

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

**PRESENT:**

Thiru M.Chandrasekar .... Chairman  
Dr.T.PrabhakaraRao .... Member  
and  
ThiruK.Venkatasamy .... Member (Legal)

**R.P.No.1of 2019**

M/s. Vedanta Limited  
(Formerly known as: SesaSterlite Limited)  
SIPCOT Industrial Complex  
Madurai Bypass Road  
TV Puram P.O.  
Tuticorin 628 002  
Tamil Nadu, India

.... Petitioner  
(ThiruRahul Balaji  
Advocate forthe Petitioner)

**Dates of hearing** : 01-10-2019; 05-11-2019; 10-12-2019;  
11-02-2020; 10-03-2020; 09-06-2020;  
14-07-2020; 04-08-2020 and 01-09-2020

**Date of Order** : 10-11-2020

The R.P.No.1 of 2019 came up for final hearing on 01-09-2020. The Commission upon perusal of the petition and connected records and after hearing the submissions of the petitioner hereby makes the following:-

**ORDER**

**1. Prayer of the Petitioner in R.P. No.1 of 2019:-**

The prayer of the Petitioner in R.P.No.1 of 201 is to grant an interim order of stay of operation of this Commission's order dated 10.12.2018 passed in M.P

No. 82 of 2013 pending disposal of the above review petition and review this Commission's order dated 10.12.2018 passed in M.P No. 82/2013 and allow the petition in M.P. No. 82/2013 as prayed for and to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

## **2. Facts of the Case:**

2.1. The Petitioner is M/s. Vedanta Limited, (Formerly known as SesaSterliteLimited), is the Successor-in-interest of erstwhile M/s. SterliteIndustries (India) Limited, SIPCOT Industrial Complex, Madurai Bypass Road, TV Puram P.O., Tuticorin 628 002, Tamil Nadu. The name of the entity 'SesaSterliteLimited', has been changed to 'Vedanta Limited' with effect from 21.04.2015 pursuant to necessary formalities and approval from the Registrar of Companies, Goa, Daman & Diu.

2.2. The present review petition is being filed seeking to review the Commission's order dated 10.12.2018 passed in M.P. No.82 of 2013 on the ground that the said order suffers from certain errors apparent on the face of the record requiring a review of the same.

## **3. Contention of the Petitioner:**

3.1. The Commission has dismissed the Miscellaneous Petition after relying upon the judgment of the Appellate Tribunal for Electricity in Appeal No. 53 of 2012 in the case of M/s. *Lloyds Metal & Energy Limited, Mumbai, versus Maharashtra Electricity Regulatory*

*Commission. (Hereinafter, 'Lloyds Metal')*

3.2. The order passed by the Commission has failed to take into account a significant issue i.e. that APTEL itself continues to rely upon the judgment in the case of *M/s. Century Rayon Vs. MERC & Anr* (Hereinafter, '*Century Rayon*') even after the judgment in the case of *Lloyds Metal & Energy Limited, Mumbai*.

3.3. The Commission appears to have incorrectly relied upon the judgment in *Lloyds Metal* as if it has overruled the judgment in *Century Rayon* whereas the judgment in *Lloyds Metal* overruled *Century Rayon* only on one aspect while it has not overruled the judgment with respect to the issue of Grid Connected Captive Power Plant. The said judgment of the Hon'ble Appellate Tribunal in *Lloyds Metal* concerns itself to the limited question framed by the Hon'ble Tribunal as set out in paragraph 5 of the aforesaid judgment, which read as under:

*"Whether the Distribution Licensees could be fastened with the obligation to purchase a percentage of its consumption from co-generation irrespective of the fuel used under Section 86(1)(e) of the Act, 2003"*

3.4. The judgment has no application to the facts of the present case as it concerns itself with the obligation of a Distribution Licensee, whereas the petitioner is concerned with the case of applicability of RPO to a co-gen captive power plant. The above aspect has now been finally settled by Hon'ble APTEL in its judgment in Appeal No. 278/15 etc dated 02.01.2019

wherein it set aside the earlier judgment of this Tribunal including the TANFAC Case in M.P No. 7 of 2017.

3.5. However, the Commission after hearing the petitioner was pleased to pass an order dated 10.12.2018 in M.P. No. 82 of 2013, dismissing the Miscellaneous Petition for the reasons stated in the order. Aggrieved by the said order, the petitioner has approached the Commission seeking for a review of its order dated 10.12.2018 on the other grounds set out in the following paragraphs.

#### **4. Grounds of Review:**

4.1. The judgment in Appeal No. 53 of 2012 in the case of *M/s Lloyds Metal & Energy Limited, Mumbai, versus Maharashtra Electricity Regulatory Commission* was principally concerned with the question as to *'whether a distribution licensee could be fastened with the obligation to purchase a percentage of its consumption from co-generation irrespective of the fuel'* and was therefore not concerned with the issue arising in the present petition which sought for exemption from procuring non-conventional power by the petitioner in view of its having set-up a co-generation power plant. The relevant paragraphs of the said judgment in the case of Lloyds Metal, are set forth herein below:

*"Let us examine the findings of the Tribunal in Century Rayon case....*

**10. In the** *above case, the issue under dispute was that whether a person consuming electricity from its captive fossil fuel based co-generation plant could be compelled to purchase electricity from renewable source of energy*

*against the Renewable Purchase Obligation specified by the Commission for the obligated entities under Section 86(1)(e) of the Act. However, the Tribunal decided that not only a person consuming electricity from its captive fossil fuel based co-generation plant could not be compelled to purchase electricity from renewable energy sources but both the categories i.e. co-generators irrespective of fuel used and generators of electricity through renewable sources of energy must be promoted by the State Commission by directing the Distribution Licensees to purchase electricity from both these categories.*

*29. The amended Clause 6.4 of the Tariff Policy clearly indicates that under Section 86(1)(e) of the Electricity Act, the Appropriate Commission has to fix the minimum percentage of total consumption of Electricity in the area of Distribution Licensee for purchase of energy from non-conventional and renewable sources of energy including co-generation also from non-conventional and renewable sources.*

*32. Plain reading of the Section 86(1)(e) read with 2(12) of the 2003 Act would reveal that the State Commission is required to promote the co-generation and generation of electricity from renewable sources of energy. Section 86 (1) (e) further mandates the Commission to specify certain quantity of electricity, in percentage, to be procured from renewable sources of energy. Co-generation, as per definition given in Section 2(12) of the Act, is only a process of generation of electricity and another form of energy and cannot be termed as source of electricity.*

*33. This important aspect has not been considered in the Century Rayon judgment, where in this Tribunal had held that the State Commission has to promote both co-generation as well as generation of electricity from*

*renewable sources of energy. Accordingly, we feel that the State Commission could promote the fossil fuel leased co-generation by any other measures such as facilitate sale of electricity from such sources, grid connectivity, etc, but the State Commission could not compel the Distribution Licensee to procure electricity from fossil fuel based co-generation against the purchase obligation to be specified under Section 86(1)(e) of the Electricity Act, 2003.*

*35. Accordingly, the State Commission has framed Regulations viz. Renewable Purchase Obligation Regulations and Renewable Energy Tariff Regulations. According to these Regulations the fossil fuel based co-generation plant is not a qualified renewable energy source for procurement of power under the purchase obligation of the distribution licensees.*

*36. The Renewable Energy Sources are defined as Renewable sources such as mini, micro and small hydro, wind, solar, biomass including bagasse, bio fuel co-generation, urban or municipal waste and such sources as recognized or approved by the Ministry of New and Renewable Energy. The fossil fuel based co-generation is not covered in the eligible sources. Accordingly, Tariff Regulations have not been specified for fossil fuel based co-generation plant.*

*37. .... However, the captive users consuming power from grid connected fossil fuel based co-generation plants have been exempted from applicability of Renewable Purchase Obligation target.*

*39. Summary of our findings:*

*Upon conjoint reading of the provisions of the Electricity Act, the National Electricity Policy, Tariff Policy and the intent of the legislature while passing the Electricity*

*Act as reflected in the Report of the Standing Committee on Energy presented to Lok Sabha on 19.12.2002, we have come to the conclusion that a distribution company cannot be fastened with the obligation to purchase a percentage of its consumption from fossil fuel based co-generation under Section 86(1)(e) of the Electricity Act, 2003. Such purchase obligation 86(1)(e) can be fastened only from electricity generated from renewable sources of energy. However, the State Commission can promote fossil fuel based co-generation by other measures such as facilitating sale of surplus electricity available at such co-generation plants in the interest of promoting energy efficiency and grid security, etc.*

4.2. It would be clear from the above judgment that captive users consuming power from grid connected with fossil fuel co-generation plant having been exempted from applicability of Renewable Purchase Obligation has been adopted by the State of Tamil Nadu as well as in the order of this Commission, the same position ought to be continued in as much as the judgment in the case of Lloyds Metal &Energy Ltd. Mumbai is not applicable to the petitioner herein. In as much as the Commission has come to the conclusion that the judgment in the case of Lloyds Metal has overruled the earlier judgment in the case of Century Rayons Ltd, on all accounts, the present order of this Hon'ble Tribunal dated 10.12.2018 is an error apparent on the face of the record, warranting review.

4.3. The Tribunal in Appeal no. 57 of 2009 in the matter of *M/s. Century Rayon Vs. MERC &Anr.* dealt with the specific issue whether a co-generation unit

could be compelled to purchase electricity from the Renewable Sources of Energy. The Tribunal clearly laid down that Appeal No. 125 of 2012 the electricity produced by co-generation plant could be treated at par with electricity generated from Renewable Sources of Energy and that the co generator, the Appellant was under no obligation to purchase electricity from renewable sources of energy as it would defeat the object of Section 86(1)(e) of the Electricity Act, 2003. The Commission has missed to take note of the fact that the above judgment of the Tribunal which was a judgment in rem and as such had become final and binding. Therefore, all the State Commissions are bound to follow the law laid down by the Tribunal in Century Rayon case.

4.4. The Act casts a duty on the State to promote generation of electricity from co-generation and renewable sources. In this light, section 86(1)(e) of the Act casts a specific obligation on the various State Electricity Regulatory Commissions set up under the Act to promote generation of electricity from cogeneration and renewable sources of energy.

4.5. The aforesaid question arose for consideration of this Hon'ble Tribunal in Century Rayon and vide judgment dated 26.4.2020 this Hon'ble Tribunal held as under:

*“45. Summary of our conclusions is given below:*

*(a) The plain reading of Section 86(1)(e) does not show that the expression 'co-generation' means cogeneration from renewable sources alone. The meaning of the term 'co-generation' has to be understood as defined in definition section 2(12) of the Act.*



*(b) As per Section 86(1)(e), there are two categories of generators namely (1) co-generators (2) Generators of electricity through renewable sources of energy. It is clear from this Section that both these categories must be promoted by the State Commission by directing the distribution licensees to purchase electricity from both these categories.*

*(c) The fastening of the obligation on the co-generator to procure electricity from renewable energy procures would defeat the object of Section 86(1)(e).*

*(d) The clear meaning of the words contained in Section 86(i)(e) is that both are different and both are required to be promoted and as such the fastening of liability on one in preference to the other is totally contrary to the legislative intent.*

*(e) Under the Scheme of the Act, both renewable source of energy and co-generation power plant, are equally entitled to be promoted by State Commission through the suitable methods and suitable directions, in view of the fact that cogeneration plants, who provide many number of benefits to environment as well as to the public at large, are to be entitled to be treated at par with the other renewable energy sources.*

*(f) The intention of the legislature is to clearly promote cogeneration in this industry generally irrespective of the nature of the fuel used for such cogeneration and not cogeneration or generation from renewable energy sources alone.*

*46..... While concluding, we must make it clear that the Appeal being generic in nature, our conclusions in the Appeal will be equally applicable to all co-generation based captive consumers who may be using any fuel.”*

4.6. The other relevant paragraphs of the said judgment are paragraphs 26 and 28. By virtue of the said judgment Captive consumers having co-generating plants cannot be fastened with the obligation to procure electricity from renewable energy sources, as that would defeat the object of section 86(1)(e) of the Act and Cogenerating plants have to be treated at par with renewable energy generating plants for the purpose of RPO obligations.

