ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021
*** ** **

Present: **Shri U. N. Behera, Chairperson**
Shri S. K. Parhi, Member
Shri G. Mohaptra, Member

Case No.77/2021

M/s. Aryan Ispat and Power Pvt. Ltd. …… Petitioner
Vrs.
TPWODL & Others …… Respondents

In the matter of: **Proceeding on remand by the order dated 02.09.2021 of the Hon'ble High Court of Orissa in W.P.(C) No. 21099 of 2021.**
AND
An application under Section 86 (1) (f) of the Electricity Act, 2003 assigning notice dated 02.07.2021 as well as disconnection notice dated 26.07.2021 of TPWODL demanding cross subsidy surcharge for not maintaining CGP status during FY 2013-14, 2014-15 and 2017-18.

For Petitioner: Shri Gouri Mohan Rath, Advocate

For Respondent: Shri K. C. Nanda, DGM (Fin.) and Shri Amaresh Bal, AGM (Law), TPWODL

ORDER

Date of hearing: 05.10.2021 **Date of order:25.10.2021**

The present Petition has been filed by M/s. Aryan Ispat and Power Pvt. Ltd. operating in TPWODL licence area. The applicant has established a steel plant at Bomaloi in Sambalpur District along with a CGP of 18 MW capacity in the same premises. The Petitioner in order to avail emergency power supply to its CGP had executed an agreement with erstwhile WESCO (predecessor of TPWODL) on 23.07.2011 for a contract demand of 5000 KVA which has been renewed from time to time. The Petitioner while operating its CGP has been consuming some power and exporting the rest. While exporting power the Petitioner has been availing permission from SLDC.

2. The Petitioner submits that on 02.07.2021 Executive Engineer, Sambalpur East Electrical

Division, TPWODL had issued a letter demanding a sum of Rs.5,96,24,255/- from the applicant towards cross subsidy surcharge for the FY 2013-14, 2014-15 and 2017-18. The above cross subsidy surcharge has been levied on the ground that the CGP of the Petitioner has lost its status during the above periods by not consuming 51% or above power generated by the said CGP which is required under the statute. The Petitioner had immediately in its letter dated 15.07.2021 disputed and denied such demand raised by TPWODL on the grounds of limitation. The Executive Engineer, TPWODL issued a letter on 26.07.2021 threatening to disconnect the supply if the demand of Rs.5,96,24,255/- is not paid within 15 days.

3. The Petitioner further submits that the predecessor of TPWODL i.e. WESCO had raised similar demands of Rs.3,54,61,310/- towards cross subsidy surcharge for FY 2015-16 and 2016-17 vide demand notice dated 02.05.2018 after allowing deduction @ 8.5% of the gross generation towards auxiliary consumption. Being aggrieved by the said demand notice the Petitioner had approached this Commission. The Commission in their order dated 09.04.2019 in Case No. 48/2018 had disposed of the matter inter alia directing WESCO to re-compute the cross subsidy surcharge after recasting the auxiliary consumption correctly. However, without complying the order of the Commission WESCO had gone for coercive recovery by issuing disconnection notice dated 09.11.2020, 13.11.2020 and 03.12.2020. Under the threat of disconnection the Petitioner made part payment of cross subsidy surcharge. However, WESCO authority again asked for delayed payment surcharge on the unpaid amount and refused to give NOC for export of power by the CGP. Without finding any other way the Petitioner approached Hon'ble High Court of Orissa in WP(C) No. 21099/2021 and the Hon'ble Court in the interim restrained the Opposite Parties from disconnecting power supply to the premises of the Petitioner. The Hon'ble Court disposed of the petition on 02.09.2021 in WP(C) No. 21099/2021 directing as follows:

"6.1 In the event the Petitioner-Company files an application under Section 86(1)(f) of the Act along with proof of deposit of Rs.1.00 crore (rupees one crore only) before the Odisha Electricity Regulatory Commission (OERC) within a period of two weeks hence without prejudice to its case, the OERC shall do well to consider the grievance of the Petitioner-Company in accordance with law. The deposit, if made, shall be kept in fixed deposit in a nationalised bank renewable from time to time and shall be subject to the order to be passed by the OERC.

