, through a letter dated 6.8.2020, offered to purchase 105 MW of Round-the-Clock (RTC) power from the Respondent, D.B. Power Limited (DBPL), for onward supply to Haryana Discoms under a back-to-back arrangement. The Respondent accepted the offer on 6.8.2020. The tariff was fixed at ₹2.75/kWh, with a payment due date of 1.12.2020. The Review Petitioner successfully traded power, and the Respondent received payment thereof accordingly.
 - iii. The onset of the COVID-19 pandemic in early 2020 caused severe disruptions in the power sector, with delays in collecting dues from the downstream buyers affecting the financial liquidity of the Review Petitioner. Instead of the outstanding amount, the Review Petitioner issued post-dated cheques (PDCs) as security deposits to the Respondent. Later, the Respondent, despite knowing that the cheques were only for security and not for settling any financial liability, filed proceedings under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'NI Act') for the dishonour of the cheques. The related matters are currently pending adjudication before the Magistrate Court in Andheri, Mumbai.

- iv. The Respondent filed Petition No. 87/MP/2024 under Section 94(1)(f), read with Section 19 of the Act, seeking revocation of the Review Petitioner's trading licence and a prayer for recovery of the outstanding amount.
- v. KEIPL, through emails dated 31.5.2024 and 25.7.2024, repeatedly offered to settle the matter amicably with the Respondent, but it was not accepted by the Respondent for reasons better known to it.
- vi. To recover the amount due from KEIPL, the Respondent filed proceedings under Section 138 of the NI Act before the Metropolitan Magistrate at Mumbai, initiated Section 9 proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC) before the National Company Law Tribunal (NCLT), New Delhi (which was dismissed by order dated 31.10.2023), and filed an appeal under Section 61 of the IBC before the NCLT challenging the order dated 31.10.2023.
- vii. KEIPL proposed a one-time settlement to clear the principal amount, but it yielded no results; instead, the Respondent continued multiple proceedings as discussed in the preceding paragraph to recover the due amount, including the original Petition (87/MP/2024) filed before this Commission.
- viii. The Commission, in the impugned order, relied upon the matters that were at various stages of progress, and in most of them, either pleadings were pending or the substantive hearing had not even commenced. As such, the show cause notice based on the pendency of these proceedings equated to establishing the guilt of the Review Petitioner, which erred in law and procedure as it violated the principles of natural justice. Further, these matters were not ripe for decision and, therefore, could not serve as a basis for revocation without giving the Review Petitioner an opportunity to be heard in

each case. The details of these cases have been given by the Review Petitioner in para 16 of the present Review Petition.

- ix. The power under Section 19 of the Act can only be exercised by the Commission after a proper inquiry and when it is satisfied that revocation is in the public interest. The Respondent's attempt to invoke this provision through Petition No. 87/MP/2024 is contrary to the statutory scheme, as Section 19 of the Act cannot be invoked by a private party.
- x. In the matter of Global Energy Limited v. Central Electricity Regulatory Commission, the Hon'ble Supreme Court held that a contractual breach alone does not warrant licence revocation. Further, revocation of the Review Petitioner's trading licence would have serious repercussions for ongoing PPAs, banking contracts, and other lawful transactions across multiple States, potentially leading to operational disruptions and cross-defaults, which should have been considered before initiating such action.
- xi. Relying on the pending cases, including Petition Nos. 288/MP/2024 and 261/MP/2024, where pleadings are incomplete, amount to prejudging the matter and violate principles of natural justice, constituting an error apparent on the face of the record. KEIPL's ongoing transactions across multiple States, including Maharashtra, Uttar Pradesh, Chhattisgarh, and Haryana, demonstrate operational stability and business continuity, covering both generation and consumption. Revoking the licence would disrupt lawful transactions and adversely affect consumers, thereby failing to serve the public interest.
- xii. Treating commercial or payment disputes as grounds for licence revocation undermines the regulatory framework governing electricity trading. Trading inherently involves interdependent contractual and financial obligations, and

isolated payment delays or Late Payment Surcharge (LPS) disputes cannot be equated with regulatory default, warranting revocation.

