

ODISHA ELECTRICITY REGULATORY COMMISSION
PLOT NO. 4, CHUNUKOLI, SHAILASHREE VIHAR,
CHANDRASEKHARPUR,
BHUBANESWAR-751021

Present : **Shri S. P. Nanda, Chairperson**
 Shri S. P. Swain, Member
 Shri A. K. Das, Member

Case No. 61/2013

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|---------------------------------|-------|------------|
| WESCO Utility | | Petitioner |
| Vrs. | | |
| M/s. Vedanta Aluminium Limited. | | Respondent |

In the matter of: **An application under Section 142 of the Electricity Act, 2003.**

ORDER

Date of Order:25.07.2016

The Petitioner WESCO Ltd. Ltd (now WESCO Utility after revocation of their licensee in Case No. 55/2013) had filed the above noted case u/S. 142 of the Electricity Act, 2003 for non-compliance of the order dated 17.09.2012 of the Commission passed in Case No. 70 of 2011 by the respondent M/s. Vedanta Limited till April, 2014 on the payment of Cross-Subsidy Surcharge to the tune of Rs. 24.39 Cr..

2. The Respondent had challenged the said order of the Commission before the Hon'ble ATE in Appeal No. 206 of 2012 and as the Hon'ble ATE upheld the order of the Commission, the respondent again had challenged the said judgment of the Hon'ble ATE before the Hon'ble Supreme Court of India. The Hon'ble Apex Court had dismissed the said Civil Appeal No. 5479 of 2013 by upholding the order of the Commission. Though the petitioner had raised the demand of Rs. 24.39 Cr. towards Cross-Subsidy Surcharge till April, 2014 the respondent instead of making payment of the above amount, had filed a Case No. 37 of 2014 before the Commission challenging the method of calculation of said demand of Rs. 24.39 Crs. As the Commission declared that the said demand of WESCO Utility is valid and in accordance with law, the respondent had paid Rs. 10 Cr. out of the Rs. 24.39 Cr. The balance amounts of Rs. 14.39 Cr. was remaining unpaid till disposal of Case No. 37/2014 by the Commission.

3. The Respondent-M/s. Vedanta Limited again had challenged the said order of the Commission passed in Case No. 37 of 2014 before the Hon'ble High Court of Orissa in W.P.(C). No. 13097 of 2014 and the same is withdrawn by the respondent with a liberty to raise the issues through appeal u/S. 111 of the Electricity Act, 2003 subject to payment of Rs. 5.00 Cr. out of the balance amount of Rs. 14.39 Cr. as outstanding demand of the petitioner. As per said order of the Hon'ble high Court in W.P.(C). No. 13097 of 2014, the respondent filed Appeal Nos. 30 & 31 of 2016 before the Hon'ble ATE with an application for condonation of delay in filing of appeals. In the said appeals M/s. Vedanta Limited has challenged the order dated 09.07.2014 of the Commission passed in Case No. 37 of 2014 as well as order passed in Case Nos. 5 to 8 of 2011, 24 to 27 of 2010 and order passed in Case No. 28 of 2011 as the entire issue qua methodology of computation of Cross-Subsidy Surcharge made by the Commission is not applicable to it. The said appeals are now subjudice before the Hon'ble Tribunal for adjudication.
4. We observe that, as the issues in the above cases have been challenged by the respondent-M/s. Vedanta Limited u/S. 111 of the Electricity Act, 2003 before the Hon'ble ATE in Appeal Nos. 30 & 31 of 2016 and the same are pending before the said Tribunal for adjudication, there is no need to keep in abeyance the proceeding before this Commission. However, the judgment of the Hon'ble ATE in Appeal Nos. 30 & 31 of 2016 will be applicable to the parties herein.
5. With the above observation, the case is disposed of.

Sd/-

(A. K. Das)
Member

Sd/-

(S. P. Swain)
Member

Sd/-

(S. P. Nanda)
Chairperson