6.2 It is made clear that in order to enable the Petitioner Company to move the

OERC under Section 86 (1)(f) of the Act, disconnection contemplated under Annexure-3 and 7 shall be kept in abeyance for a period of three weeks."

4. Accordingly, the petitioner has filed this application U/s. 86 (1) (f) of the Electricity Act-2003, praying therein to set aside the demand of cross subsidy surcharge raised by the O.Ps (TPWODL) vide letter dated 02.07.2021 under Annexure-1 for the financial year 2013-14, 2014-15, 2017-18 and the notice of disconnection dated 16.07.2021 vide Annexure-4. The Petitioner has prayed to restrain the O.Ps not to take recourse of any coercive action by disconnecting the power supply and to grant any other suitable relief as deemed fit and proper. As per the order of Hon'ble High Court, the petitioner has deposited Rs.1 crore with the Commission.

5. The petitioner set forth the following grounds in support of its claim.

(a) The demand of cross subsidy amounts to arbitrariness, in gross contravention of the Electricity Act, Rules and Regulations.

(b) The O.P. has raised the impugned demand of cross subsidy surcharge vide letter dated 02.07.2021 (Annexure-1) without affording any opportunity of hearing whatsoever and without sharing with the applicant any alleged adverse report.

(c) The basis of impugned demand of Cross Subsidy Surcharge (CSS) based on the report of Chief Electrical Inspector, is not correct. The report of Chief Electrical Inspector, Western Zone, Sambalpur has not been shared with the Petitioner.

(d) The demand for the years 2013-14, 2014-15, 2017-18 having been raised for the first time on 02.07.2021 is barred by limitation and is not recoverable. WESCO had raised similar type of demand for FY 2015-16 and 2016-17 during March, 2018. The present demand is, therefore, barred by limitation. In this regard, the petitioner has brought before the Commission a decision of Hon'ble Apex Court in Andhra Pradesh Power Coordination Committee and Others vrs. Lanco Kondapalli Power Limited and Others reported in (2016) 3 SCC 468 where Apex Court has been pleased to hold that the provisions of the Limitation Act, 1963 is applicable to a proceeding under Section-86 (1) (f) of the Electricity Act before the Commission which is a judicial power and not in respect of other powers and functions which are administrative or regulatory.

(e) The Opposite Parties had information regarding generation, consumption and export of electricity by a CGP with them but raising the CSS demand so late is barred by limitation.

(f) Conjoint reading of Section 42 (2) & (4) of the Electricity Act, Regulation 13 (1) (ii) of the OERC (Terms and Condition of Open Access) Regulations, 2005 and Regulation 4 (2) (i) of the OERC (Determination of Open Access Charges) Regulation, 2006 would indicate that no liability to pay CSS would arise unless the customer has been allowed the open access and designated as an open access customer in terms of Regulation 2(j) of the OERC (Determination of Open Access Charges), Regulations, 2006. The Petitioner has not been allowed open access, therefore, the question of losing CGP status does not arise. This is because the power generated by CGP is fully consumed by the steel plant. The Opposite Parties are at no obligation to supply power to the Petitioner. Hence, demand of CSS is illegal.

(g) The determination of cross subsidy surcharge by deducting 8.5% towards auxiliary consumption is wholly illegal and arbitrary. The Commission in their order dated 09.04.2019 in Case No. 48/2018 had directed to re-compute CSS by recasting the auxiliary consumption as per the available meter data.

(h) The impugned claim of CSS more than 7 years after the alleged liability has arisen is in contravention of the provision of the Section 56 of the Electricity Act, 2003.

6. The Respondent TPWODL states that the Petitioner is an existing consumer of TPWODL under the category of emergency power supply with a contracted load of 5000 kVA. This establishes consumer supplier relationship between the Petitioner and TPWODL. The industrial unit set up by a person is not allowed to draw electricity from a generating plant established by that person if it is not a CGP. However, as per open access principle the industrial unit can draw power from any generating unit established by it through making payment of open access charges. One of the open access charges is cross subsidy surcharge.

7. The Respondent submits that the present petition is barred by the principle of res-judicata because issues raised by the Petitioner have already been decided by the Commission on earlier occasion in Case No. 48/2018 (for FY 2015-16 and 2016-17). The Commission in

the said order has decided that the CSS is to be levied if energy consumed by the parent industry from CGP falls short of 51% of the gross energy generation. The Commission has further held that consumption of energy by the industry is to be arrived at after deducting the auxiliary consumption and energy exported through open access from the gross energy generation. On the issue of determination of auxiliary consumption the Commission has held that the same should be determined on the basis of correct meter data as per Regulation 1.7 (c) of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014. In case the same is not available the auxiliary consumption level should be adopted on the basis of an efficient norm as per said Generation Regulations, 2014. Therefore, the issue of payment of CSS has already been adjudicated by the Commission and the Petitioner is estopped from raising the self-same issue pertaining to payment of CSS.

8. The Petitioner further submits that after disposal of Case No. 48/2018 the Respondent wanted to visit the premises of CGP of the Petitioner to ascertain auxiliary consumption data from the meter. But the Petitioner did not co-operate in the same. Therefore, the Respondent without finding any way adopted the auxiliary consumption percentage i.e. @ 8.5% norm in the Generation Regulations, 2014 as directed by the Commission in Case No. 48/2018. The Petitioner is resorting to forum shopping starting from the Commission to Hon'ble High Court.

9. The Respondent submits that the Petitioner had lost CGP status during the FY 2016-17 and 2017-18. The Respondent had issued a CSS bill of Rs. 3,54,61,310/- on 30.05.2018 considering auxiliary consumption @8.5% as per OERC Regulations, 2014. The Petitioner challenged the said demand before the Commission in Case No. 48/2018. On the interim order of the Commission the Petitioner had paid Rs. 75,00,000/- out of the total demand during the pendency of the case. After disposal of the case the Petitioner did not co-operate with the Respondent to take meter reading for ascertaining auxiliary consumption as per the order of the Commission. When the demand remained unpaid, disconnection notice was issued to the Petitioner. Thereafter, the Petitioner approached the Hon'ble High Court through a writ petition which was dismissed as withdrawn. Thereafter the Petitioner agreed to pay cross subsidy surcharge in nine instalments with interest. Out of the nine instalments only two instalments were paid. Then the Petitioner requested for waiver of interest on the instalments which was not accepted by the

Respondent. While matter stood thus the Petitioner applied for open access to export 11 MW power which was denied by the Respondent by withholding the NOC. Thereafter, the Petitioner approached Hon'ble High Court of Orissa in WP (C) No. 21716/2021 which is still pending. Subsequently, the Respondent received report from Chief Electrical Inspector on 24.06.2021 which has stated that the Petitioner has lost CGP status for FY 2013-14, 2014-15 and 2017-18.

10. The Respondent further submits that basing on the report of Chief Electrical Inspector dated 24.06.2021 the Respondent raised demand notice of Rs. 5,96,24,255/- for payment of CSS for FY 2013-14, 2014-15 and 2017-18 basing on auxiliary consumption of 8.5% as per OERC Generation Tariff Regulations, 2014. However, the Petitioner refused to pay the CSS stating that it is barred under limitation under Section 56 (2) of Electricity Act, 2003. Thereafter, the Petitioner filed another writ petition before Hon'ble High Court in WP (C) NO. 21099/2021 which resulted in this present proceeding.

11. The Respondent submits that as per Rule 3 of Electricity Rules, 2005 in case the minimum percentage of electricity generated by CGP is not consumed in any particular year then the entire electricity consumed shall be treated as if it is supplied by generating company. Therefore, CSS shall be leviable on such consumption.

12. The Respondent further submits that the demand notice for payment of cross subsidy surcharge for FY 2013-14, 2014-15 and 2017-18 was issued on 02.07.2021. The representation against said notice by the Petitioner on 15.07.2021 was disposed of by the Respondent on 26.07.2021 with exhaustive reasoning. Therefore, the plea of the Petitioner in this regard that no opportunity for hearing was given is false and erroneous.

