

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 285 OF 2025 & IA No. 1118 OF 2025

Dated: 28th October, 2025

Present: Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

West Bengal State Electricity Transmission Co. Ltd. Appellant(s)

Versus

Central Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Shweta Sharma
Diggaj Pathak **for App. 1**

Counsel on record for the Respondent(s) : Shubham Arya
Harshvardhan Singh
Shree Dwivedi
Pallavi Saigal
Shirin Gupta
Poorva Saigal
Rishabh Saxena
Reeha Singh **for Res. 3**

ORDER

IA NO. 1118 OF 2025
(For interim relief)

This appeal is filed by the West Bengal State Electricity Transmission Company Limited aggrieved by the order passed by the CERC in Petition No.309/TT/2023 dated 29.05.2025. By the said order, the CERC determined the tariff of the Appellant for the years 2014-15 to 2018-19 and, in addition, directed the Appellant herein to pay simple interest, for the over recovered transmission charges, at the rate equal to the bank rate as on the 1st of April of the respective years in terms of Regulation 8 (13) of the 2014 Tariff Regulations.

While fairly stating that the Appellant has no quarrel with the tariff as determined by the CERC, Mr. Buddy A. Ranganathan, Learned Senior Counsel appearing on their behalf, would submit that the dispute in this Appeal is confined to the directions issued by the CERC to the Appellant to pay interest equal to the bank rate in terms of Regulation 8(13); the Appellant has been directed to pay this interest since the transmission charges determined by the impugned order, for the period 2014-15 to 2018-19, was lower than the tariff determined for the period 2011-12 to 2013-14, which determination continued to remain in force till the impugned order was passed on 29.05.2025.

Learned Senior Counsel, would further submit that Regulation 8(13) has no application to the facts of the present case in as much as the said Regulation is applicable only when a true up exercise is undertaken pursuant to an earlier determination of the transmission charges; in the present case, the exercise undertaken by the CERC was for determination of transmission charges for the period 2014-15 to 2018-19, and was not a true up exercise; while the delay in undertaking such an exercise has been held by the CERC to be on account of the delay on the Appellant's part, the Appellant has a reasonable and valid explanation for their delay in invoking the jurisdiction of the CERC; since Regulation 8(13) has no application, and in the absence of any contractual provision for payment of interest, the Respondents could have claimed interest only on restitutionary principles; grant of such an equitable relief would have required the CERC to first ascertain the loss, if any, which the Respondents had suffered as a result of the earlier over payment; and, in the present case, the Appellant has not benefitted by the determination exercise undertaken in terms of the impugned order, since the transmission charges paid to the Appellant earlier was treated as non-tariff income and reduced from the Appellant's ARR.

On the other hand, Ms. Poorva Saigal, Learned Counsel for the 3rd Respondent-CTUIL, would submit that the impugned order passed by

the CERC does not suffer from any illegality; even on the Appellant's own showing, the tariff as determined by the CERC is justified; what the CERC has directed is for the Appellant to pay interest at the bank rate that too for the amount over paid to them for the period 2014-19; the Appellant's contention that Regulation 8(13) is inapplicable is untenable; in any event, the Appellant cannot advantage of their own delay in invoking the jurisdiction of the CERC to justify retention of the illegal benefit they received as a result of the over recovered transmission charges; and what is evident is that, as a result of the delay in determining the transmission charges to which the Appellant was entitled to, some other DICs, for no fault of theirs, were required to pay an amount higher than what they were obligated to pay.

In terms of the impugned order, the Appellant is required to refund the excess amount received by them for the period 2014-19 in six equal monthly instalments. Mr. Buddy A. Ranganadhan, Learned Senior Counsel appearing on behalf of the Appellant, submits that the Appellant has already paid two of these six instalments, and they would continue to make payment of the remaining four monthly instalments on time. In the light of this submission, urged on behalf of the Appellant, the only question, which necessitates examination in the present Appeal, relates to whether the Appellant is liable to pay interest equal to the bank rate for the over recovered transmission charges.

It would be wholly inappropriate for us, at the interlocutory stage of these Appellate proceedings, to express any opinion on the merits of the rival submissions regarding applicability of Regulation 8(13) of the 2014 Tariff Regulations or on the doctrine of restitution. The Appellant is a State Government utility. Even in case an interim order were to be granted in the Appellant's favour, it is not as if the 3rd Respondent would be unable to recover the interest component later in the event the main appeal were to be dismissed. Likewise payment, if any, made by the Appellant to the 3rd Respondent, in terms of the impugned order, can

also be recovered by them from the 3rd Respondent in case the Appeal were to be allowed later.

In such circumstances, we deem it appropriate to grant interim stay of the impugned order, to the extent the Appellant was directed to pay interest for the over recovered transmission charges, on condition that the Appellant pays 50% thereof to the 3rd Respondent, along with the remaining four monthly instalments as directed to be paid in terms of the impugned order. Needless to state that the 3rd Respondent's claim for the balance 50% and the Appellant's claim for refund of the 50% they are called upon to pay in terms of the interim order now passed by us, shall both be subject to the result of the main appeal.

We also make it clear that the order now passed by us shall not disable either party from making a claim for interest, on the stayed/ paid interest amount, when the main appeal is finally heard. The IA is, accordingly, disposed of.

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Since affidavit of proof of service of notice on all the Respondents has been filed, failure to effect service of court notice on some of the Respondents, is of no consequence.

It is represented by learned Counsel on both sides that pleadings are otherwise complete. Registry to verify whether pleadings are complete and, thereafter, include this appeal in the '**List of Finals**' to be taken up from there for hearing, in its turn.

Ajay Talegaonkar
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

tpd/sk