- xiii. The Respondent's focus on revoking the licence instead of recovering dues through proper remedies raises questions about the good faith of such proceedings. The impugned show-cause notice effectively removes a competitor from the market under the pretext of regulatory enforcement, which is against the public interest. Using proceedings under Section 138 of the NI Act to assume a default is incorrect because the cheques involved were given as security. The Magistrate's Court has not yet issued a conviction, so making negative assumptions from ongoing cases is premature and unjustified.
- xiv. The Review Petitioner's Managing Director (MD), Mr. Kulbhushan Mittal, was undergoing chemotherapy for Adenocarcinoma with Osteosarcoma of the Mandible, which prevented the timely filing of the Review Petition. Therefore, the Petitioner has requested condonation of the 8-day delay under Regulations 67 and 68 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 (hereinafter referred to as 'the 2023 Conduct of Business Regulations').

5. The matter was heard on 18.9.2025. After hearing the parties, the court reserved its order in the matter.

Analysis and Decision

(a) Condonation of delay.

6. Before examining the reliefs sought by the Review Petitioner, as detailed in paragraph 3 above, we address the issue regarding condonation of delay in filing this Review Petition. The impugned order was passed on 5.6.2025 and uploaded to

the Commission's website on 6.6.2025. The Review Petition was filed through the e-filing portal under Diary No. 378 of 2025 on 22.7.2025. Therefore, considering that the impugned order was uploaded on 6.6.2025 and the Review Petition was e-filed on 22.7.2025, there is a delay of seven days in filing the present Review Petition. Regarding the condonation of delay, the Review Petitioner has submitted that its Managing Director was being treated for Adenocarcinoma with Osteosarcoma of the Mandible and was undergoing chemotherapy, which caused the seven-day delay in filing the Review Petition.

7. We have examined the Review Petitioner's submissions. As per Regulation 44(3) of the Central Electricity Regulatory Commission (Conduct of Business Regulation) 2023 (for short, '2023 COB Regulations'), the date of uploading an order on the Commission's website shall be considered sufficient service of that order upon the concerned parties, and the limitation period for filing the Review Petition against any such order shall start from the next day calculated from the date when the order was actually uploaded on the Commission's website. Further, as per Regulation 52(2) of the 2023 COB Regulations, any person aggrieved by the order of the Commission may file a Review Petition on certain grounds within forty days of making such decision, direction or order.

8. We note that the reason for the delay in filing the Review Petition, as furnished by the Review Petitioner, is on account of the illness of its MD, who was under chemotherapy treatment.

9. In the case of WBSETCL v CERC & ors, the APTEL, while examining the delay in filing the Review Petition therein, vide its judgment dated 15.12.2023, held as under:

“10. We are constrained to note here that the primary function of the courts/tribunals is to do justice and they must endeavor to decide the matters on merits while adopting a liberal approach towards condoning the delay on sufficient cause. They must avoid adopting pedantic and technical approach, thereby legalizing injustice. We find it apposite to refer to the following observations of the Hon’ble Supreme Court made way back in 1998 in the case titled N. Balakrishnan versus M. Krishnamurthy (1998) 7 SCC 123:

xxx

11. In the instant case, it cannot be said that there was any gross negligence or deliberate inaction or lack of bonafide on the part of the appellant in filing the review petition. Even though it had initially expected the 3rd Respondent to seek review of the order dated 29.01.2018 of the Commission and accordingly sent a letter dated 12.02.2018 in this regard to the said respondent yet upon refusal of the said respondent to do so, it immediately approached its Board and initiated the process for assailing the said order. In our opinion, the explanation put forward by the appellant for not having been able to file the review petition within the stipulated time appears to be plausible as well as acceptable and the Commission has erred in not accepting the same”

10. From the submissions of the Review Petitioner, it is difficult to say that the Review Petitioner remained negligent in filing the Review Petition. Therefore, it cannot be concluded that there was any deliberate inaction or negligence on the part of the Review Petitioner in filing the Review Petition. Considering the above background and the provisions of Regulation 69 of the 2023 COB Regulations, the delay of 7 days in filing the Review Petition is condoned.

(b) Wrong reliance on undecided matters, failure to consider recoverable dues of the Review Petitioner, and mischaracterisation of defaults and Forum Shopping.

11. The learned senior counsel for the Review Petitioner contended that the Commission, in the order dated 5.6.2025 (of which Review has been sought), relied on pending cases against the Petitioner filed by the Distribution licensees alleging default on the part of the Petitioner in making payment and honouring its contractual

obligation, without appreciating that pleadings were not completed in most of these cases, and proceeded to issue show cause notice proposing the revocation of the Petitioner's trading licence under Section 19 of the Act vide the said order dated 5.6.2025. According to the Review Petitioner, this amounts to prejudging and assuming the Review Petitioner to be in default based on cases with incomplete pleadings, which directly contravenes the principles of natural justice. According to the learned senior counsel, this constitutes an error apparent on the face of the record, requiring modification of the impugned order.

12. In rebuttal, the learned counsel for the Respondent, DB Power, contended that the Review Petitioner was issued a show cause notice for revocation of the licence dated 5.6.2025 in Petition No. 87/MP/2024, whereby three months' time was granted for filing a response. He further contended that instead of replying to the show cause notice, the Review Petitioner filed the present Review Petition merely to delay the proceedings. He also contended that before issuing the show cause notice, the Commission had acceded to the request of the Review Petitioner and granted opportunities to the Review Petitioner through Record of Proceedings dated 9.12.2024 and 26.12.2024 to pay the principal amount along with Late Payment Surcharge (LPS), but the Review Petitioner defaulted in its assurance given to the Commission and the Respondent and failed to do so, and therefore, the show cause notice was rightly issued by the Commission.

13. We have examined the submissions made by the parties and have perused the record, including the impugned order.

14. Regulation 52 of the 2023 COB Regulations provides as follows:

“Review of Orders, Decisions and Directions

(1) The Commission shall exercise jurisdiction to review its own orders, decisions, and directions in accordance with Clause (f) of sub-section (1) of Section 94 of the Act read with Section 114 and Order 47 of the Civil Procedure Code.

(2) Any person aggrieved by a direction, decision, or order of the Commission, from which no appeal has been preferred, may file a review petition on the 34 following grounds within forty days of the making of such decision, direction, or order:

(a) Upon the discovery of new and important matter or evidence that, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision, or order was passed or;

(b) On account of some mistake or error apparent from the face of the record, or;

(c) If there is any other sufficient reason to review the matter.

.....”

Analysis and Decision

15. The instant Review Petition has been filed under Section 94(1)(f) of the Act, read with Regulation 52 of the 2023 COB Regulations, seeking review of the order dated 5.6.2025 passed by the Commission in Petition No. 87/MP/2024. Under Section 94(1)(f) of the Act, the Commission is vested with the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in the matter of “reviewing its decision, directions and orders”. Regulation 52(2) of the 2023 COB Regulations provides that an aggrieved person can seek the review of a direction, decision or order of the Commission, which is akin to the grounds provided under Order 47 Rule 1 of CPC.

16. The record shows that Petition No. 87/MP/2024 was filed by D.B. Power Limited/Respondent herein under Section 79(1)(b) read with Section 79(1)(f) and Section 19 of the Act read with Regulations 9, 19, and 20 of the 2020 Trading Licence Regulations, inter alia, seeking a direction against the Review Petitioner, KEIPL, to pay the outstanding amount of Rs. 11,22,05,158 to D.B. Power Limited for the power supplied by it to the Review Petitioner. Admittedly, there is no dispute regarding the Respondent/DB Power’s claim against the Review Petitioner for the amount in question. Further, it is also not the case of the Review Petitioner that there is

discovery of a new and important matter or evidence which was not in its knowledge or could not be produced by it at the time when the impugned order was passed.

17. The basis for filing this Review Petition is that the impugned order dated 5.6.2025, which issued a show-cause notice proposing the revocation of its trading licence, relied on undecided or unadjudicated issues and overlooked its recoverable dues. According to the Review Petitioner, pre-judges and assumes the Review Petitioner to be in default based on cases where the pleadings are not yet completed. To address this contention of the Review Petitioner, it is necessary to refer to the relevant excerpts of the impugned order dated 5.6.2025, which are as follows:

"Hearing dated 1.5.2024

10. The matter was heard along with Petition No. 306/MP/2022 The learned senior counsel for Respondent, KEIPL, sought two months to make payment of the entire outstanding principal amount to the Petitioner.

.....

*12. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission expressed strong disapproval of the conduct of Respondent, KEIPL. **Keeping in view the overall facts and circumstances involved in these cases, the Commission directed Respondent, KEIPL, to make the payment of the entire principal outstanding in two equated monthly instalments, with the first instalment becoming due on 1.6.2024 and the second instalment becoming due on 1.7.2024. KEIPL was also directed to file a compliance affidavit within a week thereafter. The Commission also clarified that failure on the part of Respondent, KEIPL, to abide by the aforesaid direction will lead to the initiation of appropriate proceedings against Respondent under the provisions of the Electricity Act, 2003, and the Trading Licence Regulations.***

Hearing dated 9.12.2024

13. Learned counsel for the Petitioner submitted that vide Record of Proceedings for the hearing dated 1.5.2024, the Commission had directed the Respondent, KEIPL, to make the payment of the entire principal outstanding. However, in disregard to the Commission's above direction, no payment had been made by the Respondent, KEIPL, towards the principal amount.

*14. **Learned senior counsel for the Respondent, KEIPL, admitted that the Respondent is yet to comply with the direction issued under the Record of Proceedings for the hearing dated 1.5.2024 and prayed that the additional 30 days may be allowed to comply with the above directions.***

15. After hearing the learned senior counsel for the parties, the Commission directed to list the matter for further hearing/compliance on 26.12.2024, and in the meantime, **the Respondent may comply with the direction dated 1.5.2024. The Commission, however, made it amply clear that such compliance by the Respondent, if any, will be without prejudice to its liability arising out of the non-compliance with the direction dated 1.5.2024 in the stipulated timeframe.**

.....
Hearing dated 26.12.2024

17. During the course of the hearing, the learned counsel for Respondent submitted that KEIPL is willing to pay the principal amount, including LPS thereon, subject to withdrawal of the parallel proceedings by the Petitioner, DBPL.

.....
22. We have considered the submissions made by the parties. The Petitioner has filed the present Petition seeking direction upon the Respondent, KEIPL, for the payment of the outstanding amount to the Petitioner against the 105 MW RTC power supplied by the Petitioner to the Respondent, KEIPL, for the period from 1.9.2020 to 30.9.2020. In addition, the Petitioner has also prayed for initiating the appropriate proceedings under Section 19 of the Act, read with Regulation 20 of the Trading Licence Regulations, for revocation of the inter-state trading licence granted to the Respondent. Pertinently, its liability towards the outstanding amount to the Petitioner has not been contested or disputed by the Respondent, KEIPL, in any manner. The Respondent, KEIPL, had, time and again, acknowledged to the Petitioner the outstanding amount towards the tariff for the supply of power made to it. In fact, in order to discharge its aforesaid liability, the Respondent, KEIL, had also issued a cheque for an amount of Rs. 10.87 crores, which was returned dishonored upon its presentation. Even during the course of hearings, the Respondent, KEIPL, had repeatedly indicated that it intended to resolve the issue and make payment towards the principal amount involved in the matter. In the above background, the Commission vide Record of Proceedings for hearing dated 1.5.2024 had directed the Respondent, KEIPL, to make the payment towards entire principal outstanding in two equated monthly instalments. However, the Respondent, KEIPL did not abide by the said direction and prayed for additional 30 days, which was also allowed vide Record of Proceedings for hearing dated 9.12.2024. Despite the repeated opportunities, the Respondent, KEIPL, did not comply with the direction(s) issued by the Commission for the payment of the outstanding amount. Thus, the Respondent, KEIPL, having already disregarded the direction(s) of the Commission for the payment of outstanding amount, we proceed to consider the prayer of the Petitioner for initiating the appropriate proceedings under Section 19 of the Act read with the Trading Licence Regulations for revocation of the Respondent, KEIPL's inter-state trading licence.

23. The Commission has specified the Trading Licence Regulations 2020, which contain the terms and conditions, net worth requirement, and credit worthiness for the grant of a trading licence, the obligations of the licensee, revocation of the licence, offences and punishment to the licensee, etc. We are concerned with the exercise of the power of the Commission under Section 19 of the Act in the facts of the present case. Section 19 of the Act deals with the circumstances and procedure for the revocation of a licence. Regulation 20 of the Trading Licence Regulations 2020 contains analogous provisions.

24. If the Commission, after making an enquiry, is satisfied that any of the above circumstances exist and public interest so requires, the licence can be revoked. Before revocation of the licence, the Commission has to give a notice of three months

to the licensee stating the grounds on which it is proposed to revoke the licence, and after considering the cause shown by the licensee. Thus, satisfaction of the Commission after making an enquiry about the existence of any of the circumstances for revocation and further satisfaction that public interest requires revocation in such circumstances are the relevant considerations for the exercise of power under Section 19 of the Act.

25. We now proceed to examine whether the Petitioner has made the case under Section 19 of the Act against the Respondent. Section 19(1)(a) of the Act provides that “where the licensee, in the opinion of the Appropriate Commission, makes willful and prolonged default in doing anything required of him by or under this Act or the Rules or regulations made thereunder.” Section 52(2) of the Act provides that “every electricity trader shall discharge such duties, in relation to supply and trading in electricity, as may be specified by the Appropriate Commission”. Regulation 9 of the Trading Licence Regulations specifies the following obligations for inter-State trading licensees:

26. Section 52(2) read with Regulation 9 of the Trading Licence Regulations casts a statutory obligation on the person issued with a trading licence by this Commission to discharge such duties in relation to the supply and trading of electricity as may be specified by the Commission. The Petitioner has submitted that the Respondent, KEIPL, has violated the obligations of the licensee specified in Regulation 9 of the Trading Licence Regulations. Regulation 9(10) provides that the licensee is required to always ensure payment to the seller for the purchase of the agreed quantum of electricity either through a letter of credit or any other appropriate instrument or as may be mutually agreed between the seller and the licensee. Thus, a trading licensee is bound to always ensure payment to the Seller for the purchase of the agreed quantum of electricity through the appropriate instrument or as may be mutually agreed between the parties.

27. In the present case, KEIPL has failed to release the payment to the Petitioner for the purchase of the agreed quantum way back in September 2020. Despite having acknowledged and admitted its liability, it has not only failed to timely discharge the said liability but also failed to adhere to its own proposed payment plans as well as the direction(s) of this Commission for payment. Even the cheque furnished by KEIPL for clearing the outstanding amount came to be returned as dishonored upon its presentation. All of these, in our view, constitute prolonged and willful defaults on the part of KEIPL to ensure timely payment to the Petitioner for supply of power which KEIPL as a trading licensee is required to comply with in terms of Regulation 9(10) of the Trading Licence Regulations 2020.

28. In our view, the actions of Respondent, KEIPL, are in violation of the provisions of Regulation 9(10) of the Trading Licence Regulations, which enjoins upon the trading licensee to ensure payment of dues to the seller. Therefore, it satisfies the conditions of Section 19 (1) (a) of the Act. Further, the trading in electricity is a regulated activity under the Act, as trading is envisaged to promote competition and thereby serve public interest. If the trading licensees are allowed to flout the terms and conditions of the agreements for purchase and sale of electricity in the course of trading, there will be chaos in the market, shake the confidence of the generating companies and distribution licensees/ consumers, and thereby will affect competition, which is against public interest. Therefore, public interest demands that such practices are strongly discouraged and that licensees indulging in such practices are dealt with strictly in accordance with the law. We are of the view that a

case against KEIPL under Section 19 (1) (a) of the Act for revocation of the licence has been made out.