13. The Respondent points out that Section 56 (2) of the Electricity Act, 2003 has no application on issuance of disconnection notice and the said notice is no more *res integra* in view of the judgement of Hon'ble Apex Court in **"Assistant Engineer (D1), Ajmeer Vidyut Vitran Nigam Limited and another – versus – Rahamatullah Khan alias Rahamjulla reported in (2020) 4 Supreme Court Cases 650, where Hon'ble Apex Court dealt with the term "first due"**

"The liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges would become "first due" only after the bill is issued to the consumer,

even though the liability to pay may arise on the consumption of electricity."

In view of the above, on the basis of report of Chief Electricity Inspector dated 24.06.2021 the first bill was raised on 02.07.2021 for the period 2013-14, 2014-15 and 2017-18. Therefore, Section 56 (2) of the Act has no application. The disconnection notice is therefore, legally justified.

14. We heard the parties at length. The following issues are required to be answered to adjudicate the rival claim of the parties.

1. Whether the application of the petitioner is maintainable?
2. When the sum vide Annexure I claimed by the OP from the petitioner became first due?
3. Is the claim vide Annexure I barred by time within the meaning of Sec 56 (2) of the Electricity Act, 2003?
4. Whether the claim advanced by the petitioner is barred by the principle of resjudicata in view of the order passed between the parties in Case No 48/2018?

15. We take all the issues together to avoid repetition.

The fact that the petitioner has set up a CGP for its own use and that it has entered into power supply agreement with Respondent No 1 is at all not in dispute. It is found and admitted through the pleadings of the parties that Annexure - I was issued by the Respondent No.3 on 2.7.2021 and it was for the years (FY) 2013-14, 2014-15 and 2017-18 and that they could detect the same on the inspection by the Chief Electrical Inspector. It is the admitted case of the parties that for FY's 2015-16 and 2016-17, the petitioner was found having not utilized 51% power generated by it and that he has paid the dues to the Respondent No. 3 after order was finally passed by the OERC.

16. Power sector in India has faced significant energy shortages over the years and the deficit has been growing as addition of generation capacity has been unable to match the ever increasing demand. Growth and development needs of the future are further expected to add to the demand for energy thereby exerting stress on existing energy resources. Captive generating plants ("CGPs") have come up as an alternative to meet the energy shortage whereby industries come together and pool their resources to meet their own energy needs. The electricity sector in every State has a Regulator in the form of the State

Electricity Regulatory Commission (SERC/State Commission). A captive generating plant ("CGP") is a power plant set up by a person to generate electricity primarily for its own use. Within the ambit of CGP lies a group captive set up wherein several persons/industries come together to set up a captive power plant. The persons/industries subscribe to the equity share capital of the company or body corporate setting up the CGP and in return, energy is allocated to such persons/industries in proportion to their shareholding in the said company or body corporate. Such persons/industries are the "captive users" of a CGP. A CGP is, by nature, an exception, owing to the fact that while the norm is that power is supplied to a person by the concerned distribution utility of the area, an industry with CGP is self-sufficient. A consumer is usually supplied power by the distribution licensee of the area. However, the consumer may opt to procure power from any person other than the said distribution licensee. This is known as "open access". Statutorily, the term "open access" implies freedom to procure power from any source other than from the distribution licensee of the area. Notably, the choice of a consumer to avail power from any other source would necessarily entail a negative impact on the finances of the distribution licensee. This is because if the consumer had not availed of open access, it would have procured power from the distribution licensee, for which a tariff would be payble. This tariff would have the component of cross subsidy; cross subsidy in turn would be used by the licensee to supply power to vulnerable sections of the society at subsidized rates. In ordinary course, the distribution licensee compensates this loss by charging "cross subsidy surcharge". However, CGPs are exempted by law from the payment of said surcharge; reason being that open access is a statutory right given to CGPs for the purpose of carrying electricity from the CGP to its captive users.

17. A captive generating plant has statutorily been recognized primarily under Section 9 read with Clause (8) of Section 2 of the Electricity Act, 2003. The Electricity Rules, 2005 provide that in order for a power plant to qualify as a CGP under the Electricity Act, 2003, it is required to satisfy the twin test of:-

a) Not less than 26% of the ownership must be held by the captive user(s); and

b) Not less than 51% of the aggregate total electricity generated in the plant, determined on an annual basis, is consumed for captive use.

18. The Appellate Tribunal for Electricity (APTEL) answered this question in (Judgment

dated 18.05.2010 in Appeal No.116 of 2009) *Chhattisgarh State Power Distribution Co. Ltd. v. Hira Ferro Alloys Ltd. & Anr.*, wherein it was held that the State Electricity Regulatory Commission has the jurisdiction to determine the CGP status and it is the duty of the State Commission to take on the responsibility of declaring a generating plant as a captive one and monitoring it on an annual basis if it satisfies the criteria laid down in Rule 3 of the Electricity Rules, 2005. It was also held that assessment to determine whether the plant is a CGP cannot be done by the State Transmission Utility or a Distribution Licensee.

19. Respondents contended that the claim of the petitioner is not maintainable and hit by the principles of resjudicata. We have gone through the contentions of the parties. Findings for the FY2015-2016 and that of 2016-17 cannot be equated with the claim vide Annexure I in as much as Annexure-1 is for a different period of time, issued in the year 2021 after the disposal of that proceeding. The present application was filed long thereafter. Thus the contention of Respondents that the petitioner's case is hit by the provisions of resjudicata is not acceptable.

20. The petitioner contended that Annexure-1 was issued on 02.07.21 for the period 2013-2014, 2014-15 and 2017-18. The petitioner could not succeed in establishing its falsity. The consumption from CGP as per TPWODL is as follows:

Particular	**2013-14**	**2014-15**	**2017-18**
GEG (Gross Electricity Generated) in MU	42.700	43.450	49.890
Electricity consumed by the industries for self use in MU	15.180	16.690	21.460
% of consumption	35.55	38.41	43.01

21. The petitioner asserted that the claim of the Respondent No.3 is barred by time in view of section 56(2) of the Electricity Act, 2003.

Section 56 (2), reads as under:-

"(2) *Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."*

This would show that the bar contained *therein* is not merely with respect to disconnection of supply, but also with respect to recovery. Subsection (2) of Section 56 has two sentences linked with word "and" i.e. No sum due from any consumer under this Section shall be recoverable after the period of two years from the date when such sum became first due; *and* the licensee shall not cut off the supply of electricity. Word "and" is used to connect two aspects stated therein. Embargo on disconnection cannot be taken in isolation.

22. The liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges would become "first due" only after the bill is issued to the consumer, even though the liability to pay may arise on the consumption of electricity. Our above view is fortified by the case law reported in Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam limited and Anr. vs. Rahamatullah Khan alias Rahamjulla, reported in (2020) 4 SCC 650. In the present case, it was detected by the Chief Electrical Inspector, Western Zone, Sambalpur vide its letter No.ED/GENERAL/72 dated 24.06.2021 and applying ratio of the above case law, the sum became first due on 02.07.2021, when the notice was issued by the Respondent No.3.

In Civil Appeal No 7235/2009, in the case of M/S PREM COTTEX... vs. UTTAR HARYANA BIJLI VITRAN NIGAM LTD.& ORS-, decided on 5.10.2021, the Hon'ble Supreme Court of India relied upon the case law reported in (2020) 4 SCC 650 supras and held that:

"though the liabilityto pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee and that, therefore, *electricity charges would become "first due" only after the bill is issued, even though the liability would have arisen on consumption*. On the third issue, this Court held in *Rahamatullah Khan* (supra), that *"the period of limitation of two years would commence from the date on which the electricity charges became first due under Section 56(2)"*. This Court also held that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or *bonafide* error."

23. The Hon'ble Apex Court further held in that case that:

"*Despite holding that electricity charges would become first due only after the bill is issued to the consumer (para 6.9 of the SCC Report) and despite holding that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation prescribed therein in the case of a mistake or bonafide error (Para 9.1 of the SCC Report), this Court came to the conclusion that what is barred under Section 56 (2) is only the disconnection of supply of electricity. In other words, it was held by this Court in the penultimate paragraph that the licensee may take recourse to any remedy available in law for the recovery of the additional demand, but is barred from taking recourse to disconnection of supply under Section 56 (2)*."

