

COURT-2

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

RP No. 30 OF 2025

Dated: 24th March, 2026

Present : Hon`ble Mr. Virender Bhat, Judicial Member
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

Delhi Transco Ltd. Petitioner(s)

Versus

Delhi Electricity Regulatory Commission &Ors. Respondent(s)

Counsel on record for the Petitioner(s) : Pradeep Misra
for App. 1

Counsel on record for the Respondent(s) : Vipul Ganda
for Res. 1

Rahul Kinra
Yash Srivastava
Amit Kapur
Girdhar Gopal Khattar
for Res. 2

Rahul Kinra
Yash Srivastava
Amit Kapur
Girdhar Gopal Khattar
for Res. 3

Amit Kapur
Anupam Varma
Rahul Kinra
Aditya Ajay
Aditya Gupta
Girdhar Gopal Khattar
Yash Srivastava

Adamyia Ojha
Vaibhav Sharma
for Res. 4

Saad Mustafa Shervani
Ravi Krishan Chandna
for Res. 5

ORDER

1. Heard learned counsels appearing for the review petitioner as well as the respondents.

2. By way of the instant review petition, the petitioner is seeking review of judgment of this Tribunal dated 30.04.2025 passed in appeal no.8 of 2016. In that appeal, the review petitioner had assailed the findings of the 1st respondent Delhi Electricity Regulatory Commission (hereinafter referred to as the Commission) in tariff order dated 29.09.2015 passed in petition no.17 of 2015 filed by the petitioner itself seeking true-up of its financials for the Financial Year (FY) 2012-13 and FY 2013-14 as well as for approval of Annual Revenue Requirement (ARR) and also for determination of transmission tariff for FY 2015-16.

3. The review petition is confined to the findings of this Tribunal on issue nos.(E)(i) and (E)(v) which relate to pension trust dues and consideration of

Rs.11.71 crores as non-tariff income for the appellants for the year 2012-13 respectively.

4. Our findings on issue no.(E)(i) in judgment under review are extracted herein below: -

“22. It is submitted on behalf of the Commission that since the issue involved in this appeal is similar to the issue involved in appeal no.281/2015 and regarding which the proceedings are also pending before the Hon’ble Delhi High Court, the decision on the instant issue may be deferred till after the decision of the High Court in the Writ Petition (C) Nos.1698/2021 and 4311/2013.

23. In view of these submissions made on behalf of the Commission, which have not been refuted on behalf of the appellant, we find it in the interest of justice to defer decision on the present issue in order to avoid conflicting orders. Therefore, the issue is kept pending for the time being and shall be

heard after any decision is pronounced by the Delhi High Court in the above noted two writ petitions.”

5. It is submitted by learned counsel for the review petitioner that issues involved in the writ petition no.1698/2021 and 4311/2013 before the High Court of Delhi are totally distinct from the issues which were under consideration before this Tribunal in the appeal in question and therefore, the decision on this issue ought not to have been deferred till the judgment of the High Court in these two writ petitions is passed.

6. We may note that when it was submitted on behalf of the respondents during the hearing of the appeal that the instant issue is identical to the issues involved in the above mentioned writ petitions pending disposal before High Court, the learned counsel for the review petitioner did not object to the same and it is for this reason only that we thought it justified to keep the issue pending for the time being till a decision is taken by the Hon'ble High court in the appeals filed before it.

7. It is submitted by learned counsel for the petitioner that at the time of advancing arguments in the appeal he was not aware about the contents of writ petitions pending before the High Court and therefore, did not object to

the above contentions put forth on behalf of the respondents to defer the decision on this issue.

8. In this regard, our attention is drawn by the learned counsel for the respondents to Paragraph No.7.16 of the Memorandum of Appeal, a copy of which has been annexed by the review petitioner itself along with the review petition, wherein it is stated that the review petitioner (Delhi Transco Ltd.) along with other discoms of Delhi were made party to these writ petitions vide order dated 05.09.2011 by the Hon'ble High Court. A copy of the said order has been annexed as R-1 to the reply filed by the respondents to the instant review petition. It is not disputed by learned counsel for the review petitioner that the petitioner has been impleaded as party to these writ petitions and has been appearing in these petitions before the High Court since the year 2011. Therefore, it does not lie in the mouth of the review petitioner to contend that at the time of advancing submissions in this appeal, it was not aware about the contents of the review petition.

9. It appears that the review petitioner consciously chose not to advance any submissions on this particular issue at the time of hearing of the appeal and felt of the opinion that the decision on the issue ought to be deferred till

the decision of the High Court on these two writ petitions. Therefore, the review petitioner cannot be permitted to agitate this issue by way of the instant review petition as no patent error can be found in the judgment under review on this aspect.

10. In the judgment under review, we have also referred to appeal no.281/2015 in which following orders have been passed on 29.01.2024 and 30.05.2025: -

Order dated 29.01.2024:-

“Mr. Amit Kapur, Learned Counsel appearing on behalf of the Appellant has informed that similar matters under the W.P.(C) No. 1698 of 2010 titled 'DSEWU Vs. GONCTD & Ors' and W.P.(C) No. 4311 of 2013 titled 'Saurabh Suden & Anr. Vs. DVB & Ors' filed before the High Court of Delhi are pending for final decision which may have an impact on these Appeals.”

Order dated 30.05.2024:-

“Learned Counsels for the parties submitted that the matter is pending before the High Court of Delhi which is scheduled to be listed for hearing in the month of

*September, 2024 Let the matter be heard in this Tribunal
only after the decision is pronounced before the High
Court of Delhi.*

11. During the course of hearing of the appeal, the learned counsel for the appellant had also submitted that the issue under consideration related to pension trust dues in this appeal is similar to the issue involved in appeal no.281/2015 in which above quoted orders have been passed. Today, it was not contended on behalf of the review petitioner at all that the issue in the instant appeal related to pension trust dues is not involved in appeal no.281/2015. That being so, the decision on the said issue has rightly been deferred till disposal of the aforementioned two writ petitions by the Hon'ble High Court as was done in appeal no.281/2015.

12. Hence, this ground taken in the review petition to seek review of the judgment dated 30.04.2025 does not inspire any confidence and has no force at all.

13. In so far as the issue no.(E)(v) is concerned, our findings in the judgment under review are extracted herein below: -

“Issue No.(E)(v): Consideration of Rs.11.71 crores as non-tariff income of the appellants for the year 2012-13.

45. This issue is with regards to consideration of Rs.11.71 crores as nontariff income of the appellant for the FY 2012-13. It appears from perusal of the impugned order that the Commission has considered the said amount as non-tariff income of the appellant on the ground that said amount was written back in the books of accounts of appellant which was reflected at Note 20 of the Audited Accounts of the appellant.

46. We feel in agreement with the submissions on behalf of the respondent that the Commission cannot be faulted for considering the audited accounts of the appellants, submitted by the appellant itself, in considering the written off amount of Rs.11.71 crores as non-tariff income.

47. Therefore, the findings of the Commission on the issue are affirmed and the issue is decided against the appellant.”

14. Manifestly, while rendering our findings on this issue, we have referred to the audited accounts of the review petitioner itself, as affirmed in the written submissions filed on behalf of the review petitioner subsequent to the hearing of the appeal. The relevant portion of the written submissions of the review petitioner has been quoted by the respondents in Paragraph no.18 of the reply which is also extracted herein below: -

“46. The State Commission seems to suggest that the Appellant at Note 20 of its Audited Account has shown 11.71 / 11.81 crores as an income. From the extract produced by the State Commission at Page 16 of its reply it is not clear as to where the Rs. 11.71/11.81 crores is coming from.

47. The provision for dismantled assets amounting to Rs. 11.71 Crores was created/ written off as expense in the books of accounts during the period 2007-11 but the said amount was not allowed as expense while

*passing true up order for FY 2007-11. **In the same manner, when the same amount was written back in FY 2012-13, it cannot be considered as income.***

48. *The State Commission has considered an amount of Rs.11.71 Crores as non-tariff income of the Appellant for FY 2012-13 on the ground that the said amount was written back in the books of accounts of the Appellant. The State Commissions' contention that the Appellant had mentioned the said amount as income in its tariff petition is misplaced. The amount may have very well been entered as an income in the tariff petition, but the same was only on account of writing back after the State Commission disallowed the writing off of the amount. It is submitted that an expense not being allowed to be written off cannot be treated as an income when written back in the books of accounts of the Appellant.*
49. *The State Commission has failed to appreciate that when the writing off was not recognised and the expense was not allowed to the Appellant, the same*

amount now recognised in the books should not have any impact on the revenue requirements of the Appellant.”

[Emphasis Supplied]

15. The contents of the above quoted portion of the written submissions filed on behalf of the petitioner are not disputed on behalf of the review petitioner. In these written submissions, it is very candidly submitted on behalf of the petitioner that the sum of Rs.11.71 crores has been returned back in the FY 2012-13 and it cannot be considered as an income. The Commission as well as this Tribunal took note of this assertion on behalf of the petitioner in returning findings on this issue. Therefore, once this Tribunal has founded its judgment on the issue under consideration on the statement of petitioner itself in the written submissions, it would be preposterous to say that the findings on this issue suffer from any error on the face of record.

16. In view of what has been discussed hereinabove, no error apparent on the face of record or a patent error has been shown in the judgment

under review. The review petition is sans any merit and is hereby dismissed.

Ajay Talegaonkar
Technical Member (Electricity)

Virender Bhat
Judicial Member

tp/kns