4.7. The aforesaid judgment has been consistently followed and the position reiterated by the Hon'ble Tribunal in the following judgments:

- (a) *Emami Paper Mills Ltd. Vs. Odisha Electricity Regulatory Commission in Appeal No. 54 of 2012 dt. 30.01.2013*
- (b) *Vedanta Aluminium Ltd. Vs. Orissa Electricity Regulatory Commission in Appeal No. 59 of 2012 dt. 31.01.2013*
- (c) *Hindalco Industries Ltd. Vs. Uttar Pradesh Electricity Regulatory Commission & Ors. in Appeal No. 125 of 2012 dt. 10.04.2013*
- (d) *India Glycols Ltd. Vs. Uttarakhand Electricity Regulatory Commission & Ors. in Appeal Nos. 112, 130 and 136 of 2014 dt. 01.10.2014.*

4.8. The judgment of the Hon'ble APTEL in Appeal No.125 of 2012 dated 10th April, 2013 in Hindalco Industries Ltd. Vs. UPERC squarely applies to the facts of the case and is to be followed in view of the binding judgment of the Hon'ble Tribunal.

4.9. The Hon'ble Tribunal in Century Rayon Case, has held in paragraph 45 (VI) that *"The intention of the legislature is to clearly promote cogeneration in this industry generally irrespective of the nature of the fuel used for such*

***cogeneration** and not co-generation or generation from renewable energy sources alone."*

4.10. It was further held in paragraph 46 that "46.....While concluding, we must make it clear that the Appeal being generic in nature, our conclusions in this Appeal will be equally applicable to all co-generation based captive consumer who may be using **any** fuel."

4.11. The aforesaid findings have been followed by the Hon'ble Tribunal in Emami Paper Mills case and Vedanta Aluminium case, Hindalco Industries case and India Glycols case. It is pertinent to point out that none of these cases deal with cogeneration plants using renewable energy.

4.12. The expression used in section 86(1)(e) is to promote both co-generation and generation of electricity from renewable source of energy. The clear meaning of these words is different and both are required to be promoted. Fastening of liability on one in preference to the other is totally contrary to legislative intent. The co-generation by different sources of fuel has not been distinguished by the Parliament either in section 2(12) or section 86(1)(e) of the Act. In the light of the above, and from a bare reading of Section 86(1)(e) of the Act, it is clear that it mandates the State Commissions to promote both the categories (1) co-generation plant (2) generation of electricity through renewable source of energy. The perusal of this section in conjunction with section 2(12) of the Electricity Act, clearly indicate that the intention of the

legislature is to promote co-generation in the industry without reference to the fuel used for such co-generation. In other words, the intention of the legislature is to clearly promote co-generation in the industry generally and not co-generation from renewable energy sources alone. In view of the above conclusions, the order of this Hon'ble Commission suffers from infirmity.

4.13. The order of the reference to the Full Bench dated 23.09.2013 *Lloyds Metal & Energy Ltd. Vs. Maharashtra Electricity Regulatory Commission & Ors.* order dated 23.09.2013 makes it clear that the limited question for reference to the Full Bench is as follows:

*"Whether the distribution licensee could be fastened with the obligation to purchase a percentage of its consumption from co-generation irrespective of the fuel used under Section 86(1)(e) of the Act, 2003 Registry is directed to get the Administrative Order from the Chairperson to post it before the full Bench for re-examination of the interpretation given in the Century Rayon Case on this question."*

4.14. Further, the Full Bench Judgment of the Hon'ble Tribunal dated 2.12.2013 in *Lloyds Metal & Energy Ltd. Vs. Maharashtra Electricity Regulatory Commission & Ors.*, reiterates the only question referred to it and answers the same as under:

*"31 This important aspect has not been considered in the Century Rayon judgment, wherein this Tribunal had held that the State commission has to promote both co-generation as well as generation of electricity*

*from renewable sources of energy. Accordingly, we feel that the State Commission could promote the fossil fuel based co-generation by any other measures such as facilitate sale of electricity from such sources, grid connectivity, etc. by the State Commission could not compel the Distribution Licensee to procure electricity from fossil fuel based co-generation against the purchase obligation to be specified under Section 86(l)(e) of the Electricity Act, 2003. "*

4.15. It is thus evident that only paragraph 45 (II) of the judgment in Century Rayon Case has been set aside by the Full Bench judgment in Lloyds Metal Case and not the Century Rayon judgment in its entirety. The effect of this being that the distribution licensee could not be compelled to procure electricity from fossil fuel based co-generation against its renewable purchase obligation. However it has no effect on the finding in Century Rayon Case that a cogeneration based captive power plant cannot be fastened with Renewable Purchase Obligation irrespective of the nature of the fuel used for such cogeneration. This is further fortified by the fact that this Hon'ble Tribunal has in *India Glycols Case* dt. 01.10.2014, much after the judgment of the Full Bench in *Lloyds Metal case*, continued to rely on *Century Rayon case* in so far as the question whether cogeneration based captive power plant can at all be fastened with renewable Purchase Obligation is concerned.

4.16. Applying the ratio in Century Rayon's case, it is clear that the electricity produced by co-generation plant could be treated at par with electricity

generated from Renewable Sources of Energy and that the co-generator, the review petitioner herein is under no obligation purchase electricity from renewable sources of energy. However, the Commission has apparently incorrectly observed that the petitioner herein is seeking to compel other distributing companies to buy energy from the petitioner herein whereas in reality, the petitioner is seeking to exempt itself from RPO obligations. Having regard to the above the findings rendered by the Commission on this aspect of the matter made in the order under review requires a reconsideration.

4.17. From the aforesaid submissions, the following position in law is settled:

- (a) A co-generation facility irrespective of fuel is to be promoted in terms of section 86(1)(e) of the Act;
- (b) An entity which is to be promoted in terms of section 86(1)(e) of the Act cannot be fastened with renewable purchase obligation under the same provision; and
- (c) As long as the co-generation is in excess of the renewable purchase obligation, there can be no additional purchase obligation placed on such entities.

4.18. The judgment of the Hon'ble Tribunal for Electricity at New Delhi, gave the following findings vide paras 52, 53 and 54 of its Order dated 2.1.2019 in the case of M/s.JSW Steel Limited Vs Tamil Nadu Electricity Regulatory Commission.

*52. The above contention is further fortified by the fact that,*

*Rajasthan Electricity Regulatory Commission has itself vide its order dated 23.03.2017 in Petition Nos.RERC/839/16 and RERC/840/16 in para 15 (xi) wherein considered that "Various Special Leave Petitions(SLPs) were filed before the Hon'bleSupreme Court of India challenging the order dated 31.08.2012 of Hon'ble Division Bench of Rajasthan High Court and the Hon'ble Supreme Court of India vide order dated 13.05.2015 upheld the validity of the RPO Regulations and RPO Compliance Regulations 2010". Further, it referred to para 15 (xxi) that "in view of the judgments passed by the Hon'bleSupreme Court of India, Hon'ble High Court of Rajasthan and theHon'ble APTEL upholding the validity of the Regulations of 2007 & 2010 and the directions issued by this Commission, it is, therefore, requested that the completed data regarding the Energy Generation and RPO Compliance may be ordered to be submitted to the Petitioner for assessment of RE Surcharge and after assessment of the shortfall, the Respondents be directed to pay the RE Surcharge assessed on the basis of the shortfall in RPO Compliance for the period from 23.3.2007 to 22.12.2010 and also followed the well settled position of law and consistently followed is that there cannot be RPO being imposed on co-generation facilities wherein they discussed and considered the judgment of the Tribunal i.e. Century Rayon, EmamiPaper Mills Ltd, Vedanta Aluminium Ltd, Hindalco Industries Ltd, India GlycolsLtd and observed that, as per the above judgment, it is settled .position of law that an entity which is to be promoted in terms of section 86(1)(e) of the Electricity Act,2003 cannot be fastened with renewable*

*purchase obligation under the same provision. Further, consumer meeting electricity consumption from captive co-generation plant in excess of the total specified RPO from waste heat technology does not have any obligation to procure electricity from other renewable source of electricity separately from solar or non-solar. Above position is followed by the various State Electricity Regulatory Commissions in the country. The Rajasthan Electricity Regulatory Commission has also considered Section 81(1)(f) of the Electricity Act, 2003 and also taken note of the judgment of this Tribunal passed in Century Rayon Vs Maharashtra Electricity Regulatory Commission & Ors in Appeal No. 57 of 2009 dated 26.04.2010, which reads as under:*

*Summary of our conclusions is given below:*

*(i) The plain reading of Section 86(1)(e) does not show that the expression 'co-generation' means cogeneration from renewable sources alone. The meaning of the term 'co-generation' has to be understood as defined in definition Section 2 (12) of the Act.*

*(ii) As per Section 86(1)(e), there are two categories of generators namely (1) co-generators (2) Generators of electricity through renewable sources of energy. It is clear from this section that both these categories must be promoted by the State Commission by directing the distribution licensees to purchase electricity from both of these categories.*

*(iii) The fastening of the obligation on the co-generator to procure electricity from renewable energy procures would defeat the object of Section*



86(1)(e).

*(iv) The clear meaning of the words contained in Section 86(1)(e) is that both are different and both are required to be promoted and as such the fastening of liability on one in preference to the other is totally contrary to the legislative interest.*

*(v) Under the scheme of the Act, both renewable source of energy and co-generation power plant, are equally entitled to be promoted by State Commission through the suitable methods and suitable directions, in view of the fact that cogeneration plants, who provide many number of benefits to environment as well as to the public at large, are to be entitled to be treated at par with the other renewable energy sources.*

*(vi) The intention of the legislature is to clearly promote cogeneration in this industry generally irrespective of the nature of the fuel used for such cogeneration and not cogeneration or generation from renewable energy sources alone".*

4.19. *The Rajasthan Electricity Regulatory Commission has also considered the judgment of the Tribunal, as stated supra, in cases of Emami Paper Mills Ltd., VedantaAluminium Ltd; Hindalco Industries Ltd and India Glycols Ltd; and held that:*

*"In view of the settled legal position, Commission is of the considered view that no RPO liability shall be fastened on such generators who generate electricity through Waste Heat Recovery for their own purpose and consume it, subject to the condition that generation from Waste Heat Recovery generation plant is in excess of the total RPO required to be*

*complied by the CPP. If generation is lesser than the requirement to the extent of shortfall general rule applies. So far as distinction tried to be made by RREC between the solar and non-solar for the purpose of compliance in the Commission's view does not merit acceptance. Once Captive Power Plant generating electricity through Waste Heat Recovery cannot be fastened with RPO liability under Section 86 (1)(e), there is no question of imposition of solar RPO also as the same falls in the category of Renewable Energy".*

*53. It is rightly pointed out by the counsel for the Appellant that the judgment of the Hon'ble Apex Court actually covered co-generators as well has got some substance and it is highly unlikely that the Rajasthan Electricity Regulatory Commission, whose Regulations were under challenge before the Hon'ble Apex Court, would itself grant relief to the co-generators before it relying on the judgement of this Tribunal in Century Rayon case. Therefore, we hold that a co-generation facility irrespective of fuel is to be promoted in terms of Section 86 (1) (e) of the Electricity Act, 2003 an entity which is to be promoted in terms of section 86 (1) (e) of the Electricity Act, 2003 cannot be fastened with renewable purchase obligations under the same provision; and as long as the co-generation is in excess of the renewable purchase obligation, there can be no additional purchase obligation placed on such entities.*

*54. In view of the facts and circumstances, as stated supra, we hold that the Appellants herein, being co-generation plants, are not under a legal obligation to purchase power from renewable sources of energy in order to meet their Renewal Purchase Obligation in the interest of justice and equity."*

4.19. The petitioner has also sought leave of this Commission to permit him to raise any other grounds as may be required during the course of hearing of this review petition and further submitted that prima facie case of convenience lies in favour of him for grant of the interim reliefs as sought for, in as much as the consequences of the dismissal will impose an obligation with respect to RPO upon the petitioner.

4.20. The petitioner reiterated the contentions in the Miscellaneous Petition and sought grant of interim order of stay of operation of this Hon'ble Commission's order dated 10.12.2018 passed in M.P.No. 82 of 2013 pending disposal of the above review petition.

