COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 491 of 2025 & IA No. 1925 OF 2025 & IA No. 1924 OF 2025 & IA No. 1923 OF 2025

Dated: 12th February, 2026

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

In the matter of:

Radha Smelters Private Limited	....	Appellant(s)
Versus		
Telangana Electricity Regulatory Commission & Anr.	....	Respondent(s)

Counsel on record for the Appellant(s)	:	Sourabh Gupta Puneet Yadav Priya Mittal Vasu Dev Akshansh Gupta for App. 1
Counsel on record for the Respondent(s)	:	Somanadri Goud Katam Rajat Srivastava Sirajuddin for Res. 1 D. Abhinav Rao for Res. 2

ORDER

IA No. 1925 OF 2025
(for leave to file Appeal)

The Appellant is an HT consumer located in the city of Hyderabad in the State of Telangana falling within the area of supply of the 1st Respondent. The impugned order, denying them rebate, undoubtedly has an adverse impact on the tariff payable by them. They are, undoubtedly, a person aggrieved and are entitled, therefore, to invoke the appellate jurisdiction of this Tribunal under Section 111(1) of the

Electricity Act. Leave, as sought for, is granted and the application is disposed of.

IA No. 1923 OF 2025

(for exemption from filing certified copy of impugned order)

Since the appeal itself is disposed of by this order, and a photostat copy of the impugned order has already been filed, we see no reason to insist on the Appellant filing a certified copy of the impugned order. The IA is, accordingly, disposed of.

IA No. 1924 OF 2025

(for interim relief)

The order under challenge in the present appeal, filed by M/s Radha Smelters Private Limited, is the order passed by the Telangana Electricity Regulatory Commission (TERC) in IA No. 24 of 2025 in OP-21 of 2025 and in IA No. 25 of 2025 in OP No. 22 of 2025 both dated 15.11.2025. The 1st Respondent herein filed the petitions on 05.08.2025 and 06.08.2025, under Section 64 of the Electricity Act, 2003, proposing certain amendments to the Time of Day (ToD) Tariff approved by the TERC in the Retail Supply Tariff Order for FY 2025-26 in OP Nos 21 & 22 of 2025, to align with the industry load pattern, average power purchase cost, exchange price trends for efficient power usage and supporting demand-supply balance.

The amendments proposed by the Telangana Discoms, to the Time of Day (ToD) Tariff for the remaining part of FY 2025-26, related (a) to the Time of Day (ToD) Tariff applicable for different categories of industries, and the category wise energy charges applicable to peak hour and night time hours. The amendment, which the Telangana Discoms had sought, was to discontinue the rebate granted earlier of Rs. 1.50 per unit for the night time tariff during 10.00 PM to 06.00 AM for HT consumers. This prayer, sought by the Telangana Discoms, was

acceded to by the Commission by the impugned order, and is the subject matter of the present appeal filed by a HT consumer before this Tribunal.

While elaborate submissions were put-forth on this issue both by Mr. Apoorv Kurup, Learned Senior Counsel appearing on behalf of the Appellant, and Mr. D. Abhinav Rao, Learned Counsel appearing on behalf of the 2nd Respondent, including that, while the rebated granted to HT consumers earlier has been disallowed, the surcharge imposed on them continues to remain in force.

Besides the aforesaid submissions, Mr. Apoorv Kurup, Learned Senior Counsel appearing on behalf of the Appellant, also drew our attention to the 2023 amendment to the Electricity (Rights of Consumers) Rules 2020 issued by the Government of India, more particularly to the second Proviso to the newly inserted Rule 8(A) which requires the tariff for solar hours of the day, specified by the State Commission, to be atleast 20% less than the normal tariff for several categories of consumers.

It is relevant to note that the Central Government, in the exercise of the powers conferred under Sub-Section(1), Clause (z) of Sub-Section (2) of Section 176 of the Electricity Act, amended the Electricity (Right of Consumers) Rules 2020 by the Electricity (Right of Consumers) Amendment Rules 2023. The 2023 amendment Rules were notified on 14.06.2023, and were published in the Gazette of India on the same day ie 14.06.2023. The aforesaid Rules, made by the Central Government in the exercise of its powers under Section 176 of the Electricity Act, constitute subordinate legislation, as they have statutory sanction and have the force of law. The provisions of the 2023 Amendment Rules came into force on 14.06.2023, and the 2023 Rules constitutes law which the Commission was obligated to adhere to on and from that date. By Rule 3 of the 2023 Amendment Rules, Rule 8(A) was inserted after Rule 8(A) in the 2020 Rules.

In the principal rules, after rule 8, the following rules shall be inserted, namely:-

(8A) ***Time of Day Tariff****-The Time of Day tariff for Commercial and Industrial consumers having maximum demand more than ten Kilowatt shall be made effective from a date not later than 1 April, 2024 and for other consumers except agricultural consumers, the Time of Day tariff shall be made effective not later than 1st April, 2025 and a Time of Day tariff shall be made effective immediately after installation of smart meters, for the consumers with smart meters:*

Provided that, the Time of Day Tariff specified by the State Commission for Commercial and Industrial consumers during peak period of the day shall not be less than 1.20 times the normal tariff and for other consumers, it shall not be less than 1.10 times the normal tariff:

Provided further that, tariff for solar hours of the day, specified by the State Commission shall be atleast twenty percent less than the normal tariff for that category of consumers:

Provided also that the Time of Day Tariff shall be applicable on energy charge component of the normal tariff:

Provided also that the duration of peak hours shall not be more than solar hours as notified by the State Commission or State Load Despatch Centre.

Explanation:- For the purposes of this rule, the expression "solar hours" means the duration of eight hours in a day as specified by the State Commission.

The second Proviso to Rule 8(A) requires the tariff for solar hours of the day, as specified by the State Government, shall be atleast 20%

less than the normal tariff for that category of consumers. Since the 2003 Amendment Rules constitute law, the Commission ought to have considered, in the first instance, whether the said Rules would apply; and, if so, the extent to which consumers of that particular category are entitled to relief. The Commission has, evidently, not undertaken any such exercise.

Mr. D. Abhinav Rao, Learned Counsel appearing on behalf of the 2nd Respondent-Telangana Discoms, would however contend that, despite objections being invited to the Petition filed by the Telangana Discoms, no consumer had filed any objection relying upon Rule 8(A) of the 2023 Amendment Rules; having failed to raise any such objection, the Appellant cannot, for the first time at the appellate stage, raise such a contention; and since this contention is sought to be urged for the first time, admittedly, at the appellate stage, the Commission could not have considered the applicability of this Rule, while determining the mid-year tariff of the Telangana distribution licensees for FY 2025-26; the Commission is already ceased of this issue which is under examination for FY 2026-27; and these Rules are, in any event, merely of guidance and its compliance is not mandatory.

These contentions urged on behalf of the Telangana Discoms is refuted by Mr. Apoorv Kurup, Learned Senior Counsel, who would further submit that these Rules necessitate strict compliance. It is unnecessary for us, in the light of the order which we propose to pass, to deal with the rival contentions in this regard.

We must express our inability to agree with the submissions urged by Mr. D. Abhinav Rao, Learned Counsel appearing on behalf of the Respondent-Telangana Discoms, that, failure of the consumers in general to bring existence of these Rules to the notice of the Commission, justified the Commission not taking note of these Rules while deciding the Petition filed by the Telangana Discoms.

As noted herein above, these Rules constitute law, and are binding not only on the Telangana Discoms and its consumers (including the Appellant herein), but also on the Commission and this Tribunal. The Commission cannot take shelter under the plea of these Rules not being brought to its notice, and avoid implementation in as much as the Commission, in law must be presumed to be aware of the existence of the Rules, and since these Rules came into force on 14.06.2023, these Rules would apply for FY 2025-26 also. The Commission, which is a body created under the Electricity Act, is presumed to be aware of the Rules made by the Central Government under the very same Act. It was, therefore, bound to take the said Rules into consideration while passing the impugned order. Failure on the part of the Commission to do so, would require a direction to be issued to them to consider the 2023 Amendment Rules and, in case it is satisfied that these Rules apply to the category of consumers to which the Appellant belongs, to then also consider the nature of the relief to which they are entitled to.

Mr. Apoorv Kurup, Learned Senior Counsel, would fairly state that this Tribunal may consider remanding this issue for consideration of the Commission, granting the Appellant liberty to file an appeal afresh on the other issues raised in the present appeal. The said request of the Learned Senior Counsel for remand, in the light of the observations made herein above, is not opposed by Mr. Rajat Srivastava, Learned Counsel for the 1st Respondent-TERC.

We deem it appropriate, in such circumstances, to pass an order of limited remand directing the Commission to consider applicability of the 2023 Amendment Rules to the consumers of the 1st Respondent-Disscoms particularly to the category to which the Appellant belongs, and then consider relief, if any, to which such consumers are entitled to.

While we are of the view that the 2023 Rules ought to have been considered by the Commission, we also make it clear that we are not

expressing any opinion on the extent of its applicability or on the nature of the relief which consumers, in the Appellant's category, are entitled to, if the Commission were to be satisfied that the 2023 Amendment Rules would apply to them.

Considering the fact that the tariff year is due to end by 31st March, 2026, we request the Commission to consider this issue with utmost expedition, preferably within four weeks from the date of receipt of a copy of this order, after giving both the Telangana Discoms and the Appellant herein a reasonable opportunity of being heard.

Liberty is granted to the Appellant to file an appeal afresh on all the other issues raised in the present appeal, apart from the issue relating to the 2023 Amendment Rules. The appeal stands disposed of accordingly. All the IAs therein stand disposed of.

Ajay Talegaonkar Technical Member (Electricity)	Justice Ramesh Ranganathan Chairperson

sk/mg