24. But a careful reading of Section 56 (2) would show that the bar contained *therein* is not merely with respect to disconnection of supply but also with respect to recovery. If Subsection (2) of Section 56 is dissected into two parts, it will read as follows:

(i) No sum due from any consumer under this Section shall be recoverable after the period of two years from the date when such sum became first due; *and*

(ii) the licensee shall not cut off the supply of electricity.

Therefore, the bar actually operates on two distinct rights of the licensee, *namely, (i)* the right to recover; *and (ii)* the right to disconnect. The bar with reference to the enforcement of the right to disconnect, is actually an exception to the law of limitation. Under the law of limitation, what is extinguished is the remedy and not the right. To be precise, what is extinguished by the law of limitation, is the remedy through a court of law and not a remedy available, if any, *de hors* through a Court of law. However, Section 56 (2) bars not merely the normal remedy of recovery but also bars the remedy of disconnection. This is why we think that the second part of Section 56(2) is an exception to the law of limitation.

25. Be that as it may, once it is held that the term *"first due"* would mean the date on which a bill is issued, *(as held in para 6.9 of* ***Rahamatullah Khan****)* and

once it is held that the period of limitation would commence from the date of discovery of the mistake *(as held in paragraphs 9.1to 9.3 of **Rahamatullah Khan**)*, then the question of allowing licensee to recover the amount by any other mode but not take recourse to disconnection of supply would not arise. But ***Rahamatullah Khan*** says in the penultimate paragraph that "*the licensee may take recourse to any remedy available in law for recovery of the additional demand, but barred from taking recourse to disconnection of supply under subsection (2) of section 56 of the Act*".

"It appears from the narration of facts in paragraph 2 of ***Rahamatullah Khan*** (supra) that this Court was persuaded to take the view that it did, on account of certain peculiar facts. The consumer in that case was billed under a particular Tariff Code for the period from July, 2009 to September, 2011. But after audit, it was discovered that a different Tariff code should have been applied. Therefore, a show cause notice was issued on 18.03.2014 raising an additional demand for the period from July2009 to September2011. Then a bill was raised on 25.05.2015 for the aforesaid period. Xxxxx Therefore, the decision in ***Rahamatullah Khan*** (supra) is distinguishable on facts."

Having regard to the position of law as settled by Hon'ble Apex Court in M/s. PREM COTTEX case cited supras, we are not inclined to accept the contention of the petitioner that the OP is not empowered to disconnect supply of electricity.

26. The petitioner has relied on the case Andhra Pradesh Power Co-ordination Committee and others Vrs. M/s. Lanco Kondapalli Power Ltd and others reported in (2016) 3 SCC468, M/S Jindal Poly Films Limited Vrs. Maharashtra Electricity Regulatory Commission reported in MANU ET-0045/2021, JSW Energy Limited Vrs. Maharashtra Electricity Regulatory Commission and others in Appeal No.355 of 2017 decided on 15.03.2019 by Hon'ble APTEL, and B.K. Educational Services Pvt Ltd Vrs. Parag Gupta and Associate, reported in (2019) 11 SCC.633. Suffice it to say that they have no direct application to the case at hand.

27. In the present case, as admitted by the parties on 24.06.2021, the Chief Electrical Inspector noticed that for the period i.e. 2013-14, 2014-15 and 2017-18, the

Petitioner CGP lost the CGP status and the demand was raised accordingly through the Annexure-I dated 02.07.2021 and as such, the claim of the petitioner that Annexure-I is barred by time under the provision of Sec 56 (2) of the Electricity Act has to be rejected. Annexure-1 cannot be quashed nor the notice under the Annexure-4.

28. From the aforesaid discussions and keeping in view the settled position of Law, it is held that the demand of OP is not time barred and the case of the Petitioner is not maintainable on facts and Law.

29. In view of the above findings, we are not inclined to allow the application of the petitioner and accordingly, it is dismissed.

30. We direct the Secretary of the Commission to transfer Rs. 1 crore deposited by the petitioner with OERC to TPWODL immediately. TPWODL shall adjust the same in the cross subsidy surcharge bill/electricity bill of the petitioner.

Sd/-	Sd/-	Sd/-
(G. Mohapatra)	**(S. K. Parhi)**	**(U. N. Behera)**
Member	**Member**	**Chairperson**