## **5. Written submissions on behalf of the Petitioner:**

5.1. The power of this Commission to review its decisions, directions and orders is contained in Section 94(1)(1) of the Act. The procedure for conduct of such review petitions is laid down in Regulation 43 of the Tamil Nadu Electricity Regulatory Commission (Conduct of Business) Regulations, 2004. The regulation is extracted hereinbelow for ease of reference:

*"43. Review of the decisions, directions and orders*

*The Commission may on its own or on the application of any of the persons or parties concerned within 30 days of the making of any decision, direction or order review such decision, directions or orders on the ground that such decision, direction or order was made under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record. Review of*

*the decisions, directions and orders.*

*(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations"*

5.2. The impugned order ought to be reviewed in the light of the following apparent errors:

**Failure to appreciate that the decision in M/s. Century Rayon Vs. MERC & another has not been completely overruled and continues to apply in part as has been reconfirmed by the Hon'ble APTEL in its judgement in JSW Ltd &ors arising from the order of this Hon'ble Commission**

(a) The Commission has erroneously proceeded on the basis that the decision of the Tribunal in in Appeal no. 57 of 2009 in the matter of **M/s. Century Rayon Vs. MERC &Anr.** ("Century Rayon") has been completely overruled by the judgment in Appeal No. 53 of 2012 in the case of **.M/s Lloyds Metal & Energy Limited, Mumbai, versus Maharashtra Electricity Regulatory Commission ("Lloyds Metal & Energy Limited")** The Commission has failed to appreciate that Century Rayon has not been completely overruled and even after the decision in Lloyds Metal & Energy Limited, such of those aspects of Century Rayon that have not been overruled continue to be applied.

(b) The Century Rayon case dealt with the specific issue whether a co-generation unit could be compelled to purchase electricity from the Renewable Sources of Energy. The Tribunal clearly laid down that Appeal No. 125 of 2012 the electricity produced by co-generation plant could be treated at par with electricity generated from Renewable Sources of Energy

and that the co-generator, the Appellant was under no obligation to purchase electricity from renewable sources of energy as it would defeat the object of Section 86(1)(e) of the Electricity Act, 2003.

(c) The Act casts a duty on the State to promote generation of electricity from co-generation and renewable sources. In this light, section 86(1)(e) of the Act casts a specific obligation on the various State Electricity Regulatory Commissions set up under the Act to promote generation of electricity from cogeneration and renewable sources of energy.

(d). The aforesaid question arose for consideration of this Hon'ble Tribunal in Century Rayon and vide judgment dated 26.04.2010 this Hon'ble Tribunal held as under:

45. Summary of our conclusions is given below.

(a) The plain reading of Section 86(1)(e). does not show that the expression 'co-generation' means cogeneration from renewable sources alone. The meaning of the term 'co-generation ' has to be understood as defined in definition section 2(12) of the Act.

(b) As per Section 86(1)(e), there are two categories of generators. namely (1) Co-generators (2) Generators of electricity through renewable sources of energy. It is clear from this Section that both these categories must be promoted by the State Commission by directing the distribution licensees to purchase electricity from both these categories.

(c) The fastening of the obligation on the co-generator to procure electricity from renewable energy sources would defeat the object of Section 86(1)(e).

(d) The clear meaning of the words contained in Section 86(1)(e) is that both are

different and both are required to be promoted and as such the fastening of liability on one in preference to the other is totally contrary to the legislative intent.

(e) Under the Scheme of the Act, both renewable source of energy and cogeneration power plant, are equally entitled to be promoted by State Commission through the suitable methods and suitable directions, in view of the fact that cogeneration plants, who provide many number of benefits to environment as well as to the public at large, are to be entitled to be treated at par with the other renewable energy sources.

(f) The intention of the legislature is to clearly promote cogeneration in this industry generally irrespective of the nature of the fuel used for such cogeneration and not cogeneration or generation from renewable energy sources alone.

46. .... While concluding, we must make it clear that the Appeal being generic in nature, our conclusions in this Appeal will be equally, applicable to all cogeneration based captive consumers who may be using any fuel...

The other relevant paragraphs of the said judgment are paragraphs 26 and 28.”

5.3. By virtue of the said judgment Captive consumers having cogenerating plants cannot be fastened with the obligation to procure electricity from renewable energy sources, as that would defeat the object of section 86(1)(e) of the Act and Cogenerating plants have to be treated at par with renewable energy generating plants for the purpose of RPO obligations.

5.4. The aforesaid judgment has been consistently followed and the position reiterated by the Hon'ble Tribunal in the following judgments:

- i. *Ernanii Paper Mills Ltd. Vs. Odisha Electricity Regulatory Commission* in Appeal No.54 of 2012 dt. 30.01.2013
- ii. *VedantaAluminium Ltd. Vs. Orissa Electricity Regulatory Commission* in Appeal No.59 of 2012 dt. 31.01.2013
- iii. *Hindalco Industries Ltd. Vs. Uttar Pradesh Electricity Regulatory Commission &Ors.* in Appeal No. 125 of 2012 dt. 10.04.20 13
- iv. *India Glycols Ltd. Vs. Uttarakhand Electricity Regulatory Commission &Ors.* in Appeal Nos. 112, 130 and 136 of 2014 dt.01.10.2014.)'

5.5. The order of reference to the Full Bench dated 23.09.2013 Lloyds Metal & Energy Ltd. Vs. Maharashtra Electricity Regulatory Commission &Ors. order dated 23.09.2013 makes it clear that the limited question for reference to the Full Bench is as follows;

“Whether the distribution licensee could be fastened with the obligation to purchase a percentage of its consumption from co-generation irrespective of the fuel used under Section 86(I)(e) o/the Act 2003.

Registry is directed to get the Administrative Order from the Chairperson to post it before the Full Bench for re-examination of the interpretation given in the Century Rayon case on this question.”

5.6. Further the Full Bench Judgment of the Hon'ble Tribunal dated 2.12.2013 in Lloyds Metal & energy Ltd. Vs. Maharashtra Electricity Regulatory Commission

&Ors., reiterates the

*“31. This important aspect has not been considered in the Century Rayon judgment, where in this Tribunal had held that the State commission has to promote both cogeneration as well as generation of electricity from renewable sources of energy Accordingly. we feel that the State Commission could promote the fossil fuel based co-generation by any other measures such as facilitate sale of electricity from such sources, grid connectivity, etc. by the State Commission could not compel the Distribution Licensee to procure electricity from fossil fuel based co-generation against the purchase obligation to be specified under Section 86(l) (e) of the Electricity Act,. 2003.*

5.7. It is thus evident that only paragraph 45 (11) of the judgment in Century Rayon Case has been set aside by the Full Bench judgment in Lloyds Metal & Energy Limited and not the century Rayon judgment in its entirety. The effect of this being that the distribution licensee could not be compelled to procure electricity from fossil fuel based co-generation against its renewable purchase obligation. However, it has no effect on the finding in Century Rayon Case that a co-generation based captive power plant cannot be fastened with Renewable Purchase Obligation irrespective of the nature of the fuel used for such cogeneration.

