

ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN,
UNIT – VIII, BHUBANESWAR – 751 012
*** **

Present : Shri S. P Nanda, Chairperson
Shri B. K Misra, Member
Shri S. P Swain, Member

Case Nos. 76/2012

M/s. Jayshree Chemicals Ltd.

..... Petitioner

Vrs.
SOUTHCO

.....Respondents

In the matter of: An Application for clarification / modification of Order dtd. 23.08.2012 of the Commission passed in Suo Motu proceeding Case No. 48/2012 (Review Order of the Commission regarding “Take or Pay” Tariff).

For the Petitioner: Shri R K Ratha, Sr. Advocate, Shri S K Mishra, Advocate.

For the Respondent: Shri K B Padhi, GM (Com.), Shri S K Routray DMF (Com. & RA), SOUTHCO

Date of Hearing: 06.11.2012

Date of Order: 21.12.2012

ORDER

1. The Petitioner M/s. Jayshree Chemicals Ltd. (JCL) is a chemical industry who is a consumer of SOUTHCO having contract demand 17778 KVA. M/s. JCL had been availing Special Tariff from the year 2007-08 to 2009-10. Considering difficulties faced by SOUTHCO in getting its revenue as well as hardship undergone by the Petitioner to run the industry the Commission in Case No. 77 by 2011 dtd. 15.11.2011 observed as follows.

“Earlier the Commission in its Retail Supply Tariff Order dtd. 22.03.2005 in Para 8.26 to 8.30 and in the Order dtd. 23.06.2006 in Para 6.44 had also approved a Special Tariff for power intensive industries. Now also under the compelling circumstances both SOUTHCO and M/s. JCL may enter into a fresh agreement for special “Take or Pay” tariff through mutually agreed load factor and concession level. In this tariff the Commission will not generally allow any revenue loss to the DISCOMs in the ARR as the agreement shall be signed to protect the commercial interests of both the parties.”

2. Accordingly, both the Petitioner and the Respondent reached a settlement under Regulation 81 of Supply Code, 2004 and Special Tariff was extended to the Petitioner vide communication dtd. 27.01.2012 of the Respondent. According to that settlement to avail the benefit of concessional tariff the JCL was making advance payment of

energy bills with a guarantee of 80% load factor and was getting a rebate of 30 paise per unit.

3. The Commission introduced a new Scheme for “Take or Pay” Tariff in their Retail Supply Tariff Order for FY 2012-13. The Petitioner also opted for this tariff and was availing the same in addition to the existing concession based on mutual agreement as stated above. When the matter stood thus considering the difficulties in implementing “Take or Pay” scheme as ordered by the Commission in the RST Order for FY 2012-13 the Commission initiated a Suo Motu proceeding and reframed the scheme vide their Order in Case No. 48/2012 dtd. 23.08.2012. In the same order in Para 23 the Commission observed as follows:

“23. It is understood that SOUTHCO has already entered into a Special Agreement with M/s. JCL for a Special Tariff. It should not allow another special tariff like ‘Take or Pay’ Tariff when there is a subsisting Agreement on this regard. Only one Special Tariff like ‘Take or Pay’ Tariff shall run at a time.”

4. In pursuance to the Order of the Commission the respondent SOUTHCO did not allow the Petitioner to avail the revised “Take or Pay” Tariff w.e.f. 1st July, 2012. As a result the Petitioner did not get the additional benefit of 30 paise per unit extended under revised “Take or Pay” Tariff as ordered by the Commission in Case No. 48/2012 dtd. 23.08.2012. The Petitioner claims that it is the only power intensive industry functioning under SOUTHCO and meeting more than 7.65% of their revenue. In view of tariff hike and non-extension of benefit of special arrangement there shall be loss in production and Petitioner will face serious problem in functioning of the unit. If the contribution from JCL will not be available and ultimately SOUTHCO may come up with much higher tariff proposals for other categories.
5. The Respondent SOUTHCO submitted that considering the consumer mix and financial position, SOUTHCO shall be in a disadvantageous position if JCL got shuts down its operation for want of operational feasibility and viable tariff. The respondent further prayed that the order of the Commission in Case No. 48/2012 should also be applicable to the Petitioner in addition to the special agreement between the Respondent and the Petitioner.

Commission Observations / Order

6. The Special “Take or Pay” Tariff is allowed by the Commission with an intention that DISCOMs will get assured revenue and the industries would be encouraged to operate

at higher load factor. It would also discourage the consumer to adopt illegal means to lower their recorded consumption. The revised scheme is designed in such a way that it is revenue neutral. The Respondent Licensee SOUTHCO has already entered into the agreement with the Petitioner for a special tariff in the last financial year. Allowing the present 'Take or Pay' tariff in addition to special tariff is definitely a burden on the licensee. The claim of the Respondent that the revenue loss shall be borne by them due to concurrent running of 'Special Tariff' and 'Take or Pay' Tariff is a myth. This is because SOUTHCO being a LT based licensee is indirectly cross-subsidised in terms of BSP to keep the Retail Supply Tariff uniform throughout the State. In fact, Losses of SOUTHCO is borne by cross-subsidizing consumers of SOUTHCO and other DISCOMs. SOUTHCO should first meet its revenue requirement in terms of BSP dues, O&M cost and employee cost etc. But this is not happening due to the inefficiency of the licensee in billing and collecting its own dues. Therefore, the claim of the SOUTHCO that loss of revenue shall be borne by them due to concurrent implementation two incentive schemes is ridiculous. The Petitioner being the only power intensive industry of licensee has already availed the two incentive schemes before our review order. The validity of our Order on 'Take or Pay' tariff shall come to an end with the closure of this financial year. Therefore, at this juncture we are not interfering with the present business model of SOUTHCO. Accordingly, the Commission allows the revised "Take or Pay" scheme as framed by it vide Case No. 48/2012 dtd. 23.08.2012 to be also made applicable to the Petitioner during its validity period. However, it should not be cited as a precedent either by the Petitioner or the Respondent in future.

7. Accordingly the case is disposed of.

Sd/-
(S. P. Swain)
Member

Sd/-
(B. K. Misra)
Member

Sd/-
(S. P. Nanda)
Chairperson