

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**Review Petition No. 24 of 2007
In Appeal No. 17 of 2007**

Dated : October 4, 2007

**Present: Hon'ble Mr. H. L. Bajaj, Technical Member
Hon'ble Mrs. Justice Manju Goel, Judicial Member**

**Assam State Electricity Board
V/s
NEEPCO Ltd. & Others**

**...Review Petitioner(s)
... Respondents (s)**

For the Review Petitioner : Mr. V. R. Reddy, Sr. Adv.
Mr. Sunil Murarka,
Mr. S.S.Chaudhari and
Mr. Abhay Yadav, Advocates
Mr. Hemanta M. Sharma, Resident
Engineer, ASEB

For the Respondent(s) : Mr. M. G. Ramachandran,
Mr. Anand K. Ganeshan and
Ms. Swapna Seshadri, Advocates
for NEEPCO

ORDER

Heard the counsel for the parties.

The Review Petitioner, namely the Assam State Electricity Board, was the respondent No.2 in appeal No. 17 of 2006 which was decided vide judgment dated 13th October, 2006. The appeal No. 17/06 challenged the order of CERC dated 11th September, 2005 in Petition No. 5 of 2005 whereby charges payable by Ranganadhi and

Doyang Hydro Electric Projects for the period of 01.11.03 to 31.03.2004 were revised at the instance of Review Petitioner. The two issues that were addressed by the judgment now sought to be reviewed were as under :

- (i) Whether CERC has authority and jurisdiction to deviate from the tariff notification dated 26.03.2001 ?
- (ii) Whether the CERC's view in adopting the formula and course which runs counter to the statutory regulations could be sustained?

2) This Tribunal in the judgment held that the statutory rule and tariff notifications could not be whittled down by any ad-hoc approach and the Central Electricity Regulatory Commission had no authority or discretion to deviate from such Regulation. By the judgment dated 13th October, 2006 the CERC's impugned order was quashed. The Tribunal further ordered "*we further hold that the appellant is entitled to collect charges in terms of the bills prepared by it and served on respondent No.1 for the period in dispute*".

3) The application for clarification was disposed of by order dated 14th December, 2006 whereby the words "*served on respondent No.1*" were deleted from the penultimate Para of the judgment dated 13th October, 2006. The present review petition expresses a grievance that this Tribunal by the two judgments mentioned above has allowed the respondent No.1 to collect the amounts raised by it in its bills from all the beneficiaries including the review petitioner

without deciding upon the issue that the bills raised by the respondent No.1 are not in conformity with the 2001 regulation and more particularly Section 3.16 (IV) thereof. The petitioner prays for a relief that the two judgments dated 13.10.2006 and 14.12.06 be recalled.

4) It is conceded at the bar that relief prayed for cannot be granted in review. However, it is noticed that this Tribunal has not decided upon the validity or accuracy of the bills mentioned in the previous two judgments.

5) It is clarified that the question of validity of bills has not been settled in judgment dated October 13, 2006 in appeal no. 17 of 2006. Mr.M.G.Ramachandran, the learned counsel for NEEPCO, on instructions confirms that the bills have been prepared strictly in line with the extant regulations, which is, however, disputed by Mr.V.R.Reddy, the learned senior counsel for the Review Petitioner.

6) It is clarified that the judgment dated October 13, 2006 be not read to mean that we have given any approval about the accuracy of the bills.

With this the ***Review Petition is disposed of.***

(Manju Goel)
Judicial Member

(H. L. Bajaj)
Technical Member