5.8. Applying the ratio in Century Rayon's Case it is clear that the electricity produced by co-generation plant could be treated at par with electricity generated from Renewable Sources of Energy and that the co- generator, the review



petitioner herein is under no obligation to purchase electricity from renewable sources of energy. However, the Commission has apparently incorrectly observed that the petitioner herein is seeking to compel other distributing companies to buy energy from the petitioner herein whereas in reality, the petitioner is seeking to exempt itself from RPO obligation '.

5.9. The judgment of the Hon'ble Appellate Tribunal for Electricity at New Delhi, gave the following findings vide paras 52, 53 and 54 of its Order dated 2. I .2019 in the case of M/s. JSW Steel Limited Vs Tamil Nadu Electricity Regulatory Commission:

*"52. The above contention is further fortified by the fact that, Rajasthan Electricity Regulatory Commission has itself vide its order dated 23.03.2017 in Petition Nos. RERC/839/16 and RERC/840/16 in para 15(xi) wherein considered that "Various Special Leave Petitions (SLPs) were filed before the Hon'ble Supreme Court of India challenging the order dated 31.08.2012 of Hon'ble Division Bench of Rajasthan High Court and the Hon'ble Supreme Court of India vide order dated 13.05.2015 upheld the validity of the RPO Regulations, 2007 and RPO Compliance Regulations 2010". Further, it referred to para 15 (xxi) that "in view of the judgments passed by the Hon'ble Supreme Court of India, Hon'ble High Court of Rajasthan and the Hon'ble APTEL upholding the validity of the Regulations of 2007 & 2010 and the directions issued by this Commission. It is therefore, requested that the completed data regarding the Energy Generation and RPO compliance may be ordered to be submitted to the Petitioner for assessment of RE*

*Surcharge and after assessment of the shortfall, the Respondents be directed to pay the RE surcharge assessed on the basis of the shortfall in RPO Compliance for the period 23.3.2007 to 22.12.2010 and also followed the well settled position of law and consistently followed is that there cannot be RPO being imposed on cogeneration facilities wherein they discussed and considered the judgment of the Tribunal i.e. Century Rayon, Emami Paper Mills Ltd, Vedanta Aluminium Ltd, Hindalco Industries Ltd, India Glycols Ltd and observed that, as per the above judgment, it is settled position of law that an entity which is to be promoted in terms of section 86(1)(e) of the Electricity Act, 2003 cannot be fastened with renewable purchase obligation under the same provision. Further, consumer meeting electricity consumption from captive cogeneration plant in excess of the total specified RPO from waste heat technology does not have any obligation to procure electricity from other renewable source of electricity separately from solar or non-solar. Above position is followed by the various State Electricity Regulatory Commissions in the country. The Rajasthan Electricity Regulatory Commission has also considered Section 81(l)(f) of the Electricity Act, 2003 and also taken note of the judgment of 'this Tribunal passed in Century Rayon Vs Maharashtra Electricity Regulatory Commission & Ors in Appeal No. 57 of 2009 dated 26.04.2010, which reads as under:"*

*"Summary of our conclusions is given below:-*

*The plain reading of Section 86(1)(e) does not show that the expression 'co-generation' means co-generation from renewable sources alone. The meaning of the term ' co-generation ' has to be understood as defined in*

*definition Section 2 (12) of the Act.*

*As per Section 86(1)(e), there are two categories of generators namely (1) co-generators (2) Generators of electricity through renewable sources of energy. It is clear from this Section that both these categories must be promoted by the State Commission by directing the distribution licensees to purchase electricity from both of these categories.*

*The fastening of the obligation on the co-generator to procure electricity from renewable energy sources would defeat the object of Section 86(1)(e).*

*The clear meaning of the words contained in Section 86(1)(e) is that both are different and both are required to be promoted and as such the fastening of liability on one in preference to the other is totally contrary to the legislative interest.*

*Under the scheme of the Act, both renewable source of energy and cogeneration power plant, are equally entitled to be promoted by State Commission through the suitable methods and suitable directions, in view of the fact that cogeneration plants, who provide many number of benefits to environment as well as to the public at large, are to be entitled to be treated at par with the other renewable energy sources.*

The intention of the legislature is to clearly promote cogeneration in this industry generally irrespective of the nature of the fuel used, for such cogeneration and not cogeneration or generation from renewable energy sources alone ".

*The Rajasthan Electricity Regulatory Commission has also considered the judgment of the Tribunal, as stated supra, in cases of Emamii Paper Mills Ltd., Vedanla Aluminium Ltd, Hindalco Industries Ltd and India Glycols Ltd,*

*and held that:*

*in view of the settled legal position, Commission is of the considered view that no RPO liability shall be fastened on such generators who generate electricity through Waste Heat Recovery for their own purpose and consume it, subject to the condition that generation from Waste Heat Recovery generation plant is in excess of the total RPO required to be complied by the CPP. If generation is lesser than the requirement to the extent of shortfall general rule applies. So far as distinction tried to be made by RREC between the solar and non-solar for the purpose of compliance in the Commission's view does not merit acceptance. Once Captive Power Plant generating electricity through Waste Heat Recovery cannot be fastened with RPO liability under Section 86(1)(e), there is no question of imposition of solar RPO also as the same falls in the category of Renewable Energy ".*

*53. It is rightly pointed out by the counsel for the Appellant that the judgment of the Hon'ble Apex Court actually covered co-generators as well has got some substance and it is highly unlikely that the Rajasthan Electricity Regulatory Commission, whose Regulations were under challenge before the Hon'ble Apex Court, would itself grant relief to the co-generators before it relying on the Judgment of this Tribunal in Century Rayon case. Therefore, we hold that a co-generation facility irrespective of fuel is to be promoted in terms of section 86(1)(e) of the Electricity Act, 2003; an entity which is to be promoted in terms of section 86(1)(e) of the Electricity Act, 2003 cannot be fastened with renewable purchase obligation under the same provision, and as long as the co-generation is in excess of the renewable purchase obligation. there can be no additional purchase obligation placed on such*

*entities.*

*54. In view of the facts and circumstances, as stated supra, we hold that the Appellants herein, being co-generation plants, are not under a legal obligation to purchase power from renewable sources of energy in order to meet their Renewable Purchase obligation in the interest of justice and equity.”*

5.10. Manifest Error in applying the ratio of M/s. Lloyds Metal & Energy Ltd. to the instant case:

This Commission has not noted the fact that even at the time of rendering its order in the case under Review, that the Hon’ble Tribunal had in India Glycols Case dt.1.10.2014, much after the judgement of the Full Bench in Lloyds Metal & Energy Ltd. case continued to rely on Century Rayon case in so far as the question whether cogeneration based captive power plant can at all be fastened with renewable purchase obligation is concerned. This would itself clearly demonstrate the Century Rayon continued to be good law for the purposes of issue in the present case.

5.11. The judgment in Appeal No. 53 of 2012 in the case Lloyds Metal & Energy Limited Commission was principally concerned with the question as to whether a distribution licensee could be fastened with the obligation to purchase a percentage of its consumption from co-generation irrespective of the fuel and was therefore not concerned with the issue arising in the present petition which sought for exemption from procuring non-conventional power by the petitioner in view of its having set-up a co-generation power plant. The relevant paragraphs of the said Judgment in the

case of Lloyds Metal, are set forth herein below:

*“Let us now examine the findings of the Tribunal in Century Rayon case.....*

*10. In the above case, the issue under dispute was that whether a person consuming electricity from its captive fossil fuel based co-generation plant could be compelled to purchase electricity from renewable source of energy against the Renewable Purchase Obligation specified by the Commission for the obligated entities under Section 86(1)(e) of the Act. However, the Tribunal decided that not only a person consuming electricity from its captive fossil fuel based co-generation plant could not be compelled to purchase electricity from renewable energy sources but both the categories i.e. co-generators irrespective of fuel used and generators of electricity through renewable sources of energy must be promoted by the State Commission by directing the Distribution Licensees to purchase electricity from both these categories.*

*29. The amended Clause 6.4 of the Tariff Policy clearly indicates that under Section 86(1)(e) of the Electricity Act, the Appropriate Commission has to fix the minimum percentage of total consumption of Electricity in the area of Distribution Licensee for purchase of energy from non-conventional and renewable sources of energy including co-generation also from non-conventional and renewable sources.*

*32. Plain reading of the Section 86(1)(e) read with 2(12) of the 2003 Act would reveal that the State Commission is required to promote the co-generation and generation of electricity from renewable sources of energy. Section 86(1)(e) further mandates the Commission to specify certain quantity of electricity, in percentage, to be procured from renewable sources of energy. Co-generation, as per definition given in Section 2(12) of the Act, is only a process of generation of electricity and another form of energy and cannot be termed as source of electricity.*

33. *This important aspect has not been considered in the Century Rayon judgement, wherein this Tribunal had held that the State Commission has to promote both co-generation as well as generation of electricity from renewable sources of energy.*

*Accordingly, we feel that the State Commission could promote the fossil fuel leased co-generation by any other measures such as facilitate sale of electricity from such, sources, grid connectivity, etc., but the State Commission could not compel the Distribution Licensee to procure electricity from fossil fuel based co-generation against the purchase obligation to be specified under Section 86(1)(e) of the Electricity Act, 2003.*

35. *Accordingly, the State Commission has framed Regulations viz. Renewable Purchase Obligation Regulations and Renewable Energy Tariff Regulations. According to these Regulations the fossil fuel based co-generation plant is not a qualified renewable energy source for procurement of power under the purchase obligation of the distribution licensees.*

36. *The Renewable Energy Sources are defined as Renewable sources such as mini, micro and small hydro, wind, solar, biomass including bagasse, bio fuel co-generation, urban or municipal waste and such sources as recognized or approved by the Ministry of New and Renewable Energy. The fossil fuel based co-generation is not covered in the eligible sources. Accordingly, Tariff Regulations have not been specified for fossil fuel based co-generation plant.*

37. *. . . . . However, the captive users consuming power from grid connected fossil fuel based co-generation plants have been exempted from applicability of Renewable Purchase Obligation target.*

39. *Summary of our findings:*

*Upon conjoint reading of the provisions of the Electricity Act, the National Electricity Policy, Tariff Policy and the intent of the legislature while passing the Electricity Act as reflected in the Report of the Standing Committee on Energy presented to Lok Sabha on 19.12.2002, we have come to the conclusion that a distribution company cannot be fastened with the obligation to purchase a percentage of its consumption from fossil fuel based co-generation under Section 86(1)e) of the Electricity Act, 2003. Such purchase obligation 86(1)(e) can be fastened only from electricity generated from renewable sources of energy. However, the State Commission can promote fossil fuel based co-generation by other measures such as, facilitating sale of surplus electricity available at such cogeneration plants in the interest of promoting energy efficiency and grid security, etc. '*

5.12. It would thus be clear from the above judgment that captive users consuming power from grid connected with fossil fuel co-generation plant having been exempted from applicability of Renewable Purchase Obligation as has been adopted by the State of Tamil Nadu as well as in the order of this Commission, the same position ought to be continued inasmuch as the judgment in the case of Lloyds Metal & Energy Ltd. Mumbai is not applicable to the petitioner herein. Inasmuch as this Hon'ble Tribunal has come to the conclusion that the judgment in the case of Lloyds Metal has overruled the earlier judgment in the case of Century Rayons Ltd, on all accounts, the present order of this Hon'ble Tribunal dated 10.12.2018 is an error apparent on the face of the record, warranting review.

5.13. Having regard to the above the Petitioner prayed that the order dated 10.12.2018 in M.P.No.82 of 2013 may be reviewed and the petition allowed in line



with the binding judgments of the Hon'ble APTEL.

## **6. Findings of the Commission:-**

6.1 We heard the petitioner at length. The prime question involved in this case is whether cogeneration plants are required to satisfy RPO and whether they are under legal obligation to purchase power from renewable source of energy. We have no differing opinion on the issue that in view of the judgment dated 02-01-2019 of Hon'ble APTEL in Appeal No. 278 of 2015 and other connected appeals, the law on the obligation of the cogeneration plants to satisfy the RPO has been settled and that cogeneration plants are outside the purview of RPO and are not under legal obligation to purchase power from renewable source of energy.

6.2. The present Review Petition has been filed against the orders of this Commission dated 10-12-2018 in M.P. No.82 of 2013. In the said M.P. No.82 of 2013, the petitioner has *inter alia* prayed for a direction that the petitioner's co-generation plant is not required to procure power from Non-conventional Energy Sources in terms of the judgment of the Hon'ble APTEL in Appeal No. 57 of 2009 in Century Rayon Vs. MERC and the petitioner would be entitled to account for consumption of power generated from the plant towards RPO under TNERC (Renewable Energy Purchase Obligation) Regulations, 2010.

6.3 The said M.P. No.82 of 2013 has however been dismissed by this Commission on 10-12-2019, relying on the Hon'ble APTEL's order dated 20-04-2015 in O.P. No.1 of 2013 and I.A. No.420 of 2013, O.P. No.2 of 2013 and O.P. No.3 of 2013 wherein the Hon'ble APTEL has held as follows:-

*“28. In view of above discussions, we deem it appropriate to give directions to the State / Joint Commission with regard to implementation of Renewable Energy Regulations in their respective States. The Tribunal after considering the contentions of the petitioners and the States / Joint Commissions, Central Commission and MNRE gives the following directions to the States / Joint Commissions under section 121 of the Act.*

*x xx*

*“(v) The State Commissions are bound by their own Regulations and they must act strictly in terms of their regulations.*

*(vi) The provisions in Regulations like power to relax and power to remove difficulty should be exercised judicially under the exceptional circumstances, as per law and should not be used routinely to defeat the object and purpose of the Regulations.”*

6.4 According to regulation 3 of the Commission's (Renewable Energy Purchase Obligation) Regulations, 2010 in the case of captive consumers the power wheeled and actually consumed from their own renewable energy sources without availing RECs or any preferential measures and in the case of Open Access Consumers, the power wheeled and actually consumed from any renewable energy sources without availing RECs or any preferential measures can be accounted for RPO purpose.

6.5 Inasmuch as the Commission's Regulation permits the energy from renewable energy sources only could be accounted for RPO purpose and the Hon'ble APTEL also held that the Commission should follow its own Regulations,

this Commission in the above M.P. No. 82 of 2013 held that the Petitioner's Power Plant while obviously generate power from fossil based fuel, cannot account the energy generated from it for RPO purpose.

6.6 However, the short question arises in the present Review Petition, is whether the Commission can review its own order in the light of a judgment of APTEL delivered posterior to the order of the Commission which is sought to be reviewed. The order of the Commission which is sought to be reviewed herein is the order dated 10-12-2018 in M.P. No.82 of 2013 and the judgement on which reliance is placed by the petitioner is that of APTEL dated 2.1.2019. It is seen that the ground for review is mainly based on the question of failure to appreciate that the decision in M/s.Century Rayon has not been completely overruled and continue to apply in part as held by the APTEL in JSW Ltd. and others.

6.7 According to the petitioner, there was a failure on the part of the Commission to appreciate the law laid down in M/s.Century Rayon which was subsequently reiterated in other cases and instead reliance was placed by the Commission on Lloyd's case alone. We are not going into the merits of the issue as the law has been settled by the Hon'ble APTEL in M/s. JSW Ltd. case. However, in order to entertain a Review Petition, there are certain basic requirements which have been set out in Regulation 43 of the Conduct of Business Regulations. The relevant provisions are extracted for better appreciation of the grounds for review.

***43 (1) The Commission may on its own or on the application of any of the persons or parties concerned within 30 days of the making of any decision, direction or order, review such decision, directions or orders on the ground***

***that such decision, direction or order was made under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record.***

***(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations.***

6.8 As may be seen from the above, the basic requirements for review of the order of the Commission are mistake of fact, ignorance of any material fact or any error on the apparent face of record. We find no such ground has been raised by the petitioner and reliance is placed on the judgment dated 02-01-2019 of APTEL which is posterior to the order dated 10-12-2018 of the Commission which is sought to be reviewed herein. While we agree with the petitioner that the law on the point has been settled in the matter of M/s. JSW Steel Ltd., we are unable to see how a review is maintainable in respect of an order which is anterior to the discovery of material fact i.e. judgment dated 02-01-2019 of APTEL.

6.9 In order to fall within the meaning of review, the judgment of a High Court / Tribunal which was delivered prior to the issue of impugned order only can be relied upon in the context of ignorance of material fact. The proper course of action in such case, would be to formally file an appeal before APTEL and pray for extension of the benefits of the orders arising out of M/s. JSW Ltd. to the petitioner herein. It is true that the Commission relied on Lloyds case in delivering the impugned order instead of M/s. Century Rayon's case and the same came to be set aside by the Tribunal on 02-01-2019. But the said decision of the Tribunal was not and could not have been within the knowledge of the Commission on the day of

delivery of the impugned order i.e. 10-12-2018 and hence we are of the view that a review will not lie on the strength of an appellate judgement which is later in date. The petitioner is under an impression that M/s. Century Rayon case which is anterior to the impugned order of the Commission was not considered in the right perspective and hence the same would be a ground to confer the jurisdiction for review. However, such non-consideration would, at best, would be a ground for appeal and does not fall within the scope of review since it would not amount to mistake of fact or ignorance of material fact or error apparent on the face of record so as to warrant a review. It is so because, it is only after the judgment of the APTEL, the impugned order can be termed to be one of ignorance of material fact. Therefore, we see no ground for review and any order acceding to the prayer would amount to sitting in appeal in the guise of review.

6.10 It is to be noted that the order dated 10-12-2018 which is sought to be reviewed herein has also become *functus officio* and the same principle also finds place in Regulation 31 (2) of the Conduct of Business Regulations which reads as follows:-

***31 (2) The order shall be dated and signed by the Commission at the time of pronouncing it. Such orders shall not be, afterwards, altered or added to unless and except there is any clerical or arithmetical errors arising therein from any oversight or omission.***

6.11 On the question of filing Miscellaneous Petition too, we have to observe that the same will not be of any avail to the petitioner, as any order in the Miscellaneous Petition can be only prospective and not retrospective.

6.12 Hence, in our well-considered view, the petitioner has not made out any case for review and accordingly the Review Petition is dismissed. Ordered accordingly.

(Sd.....)  
**(K.Venkatasamy)**  
**Member (Legal)**

(Sd.....)  
**(Dr.T.PrabhakaraRao)**  
**Member**

(Sd.....)  
**(M.Chandrasekar)**  
**Chairman**

/True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission