

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

Thiru S.Akshayakumar

.... Chairman

and

Dr.T.Prabhakara Rao

.... Member

P.R.C.No.1 of 2019

Lanco Tanjore Power Company Ltd.
(formerly known as Aban Power Company Limited)
3rd Floor, 25, G.N.Chetty Road
T.Nagar
Chennai – 600 017.

... Petitioner
(Thiru Rahul Balaji
Counsel for the Petitioner)

Vs.

1. TANGEDCO
Rep. by its Chairman & Managing Director
No.144, Anna Salai
Chennai – 600 002.
2. Chief Financial Controller (Revenue)
TANGEDCO
144, Anna Salai
Chennai – 600 002.

... Respondents

Date of hearing : 14-02-2019

Date of Order : 07-03-2019

1. The above P.R.C.No.1 of 2019 came up for hearing on 14-02-2019. Thiru Rahul Balaji, learned Counsel appeared for the Petitioner and argued the case.

2. The prayer in the above PRC is to direct the respondents to forthwith make payment of a sum of Rs.51,64,74,540/- being the interest due and payable to the petitioner as on 15-11-2017 together with further interest that would accrue from

such date until the date of payment in respect of the delayed payments made by TANGEDCO, for sale of power made by the petitioner under the power purchase agreement dated 01-09-2003 and to award costs of the present proceedings, including the court fees and legal expenses, in favour of the petitioner and against the respondents.

3. It is seen that the Registry returned the petition with a direction to calculate the interest till the date of filing of the above petition and pay the applicable court fee on the quantum of interest so arrived. The Junior Counsel of learned counsel Thiru Rahul Balaji has re-presented the petition with the following endorsement:-

“It is stated that at the time of calculating the amount claimed for the period between 15-11-2017 and 27-11-2017, it was noticed by the petitioner that they had inadvertently added the compounding interest on the earlier claim made for the period 2011 to 2014. After reconciliation of accounts, the amount due from the respondents to the petitioner for the period from 25-11-2014 to 27-11-2017 is only 19,45,44,394/- Hence excess court fee of Rs.32,19,301/- may be refunded.”

4. Since the Registry on its own cannot undertake the task of calculating the interest and modify the claim in the prayer indicating the quantum of amount claimed from the respondents, it requested the petitioner to make necessary modifications of the prayer and also to enclose a working sheet for interest calculation. However, learned Counsel Thiru Rahul Balaji has made an endorsement on the petition on 25-09-2018 requesting to post the matter before the Commission for appropriate directions on the refund of court fee and thus the petition came to be numbered as P.R.C. No.1 of 2019 and listed for hearing before this Commission.

5. During the hearing on 14-02-2019, the learned counsel argued that the orders on the issue can be passed by following administrative procedure rather than passing judicial order on the issue. Further, it was argued that the question of amendment of the prayer would arise only after the petition is formally admitted and numbered and at this stage the question of amending the prayer would not arise. We have considered the submissions of the learned Counsel. It may be pointed out that the petition is posted for refund of court fee only at the request of the Counsel for the petitioner as we see from the endorsement made to that effect. It appears that the request on the part of the Registry to modify the prayer has been misunderstood as amendment of the prayer.

6. Further, the Registry has only limited powers of scrutiny and it cannot entertain a submission for refund of the amount without the approval of the Commission. Regulation 20 (1) of the Commission's Conduct of Business Rules provides that all petitions shall be filed with specified number of copies and each petition shall be complete in all respects and fees as may be prescribed by the Commission shall be payable along with the petition. Therefore, a petition which has been filed without specifying the exact claim against the respondents cannot be considered as complete in all respects as required under the said regulations 20 (1). We are, therefore, of the view that the Registry cannot number the petition without the specific prayer with regard to the claim of amount and also without satisfying itself as to the correctness of the quantum of fees paid by the petitioner.

7. It may also be pointed out that the petitioner has filed the above petition under section 86 (1) (f) of the Electricity Act, 2003 read with regulation 16 (1) of the TNERC

Conduct of Business Regulations, 2004. The Commission can adjudicate the issue and pass an order only if the prayer is specific and the quantum of the exact amount claimed is indicated by the petitioner. The claim in the petition has been made upto 15-11-2017 but it has to be calculated upto 27-11-2017 i.e. till the date of filing of the petition. Further, from the endorsement made by the Counsel on 09-03-2018, it is seen that rate of interest also varies and hence the amount of interest is also required to be re-worked. Hence, the prayer has to be modified indicating the correct claim. It is to be noted that this is only a correction in the prayer portion of the petition and not an amendment to the prayer as contended by the Counsel for the petitioner.

8. The Commission directs that the prayer may be modified suitably indicating the actual amount claimed as interest against the respondent till the date of filing of petition i.e. upto 27-11-2017 with the applicable court fee. The petitioner is also directed to enclose necessary working sheet for the calculation of interest so as to enable the Registry to scrutinise the same. If it is found that any excess court fee was paid, it is open to the petitioner to claim for refund which will be considered by the Commission at the time of passing final orders in the main petition. The above direction shall be complied within 15 days from the date of this order. After due compliance by the petitioner, the Registry is directed to number the petition and list the same for admission.

With the above orders, the P.R.C. No.1 of 2019 is disposed of.

(Sd.....)
(Dr.T.Prabhakara Rao)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission