

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 53 OF 2026 & IA No. 1838 OF 2025 & IA No. 323 OF 2026

Dated: 29th April, 2026

Present: Hon`ble Ms. Seema Gupta, Officiating Chairperson
Hon`ble Mr. Virender Bhat, Judicial Member

In the matter of:

Tamil Nadu Power Distribution Corporation Limited
(formerly known as Tamil Nadu Generation and
Distribution Corporation Limited) Appellant(s)

Versus

Central Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Anusha Nagarajan
for App. 1

Counsel on record for the Respondent(s) : Deepak Khurana
Vineet Tayal
Abhishek Bansal
Tejasv Anand
Nishtha Wadhwa
Bhaskar
Shaurya Nirwal
Monalika Chaudhary
for Res. 2

Ravi Kishore
Perna Singh
Keshav Singh
for Res. 3

ORDER

IA No. 1838 of 2025
(For interim relief)

Heard Mr. P. Wilson, Learned Senior Counsel appearing on behalf of the Appellant, Mr. Deepak Khurana, Learned Counsel for the 2nd Respondent, and Mr. Ravi Kishore, Learned Counsel for the 3rd Respondent.

It appears that the 2nd Respondent had initially approached the Respondent Commission by Petition No. 158/MP/2019 seeking the following prayers:

“(a) Pass an Order declaring that the deduction made by the Respondents towards penalty imposed and capacity charges as detailed in the Petition from the bills raised by the Petitioner for the months of December, 2018, January, 2019 and February, 2019 is illegally and wrongful;

(b) Direct the Respondents, jointly and severally, to forthwith pay the deducted/withheld amounts against the bills raised for the month of December, 2018, January, 2019 and February, 2019, i.e. penalty imposed and unpaid capacity charges, due to the Petitioner as detailed in Annexure P-24;

(c) Grant carrying cost/interest @ 1.25% per month from the date(s) on which the said amount(s) became due to the Petitioner till the actual realization of the same; and

(d) Pending hearing and final disposal of the Petition, pass an ad-interim Order directing the Respondents, jointly and severally to pay 75% of the amounts due to the Petitioner of the amount claimed above.”

The said Petition was disposed of by Order dated 15.08.2020 granting the claims raised by the 2nd Respondent. The operating para of the said order of the Commission is extracted herein below:

“46. In the foregoing paragraphs, we have already held that the Petitioner is entitled to refund of the capacity charges including the penalty withheld/deducted by the Respondents, the same being contrary to the provisions of the PTC-PPA and Procurer-PPA. Therefore, PTC is liable to pay such amount including the late payment surcharge in terms of Article 8.4.3 of the PTC-PPA. Further, PPAs being back-to-back in nature, PTC shall be entitled to the said amount from TANGEDCO in terms of Procurer-PPA and such payment shall be made by TANGEDCO to PTC with late payment surcharge in terms of provisions of the Procurer-PPA.”

It further appears that the Respondent-PTC had come in an appeal to this Tribunal against the said order of the Commission, but on a limited point which is in no way connected with the issue raised in the present appeal. The said Appeal bearing No. 168 of 2020 has already been disposed of by this Tribunal by judgment dated 08.05.2025.

Thereafter, the 2nd Respondent approached the Commission again by way of Petition No. 264/MP/2022 under Section 79 read with Section 142 of the Electricity Act, 2003 seeking compliance of the earlier order dated 15.08.2020. The said Petition has been disposed of by the Commission by the Impugned Order dated 30.08.2025. The observations and the finding of the Commission are extracted hereinbelow:

“23. As already held in the order dated 15.08.2020, that the Petitioner is entitled to a refund of the capacity charges, including the penalty withheld/deducted by the Respondent, the same being contrary to the provisions of the PTC-PPA and Procurer-PPA, PTC is liable to pay such amount, including the late payment surcharge in terms of Article 8.4.3 of the PTC-PPA. Further, PPAs being back-to-back in nature, PTC shall be entitled to the said amount from TANGEDCO in terms of Procurer-PPA and such payment shall be made by TANGEDCO to PTC along with Late Payment Surcharge (LPS) in terms of provisions of the Procurer-PPA. Therefore, PTC is directed to pay its outstanding liability, including the LPS, to the Petitioner, calculated for the period beyond the due date till the payment of the entire principal amount, within sixty days from the date of this order.”

Today, it is sought to be argued by the Learned Senior Counsel appearing on behalf of the Appellant that they have got information that the generating plant of the 2nd Respondent had forced outage for certain period of time and therefore, the 2nd Respondent is not entitled to capacity charges for the said period as has been directed to be paid by the Impugned Order of the Commission. However, it is conceded that this defence was not raised by the Appellant before the Commission during the course of the proceedings of the Original Petition No. 158/MP/2019, and has been raised in the Execution Petition for the first time. Since the said issue was raised by the Appellant in the Execution Petition bearing No. 264/MP/2022 for the first time, we are of the opinion that the same has been rightly refused to be considered by the Commission for the reason that an issue which had not been raised in the original petition cannot be permitted to be raised and considered in the execution petition.

Therefore, we, prima facie, do not find any error or infirmity in the Impugned order passed by the Commission dated 30.08.2025. Hence, no case for an interim order has been made out. The Application stands dismissed accordingly.

We may add that nothing observed hereinabove shall be construed as our view on the merits of the appeal which would be seen at the time of its final disposal.

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It is represented by Learned Counsel on both sides that pleadings are 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.

Virender Bhat
Judicial Member

Seema Gupta
Officiating Chairperson

tpd/mkj