

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO. 4, CHUNOKOLI, SHAILASHREE VIHAR,
BHUBANESWAR-751021**

**Present: Shri G. Mohapatra, Officiating Chairperson
Shri S. K. Ray Mohapatra, Member**

Case No. 16/2022

M/s. Jindal Stainless Limited Petitioner
Vrs.
TPNODL & another Respondents

In the matter of: Application under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 70(1) of the OERC(Conduct of Business) Regulations, 2004 for review of order dated 13.01.2022 of the Commission passed in Case Nos. 12 & 14 of 2015 regarding the order passed by the OERC after on remand by the Hon'ble APTEL in Appeal No. 186 of 2020.

For Petitioner: Shri Aditya Narayan Das, Learned Advocate & Shri Hitendra Nath Rath, Learned Advocate

For Respondents: Shri Ananda Srivastava, Learned Advocate

ORDER

Date of hearing: 11.10.2022

Date of order: 11.10.2022

The Commission while disposing of the cases in Case No.12/2015 and Case No.14/2015 dated 13.01.2022 at Para 26 had held as follows:

“26. In view of the discussions, it is held that even in the absence of Contract Demand, the petitioner JSL can be legally billed under category of Large Industry for the relevant period and that the claim as advanced by the petitioner that JSL for the period from 01.07.2012 till 31.07.2015 was a consumer under category under Regulation 80 (15) of the Supply Code, 2004 “Emergency Supply to CGP” cannot be accepted. The Petitioner is to be reclassified as a consumer under category Large Industry under Regulation 80 (10) of the Supply Code, 2004 with CD of 50 MW and actual demand basing on summation meter of GRIDCO. The petitioner is directed to make payment of the differential amount for that period, adjusting the amount already paid, within a period of 2 months hence.

27. The issues are answered accordingly”

2. Being aggrieved by the aforesaid order of the Commission, the instant Review Petition was preferred by the Review Petitioner with the following prayers:

“It is therefore most humbly prayer that this Hon’ble Commission may graciously please to review the order dated 13.01.2022 passed in Case No.12 and 14 of 2015 in the interest of justice and pass appropriate order and it is only fair, just and equitable that the terms of the agreement dated 13.11.2010, be considered as a special agreement in terms of Clause 81 of the Supply Code, be approved and held to continue to apply to the period from 01.07.2012 to 31.07.2015 and may pass any other appropriate order(s) as this Hon’ble Commission deems fit and proper in the interest of justice. AND FOR SUCH ACT OF KINDNESS, THE PETITIONER SHALL AS IN DUTY BOUND, EVER PRAY.”

3. While the matter stood thus, the Review Petitioner-JSL approached the Hon’ble High Court of Orissa by way of filing a Writ Petition registered as WP(C) No. 7434 of 2022 and the Hon’ble High Court disposed of the said Writ Petition issuing directions to the Commission vide order dated 23.03.2022, the relevant portion of which is quoted below:

“Para 10. At this stage, another offer is made by Mr. Das to the effect that, the petitioner may negotiate with Opp. Parties 2 & 3 in the meantime. If such an offer is made by the petitioner to Opp. Parties 2 & 3, Opp. Parties 2 & 3 are free to accept such offer, if made. The interim application filed before the OERC, shall be disposed of within three weeks from the date of receipt of a certified copy of this order.”

4. During pendency of the Review application before pronouncement of the order, the parties preferred to enter into mediation between themselves. On 01.10.2022 an application was filed by the Review Petitioner intimating this Commission that settlement was arrived between the contesting parties and said settlement has been reduced to writing. The review petitioner has prayed the Commission to dispose of the matter on the basis of Memorandum of Settlement dated 25.08.2022 and 29.09.2022. In the petition filed by the Review petitioner it is stated that one time settlement amount of Rs.13 crores towards the full and final settlement of dues for the legacy disputed period i.e. from July, 2012 to July, 2015 for putting end to the dispute has been transferred to the Account of TPNODL on 30.09.2022. The copy of the Petition dated 01.10.2022 has also been served on the rival side. No counter containing contradictory averments has been filed by the Respondent-TPNODL.
5. Although in a Review Petition, there is hardly any scope for Commission to consider the proposal for compromise, in view of the aforementioned observations given by the Hon’ble High Court and also with a view to avoid multiplicity of the proceeding, the Commission has accepted the proposal of both the sides through the compromise

petition dated 01.10.2022. The Commission has gone through the terms of the compromise as embodied in the compromise petition and finds to be lawful.

6. The Commission has also heard both the sides in the matter. Both the sides appear to have entered into compromise voluntarily. Hence, compromise petition is accepted and Commission hereby directs both the sides to abide by the terms and conditions as contained in the compromise petition.
7. Accordingly, the application for Review stands disposed of and proceeding is closed.

Sd/-
(S. K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Officiating Chairperson