

COURT-2

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

RP No. 4 OF 2026 & IA No. 1793 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:

Maharashtra State Electricity Distribution Company Ltd.		Petitioner(s)
Versus		
Mahindra CIE Automative Ltd. & Anr.		Respondent(s)

Counsel for the Petitioner(s)	:	B. P Patil, Sr. Adv. Shashwat Kumar Rahul Chouhan Harshit Gupta Mukut Choudhary Kajal Kakani Chaitanya Ahuja for App. 1
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Counsel for the Respondent(s)	:	Harsha V Rao Aishwarya Subramani Anand K. Ganesan Swapna Seshadri for Res. 1
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ORDER

1. Heard Mr. B.P. Patil, learned senior counsel on behalf of the review petitioner and Mr. Anand Ganesan, learned counsel for the respondent no.1.

2. By way of this review petition the review petitioner (who was the 2nd respondent in the main appeal) has sought review of judgment dated 22.08.2025 passed by this Tribunal in appeal no.424 of 2019.

3. The said appeal had been filed by the 2nd respondent Mahindra CIE Automotive Limited assailing therein the order dated 16.09.2019 passed by the 2nd respondent Maharashtra Electricity Regulatory Commission (hereinafter referred to as the Commission) in case no.93/2019 under Section 142, 146 and 149 of the Electricity Act, 2003 thereby holding that the review petitioner Maharashtra State Electricity Distribution Company Limited (in short MSEDCL) has rightly given adjustment in line with the billing methodology specified by the Commission in previous order dated 23.10.2018 passed in petition no.71/2018. The Commission also held MSEDCL not liable to payment of interest.

4. Vide the judgment under review, this Tribunal allowed the appeal and set aside the order dated 16.09.2019 of the Commission. The case was remanded back to the Commission with the following directions: -

“24. The Commission is hereby directed to hear the parties afresh on the claim of the appellant for the amount refundable to it by MSEDCL for the period up to

31.03.2018 and render a fresh decision on this aspect after taking note of rival contentions / calculations to be submitted by the parties. The MSEDCL is directed to follow the billing methodology specified by Commission in order dated 11.08.2017 in case no.139/2016 for the period from April, 2018 also and to refund the excess amount recovered from appellant to the appellant within one month from the date of this judgment along with interest / carrying cost @ 9% per annum.”

5. It is submitted by learned senior counsel appearing on behalf of the review petitioner that the judgment under review suffers from a patent error in so far as it grants interest to the 1st respondent on the refund of excess amount to be recovered from the review petitioner whereas no such prayer for the interest was made in the original petition filed before the Commission. Apart from that, according to learned senior counsel, the following observations of this Tribunal in the judgment under review also suffer from patent error.

“ Therefore, if the conventional power is not adjusted first, it may lapse as it cannot be banked. It hardly matters whether the conventional power is being sourced from a captive generating plant or an independent power producer, its nature would remain always the same i.e.

schedulable, firm and non-bankable. The Commission has committed a patent error in creating a distinction between conventional power sourced from a captive source and from an independent power producer. Such distinction is artificial, unjustified and arbitrary.”

6. It is the submission of the learned senior counsel that this Tribunal has equated the power sourced from an independent power producer to the power sourced from a captive source, which is not a correct view and needs to be corrected.

7. On this aspect, it would suffice to note that these observation of this Tribunal in the judgment under review are an opinion formed by this Tribunal upon consideration of the facts and circumstances of the case as well as taking into account the rival submissions made by the learned counsels during the hearing of the appeal. The case of the petitioner, at best, can be that these observations are erroneous, but it cannot be said that the judgment under review suffers from any patent error on account of such observations. There is a clear distinction between an erroneous judgment and an error apparent on the face of record. A review petition is maintainable only in the latter case whereas in the former case the error can be corrected by the higher judicial forum which is the Supreme Court in this case.

Therefore, we do not find any force in the contentions of the review petitioner on this aspect.

8. As regard the directions of this Tribunal for payment of interest on the refundable amount by review petitioner MSEDCL is concerned, it is vehemently argued by learned senior counsel that no such direction ought to have been passed as the 1st respondent had not sought any interest in the original petition filed before the Commission. In this regard, learned senior counsel has drawn our attention to the prayers made by the 1st respondent in its original petition filed before the Commission i.e. petition no.71/2018 and the same are extracted hereinbelow: -

- “a. Direct the Respondent to forthwith correct the bills raised upon the Petitioner from May 2016, due to incorrect adjustment of power and no later than seven (7) days from date of Order;*
- b. Direct MSEDCL to credit the amount of Rs.2,02,29,726/- (Rupees Two Crores Two Lacs Twenty Nine Thousand Seven Hundred and Twenty-Six Only) towards Foundry Division Urse and Rs. 1,48,76,179 (Rupees One Crore Forty-Eight Lacs Seventy-Six Thousand Seven Hundred Twenty-Six Only) for Forging Division Chakan in respect of loss incurred by the Petitioner on account of alleged over-*

- injected units which occurred due to incorrect billing method by MSEDCL in the ensuing billing cycle;*
- c. Direct the Respondent to adopt correct practice of set-off open access power i.e. first conventional OA power and then RE power in accordance with DOAR, 2016;*
 - d. Award costs of these proceedings against the Respondent and pay to the Petitioner; and*
 - e. Pass such further order(s) as the Hon'ble Commission may deem just in the facts of the present case.”*

9. In order to buttress his submissions, learned senior counsel has referred to previous judgment of this Tribunal dated 09.01.2025 in appeal no.27/2019 wherein it has been held that a party is precluded from claiming interest on the refund amount in the petition under Section 142 of the Electricity Act, 2003 where no such interest was claimed or granted in the original petition.

10. It is true that in the prayers made in the original petition before the Commission, no specific prayer for interest had been made by the 1st respondent. However, we note that the main prayer in the said petition was to direct the MSEDCL to forthwith correct the bills raised upon the 1st respondent from May, 2016 due to incorrect adjustment of power. It is manifest that no specific amount was claimed under this head by the 1st

respondent and it had only sought correction of the bills raised by MSEDCL from May, 2016 onwards. We may also note that upon correction of the bills, some amount may have been refundable by the MSEDCL to the 1st respondent or some amount may have been payable by the 1st respondent to the MSEDCL itself. In any case, it would appear that the excess amount to be refunded by any of the parties upon correcting the methodology of the bills, would have to be refunded along with interest as per the settled principles of restitution, as affirmed by the Hon'ble Supreme Court also in the judgment referred to by us in the judgment under review dated 22.08.2025.

11. Reliance upon previous judgment of this Tribunal in appeal no.27/2019 on behalf of the review petitioner is totally misplaced. In that case, the compliance of an order of Consumer Grievance Redressal Forum (CGRF) had been sought before the Commission by way of a petition under Section 142 of the Electricity Act, 2003. It is noteworthy that in that order, CGRF had specifically stated that the applicant is entitled to the refund of rate difference but without interest. It is in these circumstances that this Tribunal has held that grant of interest by the Commission in proceedings under Section 142 of the Electricity Act, 2003 despite there being direction of the CGRF that no interest would be payable, is not sustainable.

12. Having regard to the above discussion, we do not find any merit in the review petition. The Same is hereby dismissed.

Ajay Talegaonkar
Technical Member (Electricity)

Virender Bhat
Judicial Member

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