29. We further note that the Commission, on several occasions, has directed the Respondent, KEIPL, to rectify its prolonged and willful non-compliance with the terms and conditions of the Trading License Regulations. However, the Respondent has failed to comply with these terms, particularly regarding the payment of the outstanding amount. On multiple occasions, the Commission expressed its strong disapproval of KEIPL's conduct and made it clear that failure to adhere to the directions would result in the initiation of appropriate proceedings under the provisions of the Act and the Trading License Regulations. Despite this, KEIPL has continued to disregard the Commission's directions, reflecting an insouciant and negligent attitude towards compliance."

18. On perusal of the aforementioned order, we note that DB Power Limited, the Respondent herein, inter alia, requested the initiation of proceedings under Section 19 of the Act and Regulation 20 of the Trading Licence Regulations to revoke the Review Petitioner's/ KEIPL's inter-State trading licence. KEIPL did not dispute the amount and repeatedly acknowledged the debt. KEIPL issued cheques for Rs . 10.87 crore, which were dishonoured, and expressed willingness to pay during hearings. The Commission, on 1.5.2024, directed KEIPL to pay the principal amount in two monthly instalments. However, KEIPL failed to comply with the said direction and sought 30 additional days. This request of KEIPL was acceded to by the Commission, and KEIPL was granted more time vide Record of Proceedings dated 9.12.2024. KEIPL ignored the directions despite multiple opportunities. However, once again KEIPL failed to remit the amount despite its own assurance and request for an extension of time. KEIPL has thus brazenly disregarded the Commission's orders, shown disobedience to the orders of the Commission, resiled on its own assurance given to the Commission and violated the provisions of Regulation 9(10) of the Trading Licence Regulations. It was in the above circumstances, all of which are undisputed, that D.B. Power Limited's request to revoke KEIPL's trading licence under Section 19 of the Act was considered.

19. Paragraphs 26 to 28 of the impugned order indicate that the Commission, after examining Section 52(2) of the Act along with Regulation 9 of the 2020 Trading Licence Regulations, concluded that there is a statutory obligation on the person granted a trading licence by this Commission to perform duties in relation to the supply and trading of electricity as specified by the Commission. DB Power Limited claimed that KEIPL violated the obligations of the licensee specified in Regulation 9 of the 2020 Trading Licence Regulations. The Commission noted that Regulation 9(10) of the 2020 Trading Licence Regulations requires the licensee to always ensure payment to the seller for the purchased electricity, either through a letter of credit or another suitable instrument, or as mutually agreed upon by both parties. Consequently, a trading licensee is required to guarantee payment to the Seller for the agreed amount of electricity through the appropriate instrument or as mutually decided.

20. The Commission categorically observed in the impugned order that KEIPL had not paid D.B. Power Limited since September 2020, despite acknowledging its liability and failing to adhere to its own commitment and assurance to make the payment and discharge its liability given in the proceedings before the Commission and recorded in the Record of Proceedings issued by the Commission from time to time. In the Commission's view, these actions amounted to prolonged and deliberate defaults by KEIPL in ensuring timely payment to D.B. Power Limited for power supply, which KEIPL, as a trading licensee, was required to comply with under Regulation 9(10) of the 2020 Trading Licence Regulations. Even after filing the Petition by DB Power Ltd. (Petition No. 87/MP/2024), KEIPL has not only admitted its liability and default in payment, but went on to give assurance to discharge the liability, none of which were fulfilled by KEIPL. In these circumstances, the

Commission concluded that KEIPL's actions violated provisions of Regulation 9(10) of the 2020 Trading Licence Regulations, which mandates that a trading licensee ensure payment of dues to the seller, and fulfil the condition of Section 19(1)(a) of the Act. The Commission also concluded that, since electricity trading is regulated to promote competition and the public interest, allowing licensees to breach agreements could cause market chaos, undermine confidence, and harm competition. Public interest mandates discouraging such practices and enforcing strict penalties, and as such, it was found that a case against KEIPL under Section 19(1)(a) of the Act for revocation of the licence was made out.

21. The case set up by the Review Petitioner is based on the plea that the impugned order dated 5.6.2025 which issued a show cause notice proposing the revocation of its trading licence was based on undecided/ unadjudicated issues and did not consider its recoverable dues, does not have any merits as the facts concerning the present case including the conduct of the Review Petitioner for proposing revocation of the Review Petitioner's licence have been duly considered in the paragraphs of the order dated 05.06.2025 as reproduced above in Para 17. The primary reason for issuing the show cause notice is persistent default by KEIPL in fulfilling its obligations as a trading licensee in the present case, and further default in its assurances given to the omission as recorded by the Commission in the order dated 5.6.2025. Therefore, the contention of the Review Petitioner that the Commission has relied upon the undecided cases while issuing a show cause notice, is not tenable since the Commission on enquiry found that, this was not one-off case, wherein the Respondent, KEIPL, has been alleged to have committed the violations under the 2020 Trading Licence Regulations, read with the applicable provisions of

the Act and gave the list of the Petitions which are pending against the Review Petitioner.

22. Be that as it may, the Commission, in paragraph 30 of the impugned order, specifically listed the Petitions currently pending before it on the subject matter to refer to the conduct of the Review Petitioner, and no conclusion has been drawn based on undecided/ pending matters, which is apparent from the above discussion. The impugned order mentioned Petition No. 306/MP/2022 to demonstrate that the Commission had already observed a wilful and prolonged default by KEIPL regarding the revocation of its trading licence, which is a matter of record.

23. As regards the contention of the Review Petitioner that a private party cannot invoke Section 19 of the Act, we find no substance in it, as perusal of Section 19 of the Act does not contain any such provision.

24. Referring to the judgment of the Hon'ble Supreme Court in the case of Global Energy Limited v. Central Electricity Regulatory Commission (in Civil Appeal Nos. 3457-3458 of 2009), the Review Petitioner contended that a contractual breach alone does not warrant licence revocation and that revocation of its licence would have serious repercussions on ongoing contracts and transactions across multiple States. Perusal of the said judgment indicates that the Hon'ble Supreme Court in its judgment considered the constitutional validity of clauses (b) and (f) of Regulation 6A of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Trading License and other related matters) (Amendment), Regulation 2006 which holds no relevance to the factual matrix of the present case.

25. Regarding the contention of the Review Petitioner about forum shopping by the Respondent, such as filing proceedings under Section 138 of the NI Act before

the Metropolitan Magistrate, Mumbai, proceedings under Section 9 of the IBC, and under Section 61 of the IBC before the NCLT challenging the order dated 31.10.2023, we refrain from making any observations on these matters as they fall within the jurisdiction of the Metropolitan Magistrate, Mumbai, IBC, and NCLT respectively.

26. The show cause notice was issued by the Commission on 5.6.2025, and the statutory time period of 3 months as prescribed under Section 19(3) of the Act was issued to KEIPL. Instead of showing cause by filing a Reply within the statutorily prescribed time period, KEIPL chose to file the present Review Petition. The conduct of KEIPL makes it apparent that the only attempt is to delay the proceedings, which needs to be deprecated.

27. For the reasons mentioned above, we find no merit in the submissions of the Review Petitioner to entertain the present Review Petition as it does not show any error apparent on the face of the record. The present Review Petition has no merit. It is to be noted that the Petitioner has not filed a reply to the show cause notice within the period provided for the same. However, in the interest of justice, the Petitioner is granted another opportunity to file the same within a period of seven days from the date of this order.

28. Review Petition No. 8/RP/2025 is accordingly disposed of.

Sd/-
(Ravinder Singh Dhillon)
Member

sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson

