IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No.11 of 2022
APPEAL No.468 of 2022

Dated: 07.07.2026

Present: Hon'ble Mr. Virender Bhat, Judicial Member
Hon'ble Mr. Ajay Talegaonkar, Technical Member

IN THE MATTER OF:

APPEAL No.11 of 2022

Vibrant Greentech India Private Limited
6-3-1192/1/1, No.308, 3rd Floor, White House Building,
Block - II, Kundan Bagh, Begumpet,
Hyderabad -500016. **…Appellant(s)**

Vs.

1. Andhra Pradesh Electricity Regulatory Commission
11-4-660, 4th Floor, Singareni Bhavan
Red Hills, Hyderabad - 500 004.

2. Southern Power Distribution Company of
Andhra Pradesh Limited
THROUGH CHAIRMAN & MANAGING DIRECTOR,
D.No.19-13-65/A, Corporate Office, Raguvendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati-517501
Also at :
Through Chief General Manager
P&MM & IPC, APSPDCL,
D.No.19-13-65/A, Corporate Office,
Ragavendra Nagar Srinivasapuram,
Tiruchanoor Road, Tirupati – 517 501.

3. Andhra Pradesh Power Coordination Committee
Through Chairman
Vidyut Soudha, Gundala, Eluru RD,
Vijayawada, Andhra Pradesh – 520004. **...Respondent(s)**

Counsel for the Appellant(s) : Mr. M. G. Ramachandran, Sr. Adv.

Mr. Mazag Andrabi
Mr. Shubhi Sharma

Counsel for the Respondent(s) : Mr. Galchangpou Gangmei
Mr. Arjun D. Singh
Ms. Ankita Sharma
Mr. Rajat Srivastava
Mr. Lothungbeni T. Lotha
Mr. Maitreya Mahaley
Mr. Yimyanger Longkumer for R-1

Mr. Sidhant Kumar
Ms. Manyaa Chandok for R-2 & 3

APPEAL No.468 of 2022

IN THE MATTER OF:

1. Southern Power Distribution Company of Andhra Pradesh Limited
Through the authorize representative Shri R.C.H. Srinivasarao
19-13-65/A, Raghavendra Nagar, Kesavayana Gunta,
Triuchanoor Road, Tirupati, Andhra Pradesh – 517501.

2. Southern Power Distribution Company Of Andhra Pradesh Limited
Through the Chief General Manager
19-13-65/A, Raghavendra Nagar, Kesavayana Gunta,
Triuchanoor Road, Tirupati, Andhra Pradesh – 517501

3. Andhra Pradesh Power Coordination Committee
Through Chairman
APPCC Building
First Floor, Vidyut Soudha – AP Transco
Beside KAY Hotel, Near Ramavappadu Ring
Eluru Road, Vijayawada – 520004. **…Appellant(s)**

Vs.

1. Andhra Pradesh Electricity Regulatory Commission
Through Secretary
4th Floor, Singareni Bhavan
Red Hills, Hyderabad - 500 004.

2. M/s Vibrant Greentech India Pvt. Ltd.

Through its Authorized Director
6-3-1192/1/1, No.308, 3rd Floor,
White House Building, Block-II,
Kundanbagh, Begumpet, Hyderabad-500016.

Also at
#7-1-22/14, Lane next to Roxana towers,
Greenlands, Hyderabad-500016, Telangana. **...Respondent(s)**

Counsel for the Appellant(s)	:	Mr. Sidhant Kumar Ms. Manyaa Chandok
Counsel for the Respondent(s)	:	Mr. Gaichangpou Gangmei Mr. Arjun D. Singh Ms. Ankita Sharma Mr. Yashvir Kumar Mr. Rajat Srivastava Mr. Lothungbeni T. Lotha Mr. Maitreya Mahaley Mr. Yimyanger Longkumer for R-1 Mr. Hitendra Nath Rath Mr. M. Sridhar Mr. Deepak Choudhary for R-2

JUDGEMENT

PER HON'BLE MR. AJAY TALEGAONKAR, TECHNICAL MEMBER

1. The present appeals arise out of the common Order dated 05.07.2021 ("the Impugned Order") passed by the Andhra Pradesh Electricity Regulatory Commission ("APERC"/ "State Commission") in O.P. No. 9 of 2020. Appeal No. 11 of 2022 has been filed by M/s. Vibrant Greentech India Private Limited ("VGIPL"), whereas Appeal No. 468 of 2022 has been filed by the Southern Power Distribution Company of Andhra Pradesh Limited and Ors. challenging different findings and directions contained in the Impugned Order.

Description of the Parties

2. Vibrant Greentech India Private Limited ("VGIPL"), the Appellant in Appeal No. 11 of 2022 and Respondent No. 2 in Appeal No. 468 of 2022 is a generating company within the meaning of Section 2(28) of the Electricity Act, 2003 (the "Act"). The company has established a 4.25 MW wind power project at Rekulakunta Village in Anantapur District of the State of Andhra Pradesh for generation and supply of renewable energy.

3. The APERC, Respondent No. 1 in Appeal Nos. 11 of 2022 and 468 of 2022, is the State Electricity Regulatory Commission constituted under Section 82 of the Electricity Act, 2003.

4. Southern Power Distribution Company of Andhra Pradesh Limited ("APSPDCL"), Respondent No. 2 in Appeal No. 11 of 2022 and Appellant No. 1 in Appeal No. 468 of 2022 is a distribution licensee within the meaning of the Electricity Act, 2003. APSPDCL is entrusted with the distribution and supply of electricity in its licensed area within the State of Andhra Pradesh.

5. Andhra Pradesh Power Coordination Committee ("APPCC"), Respondent No. 3 in Appeal No. 11 of 2022 and Appellant No. 3 in Appeal No. 468 of 2022 is a coordination body constituted by the Government of Andhra Pradesh to facilitate coordination among the distribution companies in the State.

Factual Matrix of the Case

6. In the year 2013, VGIPL envisioned setting up a wind power project in the State of Andhra Pradesh for supply of electricity to the State distribution licensees. The New and Renewable Energy Development Corporation of Andhra Pradesh Limited ("NREDCAP"), being the nodal agency of the Government of Andhra

Pradesh for renewable energy projects granted approval for establishment of the project through letters dated 23.02.2013 and 03.05.2013. Agreements were also executed between NREDCAP and VGIPL on 23.02.2013 and 21.05.2013 in relation to the development of the project.

7. Prior to this, APERC, by its Order dated 30.03.2010 passed in O.P. No. 40 of 2010 had approved a Model Power Purchase Agreement ("Model PPA") for use by distribution licensees and wind power developers in the State.

8. The APERC by way of letter dated 01.08.2014 while approving the changes incorporated in the Model PPA, directed that the amended Model PPA be adopted for all wind power projects established pursuant to the Order dated 15.11.2012 in O.P. No. 13 of 2012.

9. Subsequently, NREDCAP, by letter dated 13.10.2016, advised VGIPL to commission the project before 31.03.2017. As the project approached readiness for synchronization, VGIPL requested NREDCAP and APSPDCL and the State authorities regarding execution of a Power Purchase Agreement ("PPA") for procurement of power from the project. Thereafter, a PPA dated 30.03.2017 came to be executed between VGIPL and APSPDCL for procurement of power generated from the 4.25 MW wind power project. The project was commissioned on 29.03.2017 and commenced injection of power into the grid.

10. It is not in dispute that the PPA dated 30.03.2017 was not placed before APERC for approval.

11. During the period following commissioning of the project, electricity generated from the project was injected into the grid. Disputes arose between the parties with regard to the enforceability of the PPA, recognition of the energy

supplied by VGIPL and entitlement to payment for the electricity injected into the grid.

12. On 20.12.2019, VGIPL filed O.P. No. 9 of 2020 before APERC seeking directions to APSPDCL to act upon the PPA dated 30.03.2017, make payment for the electricity supplied from the date of commissioning of the project along with interest and open irrevocable revolving Letter of Credit in accordance with the terms of the PPA.

13. By letter dated 02.03.2020, APSPDCL informed VGIPL that the power supplied would be treated as inadvertent power. Thereafter, by memorandum dated 12.03.2020, directions were issued for disconnection of the project from the grid and the project was subsequently disconnected on 23.03.2020.

14. During the pendency of the proceedings, APSPDCL issued a letter dated 12.09.2020 stating that the draft PPA stood rescinded, whereupon VGIPL sought amendment of the petition to challenge the said communication.

15. APERC passed the Impugned Order dated 05.07.2021 in O.P No. 9 of 2020. The State Commission held that the PPA executed between the parties was unenforceable and not binding in the absence of approval by the State Commission. At the same time, the State Commission directed APSPDCL to pay compensation for the power received from VGIPL up to the date of disconnection at the rate of Rs. 2.93 per unit within two months. The State Commission further observed that VGIPL would be entitled to sell power in the market in accordance with the provisions of the Electricity Act, 2003 and the applicable regulations.

16. Aggrieved by the findings of the State Commission declaring the PPA unenforceable and denying the relief of enforcement of the PPA, VGIPL filed Appeal No. 11 of 2022 before us.

17. Aggrieved by the direction requiring payment of compensation for the energy supplied by VGIPL, APSPDCL filed Appeal No. 468 of 2022.

18. Since both appeals arise out of the common Order dated 05.07.2021 passed in O.P. No. 9 of 2020 and involve interconnected issues, they are being considered and decided together by this common judgment.

19. VGIPL in Appeal No. 11 of 2022 has prayed for the following relief before us:

> *"(i) Allow the appeal and set aside the Order dated 05.07.2021 in O.P. No. 9 of 2020 passed by the Andhra Pradesh Electricity Regulatory Commission to the extent challenged in the present Appeal;*
>
> *(ii) Declare the action of Respondent No. 2/ APSPDCL of rescinding the Appellant's Power Purchase Agreement dated 30.03.2017 illegal and direct Respondent No. 2/ APSPDCL to continue to act on the Power Purchase Agreement;*
>
> *(iii) Direct Respondent No. 2/ APSPDCL to reconnect the 4.25MW wind power project of the Appellant;*
>
> *(iv) Direct Respondent No. 2/ APSPDCL to pay for the power supplied by the Appellant from the Appellant's 4.25MW wind project in terms of the Power Purchase Agreement dated 30.03.2017; and/or*
>
> *(vi) Pass such further or other order(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."*

20. APSPDCL in Appeal No. 468 of 2022 has prayed for the following relief before us:

> *"a. Allow the present Appeal and set aside the Impugned Order dated 05.07.2021 in Original Petition No. 9 of 2020 passed by the Respondent Commission to the limited extent that Appellant No. 1 has*

been directed to pay compensation to Respondent No. 2 for the power supplied during the period 30.03.2017 till 23.03.2020, at the rate of Rs. 2.93 per unit;

b. Pass any other order(s) as this Hon'ble Tribunal deems fit in the interest of justice and equity"

Written Submissions of the VGIPL

A. THE VIBRANT PPA REQUIRED NO FURTHER APPROVAL

21. The VGIPL submitted that the Vibrant PPA is valid and enforceable having been executed pursuant to the regulatory framework approved by the APERC. It was contended that APERC by its Order dated 30.03.2010 in O.P. No. 40 of 2010 had approved the Model PPA for wind power projects. Subsequently, by letter dated 01.08.2014 and that the APERC had clarified that PPAs executed in the approved model format would be deemed to have been regulated by the State Commission and would not require any separate consent.

22. The VGIPL further submitted that Regulation 27(ii) of APERC (Terms and Conditions for Tariff Determination for Wind Power Projects) Regulations, 2015 (Regulation 1 of 2015) ("Regulation 1 of 2015") expressly extended the applicability of the previously approved Model PPA to all wind power projects established under the said Regulations. Consequently, PPAs executed in accordance with Regulation 1 of 2015, including the Vibrant PPA were deemed to carry APERC's approval and did not require any separate consent. Reliance was placed on APERC's Order dated 13.07.2018 in O.P. No. 5 of 2017 wherein the Commission clarified that Regulation 1 of 2015 would continue to apply to all PPAs entered into up to 31.03.2017 and approved by APERC. According to the VGIPL, its PPA is therefore governed by Regulation 1 of 2015.

23. It was further argued that the said PPA was executed strictly in the format approved by APERC. The APSPDCL and APPCC have not disputed either the

Commission's prior approval of the Model PPA or the conformity of the PPA with the approved format. In such circumstances, the requirement of consent under Section 21 of the Andhra Pradesh Electricity Reforms Act, 1998 (the "APERC Reforms Act") stands satisfied.

24. The VGIPL contended that APSPDCL & APPCC's plea that deemed consent was available only in respect of PPAs executed up to 31.03.2015 is misconceived and contrary to Regulation 27(ii) of Regulation 1 of 2015. According to the Appellant, acceptance of such an interpretation would render the said provision otiose as it specifically extends the approved Model PPA framework to future projects established under the Regulations.

25. The VGIPL also submitted that APSPDCL & APPCC have adopted mutually destructive stands before this Tribunal. On one hand, it contends that deemed consent was available only up to 31.03.2015, on the other hand, they assert that no concept of deemed consent exists under Section 21 of the AP Reforms Act. Thus, the APSPDCL& APPCC cannot be permitted to approbate and reprobate.

B. APERC COULD NOT HAVE DEPARTED FROM ITS OWN DECISION IN THE "41 PPAs" CASE

26. The VGIPL placed reliance on APERC's Order dated 13.12.2017 in the matter concerning 41 Power Purchase Agreements executed by APSPDCL with various wind power developers up to the end of FY 2016-17 ("41 PPAs Case"). It was submitted that the said PPAs were executed under the same regulatory framework pursuant to the same approved Model PPA format as that of the Vibrant PPA.

27. The VGIPL drew attention to Paragraph 63(a) of the said Order wherein APERC expressly held that the subject PPAs were regulated by the Commission as having its consent and were accordingly taken on record. The Appellant

contended that the Vibrant PPA is *pari materia* with the PPAs considered in the 41 PPAs Case as all such agreements were executed with the same DISCOM, were based on the approved Model PPA format, were governed by the same State policy framework and fell within the ambit of Regulation No. 1 of 2015.

28. It was further submitted that APSPDCL & APPCC's attempt to distinguish the 41 PPAs Case on the ground that those PPAs had been submitted to the Commission for consent is misconceived. According to VGIPL, the Order itself records that the PPAs stood regulated as having the Commission's consent and were not subjected to any separate adjudicatory approval process. Reliance was also placed on Paragraph 62 of the said Order wherein it was held that "*Thus, the contention that the letter of the erstwhile Commission dated 01-08- 2014 and the order of the erstwhile Commission dated 11-08-2014 make any approval or consent of the Commission specifically for each Power Purchase Agreement not necessary and it will be suffice to send a copy of executed Power Purchase Agreement for record of the Commission has considerable force…*".

29. The VGIPL argued that the Impugned Order distinguishes the Vibrant PPA despite it being governed by the same regulatory framework and approved Model PPA structure.

30. It was submitted that APERC having recognized identically situated PPAs as carrying its consent, could not adopt a contrary position in the VGIPL's case in the absence of any distinguishing feature.

31. The VGIPL further contended that having approved the Model PPA in 2010 and subsequently extended its applicability through Regulation No. 1 of 2015, APERC could not subsequently hold that the Vibrant PPA lacked regulatory consent.

C. APSPDCL CANNOT BE PERMITTED TO TAKE ADVANTAGE OF ITS OWN WRONG

32. The VGIPL submitted that APSPDCL had acted upon the Vibrant PPA and consumed power supplied by VGIPL for approximately three years, from the commissioning of the Vibrant Project on 29.03.2017 until its disconnection on 23.03.2020.

33. During this period, APSPDCL permitted synchronization of the project, issued the commissioning certificate dated 27.04.2017, continuously off-took power supplied by VGIPL and at no point alleged that the PPA was invalid or that the supply of power was unauthorized.

34. It was contended that APSPDCL derived the full benefit and treated the Vibrant PPA as valid throughout the aforesaid period. Having acted upon the Vibrant PPA for several years, APSPDCL cannot now be permitted to contend that the PPA lacked validity or regulatory approval. Significantly, APSPDCL disconnected the Vibrant Project and purported to rescind the PPA during the pendency of the proceedings before APERC wherein VGIPL had sought specific performance of the PPA. APSPDCL cannot seek to justify its unilateral disconnection and rescission by relying upon the very invalidity which it belatedly asserted after having continuously acted upon the PPA for years.

D. THE DISCONNECTION AND PURPORTED TERMINATION OF THE VIBRANT PPA WERE ILLEGAL

35. The VGIPL submitted that the disconnection of the Vibrant Project on 23.03.2020 and the subsequent purported rescission of the Vibrant PPA were illegal, arbitrary and contrary to the contractual and regulatory framework governing the parties. It was contended that APSPDCL has sought to justify the disconnection by relying upon a memo dated 11.03.2020. However, the said memo pertains to the 0.8 MW wind power project of M/s. Chaitanya Projects located at

Nallakonda, Anantapur District and has no nexus with the VGIPL Project situated at Rekulakunta, Anantapur District.

36. The VGIPL further submitted that APSPDCL has failed to place on record any specific direction authorizing disconnection of the VGIPL Project. The disconnection was therefore wholly unauthorized and without any valid administrative basis.

37. It was also argued that the VGIPL PPA contains specific provisions governing termination, including mandatory notice requirements. APSPDCL admittedly did not comply with any of these contractual prerequisites before disconnecting the project and purporting to rescind the PPA through its letter dated 12.09.2020. Consequently, any purported termination effected in breach of the procedure prescribed under the PPA is void and with no legal effect.

38. The VGIPL further contended that APERC itself directed payment of compensation for the power supplied by VGIPL, thereby acknowledging that APSPDCL had procured, consumed and derived benefit from the electricity supplied by VGIPL.

E. COMPENSATION UNDER SECTION 70 OF THE CONTRACT ACT IS INADEQUATE AND ERRONEOUS

39. Without prejudice to its principal contention regarding the validity and enforceability of the Vibrant PPA, VGIPL submitted that the compensation awarded by APERC under Section 70 of the Indian Contract Act, 1872 at the rate of Rs. 2.93 per unit is grossly inadequate and legally unsustainable.

40. VGIPL contended that compensation under Section 70 must be based on the fair and just value of the benefit actually received by the beneficiary. In the present case, the appropriate benchmark for determining such compensation was

the generic tariff of Rs. 4.84 per unit fixed by APERC for wind power projects during the relevant period.

41. It was further submitted that the rate of Rs. 2.93 per unit adopted by APERC appears to have been derived from the weighted average tariff discovered through bidding route for wind power projects across the country in the year 2017. Such a rate, according to VGIPL, bears no nexus to the tariff applicable to the VGIPL's project or to the actual value of the electricity procured and consumed by APSPDCL.

42. The VGIPL therefore asserted that since the Vibrant PPA is valid and enforceable, it is entitled to payment at the tariff of Rs. 4.84 per unit as determined by APERC under the 2016 Tariff Order for the energy supplied from the Vibrant Project.

F. THE IMPUGNED ORDER SUFFERS FROM PATENT INFIRMITIES

43. The VGIPL submitted that APERC failed to appreciate that the said PPA had been executed in the approved Model PPA format and was deemed to carry the Commission's consent by virtue of Regulation 1 of 2015 read with APERC's letter dated 01.08.2014. The VGIPL further contended that APERC failed to follow its own decision dated 13.12.2017 in the 41 PPAs Order wherein similarly situated PPAs executed under the same regulatory regime and approved Model PPA structure were recognized as carrying the Commission's consent.

44. According to VGIPL, the distinction sought to be drawn in the Impugned Order between the Vibrant PPA and the PPAs considered in the 41 PPAs Case is unsustainable. APERC acted inconsistently in simultaneously declaring the Vibrant PPA unenforceable while awarding compensation for power supplied pursuant to the very same PPA. APERC failed to adjudicate upon the illegality of

the disconnection effected during the pendency of proceedings before it and granted no relief in that regard.

45. On the aforesaid grounds, VGIPL prayed that the Impugned Order be set aside and the present Appeal be allowed.

Written Submissions of the Respondent No. 2 (VGIPL)- Appeal No. 468 of 2022

46. The Submissions of the Respondent No. 2 i.e. VGIPL in Appeal No. 468 of 2022 are same as that of the Appellant in Appeal No. 11 of 2022 since these two are the appeals against the same impugned order. The following are additional submissions of the Respondent No. 2 (VGIPL) in addition to the above.

47. Respondent No. 2 submitted that APERC had determined the generic preferential tariff for wind power projects for the period 01.04.2016 to 31.03.2017 at Rs. 4.84 (without AD benefit) and Rs. 4.25 (with AD benefit). Since the Vibrant Project was commissioned on 29.03.2017 and the PPA was executed on 30.03.2017, the project was entitled to the said tariff.

48. APSPDCL permitted synchronization, issued the commissioning certificate dated 27.04.2017, recorded meter readings through the entire period prior to disconnection, off-took power throughout the period and never disputed the validity of the PPA or the supply of electricity.

49. The rate of Rs. 2.93 per unit which appears to have been derived from an interim arrangement in W.P. No. 9844 of 2019 before the Hon’ble High Court of Andhra Pradesh in unrelated proceedings has no nexus whatsoever to the tariff applicable to the VGIPL’s project or the value of the electricity procured and consumed by APSPDCL.

50. The counsel for APSPDCL sought to distinguish the applicability of Section 70 of the Indian Contract Act, 1872 by contending that evacuation of power was *per se* illegal since the PPA lacked statutory approval and therefore compensation was unwarranted. However, the Impugned Order at page 76 itself records that at no point during the period from synchronization on 23.03.2017 until disconnection on 23.03.2020 did APSPDCL officials raise any objection to evacuation. On the contrary, APSPDCL continuously received and utilized the power supply without demur. The APERC rightly held that such conduct constituted a fresh contractual relationship between the parties and awarded compensation at the rate of Rs. 2.93 per unit. While this rate is grossly inadequate compared to the PPA tariff, the finding that VGIPL was entitled to compensation for the benefit derived is correct in principle being squarely supported by Section 70 of the Contract Act.

<u>Common Written Submissions of the APSPDCL and APPCC- Respondents in Appeal No. 11 Of 2022 and Appellants in Appeal No. 468 Of 2022</u>

51. APSPDCL and APPCC submitted that the PPA relied upon by VGIPL was never approved by the State Commission. It was contended that VGIPL had not even sought approval of the PPA before the State Commission and had instead proceeded on the assumption that the PPA stood approved merely because it was based on the Model PPA. For this purpose, VGIPL relies upon (i) Clause 3 and 27 (ii) of Regulation 1 of 2015; (ii) the 41 PPA Order; and (iii) a letter dated 01.08.2014 issued by the State Commission.

52. APSPDCL and APPCC argued that the Model PPA Order itself was confined to PPAs executed up to 31.03.2015 and therefore cannot be construed as introducing a mechanism of automatic approval. The contemplation of a specific cut-off date clearly implies that the Respondent Commission did not intend to introduce a deemed approval regime.

53. It was further submitted that Clauses 3 and 27(ii) of Regulation 1 of 2015 do not dispense with the requirement of approval by the Commission. Being subordinate legislation, the Regulation and the Model PPA Order cannot be interpreted in a manner inconsistent with the statutory mandate contained in Section 21 of the APERC Reforms Act, 1998 and Section 86(1)(b) of the Electricity Act, 2003.

54. APSPDCL and APPCC emphasized that Section 21 of the APERC Reforms Act envisages PPA-wise approval after due consideration and hearing. Consequently, any deemed approval regime would be contrary to the statutory framework. It was pointed out that a batch of 41 PPAs had earlier been specifically submitted before the Commission for approval, subsequently withdrawn and later re-submitted after consultation with the concerned generators, culminating in the Model PPA Order. AP Discoms and the generators would not have approached the Respondent Commission if there existed such deemed approval as most of these 41 PPAs were based on the Model PPA.

55. It was further contended that the PPA forming the subject matter of the present proceedings was never placed before the Commission in the proceedings relating to the 41 PPAs and was never granted approval. The Model PPA Order itself restrained the Distribution Licensees from entering into PPAs without prior permission of the Commission.

56. APSPDCL also distinguished the present case from the 41 PPAs approved under the Model PPA Order by submitting that in those cases the concerned generators and Distribution Licensees had expressly sought approval of their PPAs from the Commission and no claim of deemed approval had been advanced. In contrast, VGIPL neither sought approval of the PPA before the Commission nor prayed for a declaration that the PPA stood deemed approved.

57. APSPDCL and APPCC submitted that the plea of deemed approval was never raised before the Commission and was sought to be introduced for the first time in appeal. Since the issue had neither been pleaded nor adjudicated before the Commission, VGIPL could not be permitted to advance such a contention at this stage. Accordingly, it was argued that the Commission had rightly held that the Model PPA Order was inapplicable to the present case and had correctly rejected VGIPL's claim.

58. APSPDCL and APPCC submitted that the PPA is void and unenforceable for want of mandatory statutory approval under Section 21 of the APERC Reforms Act and Section 86(1)(b) of the Electricity Act, 2003. It was contended that Section 21(4) and 21(5) of the APERC Reforms Act expressly require prior consent of the State Commission for any arrangement relating to purchase of electricity by a licensee and further stipulate that any agreement entered into without such consent shall be void. The requirement of Commission approval is therefore a mandatory condition precedent to the validity and enforceability of a PPA.

59. APSPDCL and APPCC further submitted that Section 86(1)(b) of the Electricity Act, 2003 independently mandates the State Commission to regulate the procurement and purchase of electricity by distribution licensees including the tariff under power purchase agreements.

60. Relying upon the judgment of Privy Council in ***Nazeer Ahmed vs. King Emperor, AIR 1936 PC 253,*** it was argued that where a statute prescribes a particular manner for doing an act, it must be done only in that manner. Reliance was placed on the judgment of the Hon'ble Supreme Court in ***Tata Power Company Ltd. Vs. MERC & Ors. (2009) 16 SCC 65*** and the judgment of this Tribunal in ***Adani Power Ltd. Vs. PSERC (Appeal No. 167 of 2016)*** wherein it

was held that approval of a PPA by the State Commission is mandatory and that rights and obligations under a PPA arise only after such approval.

61. According to APSPDCL and APPCC, the law is settled that a PPA cannot become effective unless and until it receives the approval of the competent State Commission. It was submitted that the PPA dated 30.03.2017 was never placed before the Commission for approval, nor was any post-facto approval sought.

62. APSPDCL and APPCC further relied upon the judgment of the Hon'ble Supreme Court in ***KKK Hydro Power Ltd. vs. HPSEBL (2025 SCC OnLine SC 1847),*** wherein the Court reaffirmed that a generating company and a distribution licensee cannot, by private agreement, execute or modify a PPA for supply of electricity within a State without review and approval of the State Commission under Section 86(1)(b) of the Electricity Act.

63. APSPDCL and APPCC contended that this case, if anything, is a *fortiori* to KKK Hydro as there the dispute related only to a supplementary modification of an already approved PPA whereas in the present case the PPA itself was never submitted for approval.

64. It was further pointed out that VGIPL had, through its undertaking dated 30.03.2017 departed from the Model PPA by agreeing to forgo GBI benefits and waive "must run" status thereby necessitating specific scrutiny and approval by the Commission.

65. In any event, Recital 5 and Article 6 (i) (v) and (vi) of the PPA itself acknowledge that enforceability was contingent upon the State Commission's approval. The PPA is therefore void and unenforceable. The finding of the State Commission on this aspect is in accordance with law and does not merit interference.

66. APSPDCL and APPCC contended that the essential preconditions for invoking the Section 70 of the Indian Contract Act, 1872 were not satisfied by the Impugned Order. Relying on the judgment of the Hon'ble Supreme Court in ***State of West Bengal vs. B.K. Mondal & Sons, AIR 1962 SC 779,*** it was submitted that Section 70 applies only where a person lawfully does something for another, does not intend to act gratuitously and the beneficiary enjoys the benefit thereof.

67. According to APSPDCL and APPCC, the first requirement of lawful performance was absent in the present case. It was argued that the injection of power by VGIPL into the grid was unlawful as it was undertaken without an approved PPA in contravention of Section 21 of the APERC Reforms Act and Section 86(1)(b) of the Electricity Act, 2003. The supply was also made without compliance with the scheduling requirements prescribed under the APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulations, 2017 (Regulation 4 of 2017) and without any request, consent or demand from APSPDCL. Consequently, the supply could not be regarded as a lawful act capable of giving rise to a claim under Section 70.

68. APSPDCL and APPCC further submitted that compliance with scheduling requirements is mandatory for maintaining grid security. The injection of unscheduled and unauthorized power into the grid constituted a breach of the regulatory framework and could not be treated as lawful conduct. Reliance was placed on the decisions of this Tribunal in ***Kamachi Sponge & Power Corporation Ltd. vs. TANGEDCO & Ors., Appeal No. 120 of 2016***, ***Indo Rama Synthetics (I) Ltd. vs. MERC & Ors., Appeal No. 123 of 2010*** and ***Renew Wind Energy (AP) Pvt. Ltd. vs. KERC & Ors., Appeal No. 117 of 2016***, wherein it was held that unauthorized injection of electricity without a valid contractual arrangement or SLDC approval does not entitle the generator to claim payment and amounts to grid indiscipline.

69. It was also contended that VGIPL never raised any invoice, demand or bill for the energy supplied during the period from 30.03.2017 to 23.03.2020. The original petition was confined to seeking specific performance of the PPA and no relief claiming compensation for unauthorized supply or under Section 70 of the Indian Contract Act was ever sought. The award of compensation by the Commission was therefore beyond the pleadings and reliefs claimed and contrary to settled principles governing adjudication.

70. Further submitted that APSPDCL had consistently informed VGIPL that the PPA had not been approved and that any power injected into the grid would be treated as inadvertent supply. The electricity was absorbed only because power once injected into the grid cannot be stored and must be instantaneously consumed. Such involuntary absorption could not amount to voluntary acceptance or enjoyment of benefit so as to create a quasi-contractual relationship between the parties.

71. APSPDCL and APPCC further submitted that this Tribunal in ***TGV SRAAC Limited vs. APERC & Ors. (Appeal No. 213 of 2023)***, by judgment dated 26.02.2024 (TGV Judgment), examined the scope of Section 70 of the Indian Contract Act, 1872 in the context of unauthorized supply of electricity in the absence of a valid agreement. Relying upon the decisions in Kamachi Sponge, Renew Wind, and B.K. Mondal, the Tribunal granted compensation to similarly situated generators and also took note of its earlier order dated 13.01.2023 in IA No. 2096 of 2021 (Appeal No. 11 of 2022), whereby no stay had been granted on this Impugned Order.

72. It is further submitted that the aforesaid judgment (TGV Judgment) has subsequently been stayed by the Hon'ble Supreme Court in Civil Appeal No. 8522

of 2024 where the issue concerning the lawfulness of such supply of power is presently under consideration.

73. Further submitted that in view of the pendency of the matter before the Hon'ble Supreme Court, it is contended that this Tribunal may await the final adjudication of Civil Appeal No. 8522 of 2024 before deciding the issue of compensation under Section 70 of the Indian Contract Act in the present appeals.

74. Accordingly, APSPDCL and APPCC submitted that the appeal filed by VGIPL be dismissed, the appeal preferred by the AP Discoms be allowed by setting aside the Impugned Order insofar as it directs payment of compensation at the rate of Rs. 2.93 per unit under Section 70 of the Indian Contract Act, or, in the alternative, that adjudication on the issue of compensation be deferred pending the final decision of the Hon'ble Supreme Court.

Our Analysis and Conclusions

75. After hearing the Learned Counsel for rival parties at length and carefully considering their respective submissions, we have also examined the written pleadings and relevant material on record. We have framed the following issues for our consideration:

> ***Issue 1****: Whether the PPA between VGIPL and APSPDCL was valid and enforceable?*
>
> ***Issue 2****: Whether the APSPDCL acted beyond its authority in disconnecting the facility of VGIPL?*

Issue 3*: Whether the APERC was right in awarding compensation under Section 70 of the Contract Act? If the answer is affirmative, was the compensation granted fair & adequate?*

76. We now proceed to examine these issues one by one.

Issue 1: Whether the PPA between VGIPL and APSPDCL was valid and enforceable?

77. It is admitted position that a PPA was signed between VGIPL and APSPDCL on 30.03.2017, a day after the project was commissioned and started injecting power into the grid. It is not in dispute that the PPA dated 30.03.2017 was not placed before APERC for approval under the relevant provisions of the APERC Reforms Act and the Electricity Act, 2003. However, VGIPL has submitted that the PPA was executed strictly in the format approved by APERC by its Order dated 30.03.2010; a claim not denied by APSPDCL.

78. The relevant part of the order dated 30.03.2010 of APERC approving model PPA is extracted below:

> "*7. The Commission having examined the key issues in para '6' supra hereby approves the Guidelines on Power Evacuation from Wind Power Projects in Andhra Pradesh (Annexure-1) and PPA format (Annexure-2) as annexed to this order duly incorporating the changes as approved in the preceding paragraphs of this order and certain other changes to add clarity. From now on the parties to the agreement should execute the agreement as per the Commission's approved PPA*"

79. It may be seen that the Commission's direction was limited to requiring the parties, prospectively, to execute agreements in accordance with the Commission-approved PPA. This order nowhere states that, so long as the approved format

was followed, execution of the agreement would not require the Commission's specific approval.

80. However, by letter dated 01.08.2014, the Commission conveyed the approved Model PPA, incorporating certain drafting changes to the earlier version, and clarified that PPAs executed in that format up to 31.03.2015 would be deemed to have been regulated by the State Commission, with no separate consent of the State Commission being required. The DISCOMs were only required to file a copy of the executed PPA with the State Commission for its record, duly certifying that the PPA conformed to the applicable Model PPA.

81. Thereafter, APERC issued Andhra Pradesh Electricity Regulatory Commission (terms and Conditions for Tariff determination for Wind Power Projects) Regulations, 2015 ("APERC Wind Tariff Regulations 2015"). The Regulation 27 (ii) of these Regulations, which is relevant for our analysis is extracted below:

> *"27. Others*
> *i)……….*
> *ii) Model PPAs: The model Power Purchase Agreements earlier approved by the Commission shall be applicable to all the wind power projects established since these regulations coming into force also to the extent they are in consonance with these regulations."*

82. A plain reading of the above provision indicates that the Commission did not treat the previously approved Model PPAs as automatically applicable in their entirety. Instead, their applicability was expressly made subject to the condition that they were in consonance with the provisions of the Regulations, thereby contemplating such modifications as may be necessary to ensure such conformity. More importantly, unlike the Commission's communication dated 01.08.2014, the Regulations contain no provision dispensing with the requirement of obtaining the

Commission's approval for PPAs executed in the prescribed format. The omission of such an enabling provision leaves only one reasonable conclusion, namely, that PPAs executed after coming into force of these Regulations required the approval of the Commission.

83. Now, since the PPA between VGIPL and APSPDCL was entered into on 30.03.2017, much after coming into force of the APERC Wind Tariff Regulations 2015, we find no merit in the contention of VGIPL that the said PPA did not require specific approval. In view of this conclusion, it is not necessary for us to examine the larger question as to whether the Commission could, either by an order or by subordinate legislation, provide for deemed approval of PPAs in the absence of an express statutory provision, having regard to the requirements of Section 21 of the APERC Reforms Act, 1998 and Section 86(1)(b) of the Electricity Act, 2003.

84. In the original petition O.P No.9 of 2020 before APERC, the relief sought by VGIPL was as under:

> *"a. Direct the 1st Respondent Licensee to act upon the PPA dated 30.03.2017 entered into with the Petitioner for purchase of power from its 4.25 MW Wind Power Project, in terms of the order dt. 13.12.2017 passed by this Hon'ble commission in 41 PPA's matter;*
>
> *b. Direct the 1st Respondent Licensee to pay for the power generated and supplied from the Petitioner's Wind Power Project, for the period from the date of COD i.e. 30.03.2017 onwards along with interest in terms of PPA dated 30.03.2017.*
>
> *c. Direct the 1st Respondent Licensee to establish Letter of Credit as per the clause 5.4 of the PPA dated 30.03.2017.*
>
> *d. Pass such other order or orders as this Hon'ble Commission deem fit and proper in the interest of justice."*

85. When the project was disconnected during pendency of O.P. No 9 of 2020, an IA No. 11 of 2020 in the said O.P. was filed by VGIPL. The prayer in this IA was as under:

> *"In these circumstances and for the facts and reasons stated above it is therefore prayed that the Hon'ble Commission may be pleased to direct the respondents to restore and reconnect the petitioner's 4.25 Wind Power Project to the inter-connection point at 33/11 KV Venkatapuram S.S., B.K.Samudramu Mandal, Anantapuram District, and to account for the energy so exported to the 1st respondent and pass such other order or orders as this Hon'ble Commission may deem fit and proper."*

86. A plain reading of the above extracted prayer clearly indicates that in the original petition before the APERC, VGIPL had proceeded on the premise that the said PPA had deemed approval just because it is claimed to be in conformity with model PPA approved by APERC. What is missing from this argument is that even the letter dated 01.08.2014 which conveyed decision of the State Commission, there were two conditions attached for the deemed approval; the DISCOMs were required to (i) file a copy of the executed PPA with the State Commission for its record and (ii) duly certify that the PPA conformed to the applicable Model PPA. Clearly, the VGIPL PPA was never submitted to the Commission by APSPDCL.

87. In the Impugned Order also, the Commission has found fault with VGIPL for proceeding with the premise that the said PPA has deemed approval. The order dated 13.12.2017 of the Commission approving 41 PPAs, though proceeded without detailed scrutiny of the PPAs, conveniently overlooked the fact that many of these PPAs were actually signed after 30.03.2015. However, as regards parity with 41 PPAs, the Commission has observed as under (page 56 and 57 of the Impugned Order):

> *"…Even in respect of 41 PPAs for about 800 MW, approval of the Commission was sought by the respondent No.1/Discom on 7-6-2016, 6-12-2016, 20-1-2017, 26-2-2017, 23-2-2017 as evident from the order dated 13-12-2017 of this Commission in the matter of 41 PPAs. If the petitioners' contention were to be*

accepted, there was no need for respondent No.1/Discom to seek approval of the 41 PPAs admittedly entered after 31-03-2015. Having relied upon the said order of this Commission in order to claim parity with the developers who entered into the 41 PPAs and which were approved by this Commission, the petitioners cannot overlook the fact that specific approval of this Commission was sought in respect of those PPAs without the developers claiming deemed approval of the model PPAs. Therefore, the plea of the petitioners that there is deemed approval of the PPAs entered by them with respondent No.1/Discom is fallacious. The mere fact that the model PPAs as approved earlier by this Commission were endorsed by Regulation No.1/2015 does not mean that such PPAs have deemed approvals by the Commission"

88. We fully agree with the finding of the APERC that what separates these 41 PPAs from that of VGIPL is that in the former case, DISCOM had actually placed these PPAs before the Commission. Once the twin conditions stipulated in the Commission's letter dated 01.08.2014 are found not to have been satisfied, the Appellant's contention that its PPA enjoyed deemed approval cannot be sustained.

89. In our opinion, if the VGIPL PPA had been placed before the Commission, the Commission could have accorded or declined its consent in accordance with the Section 21 of the Andhra Pradesh Electricity Reforms Act, 1998 read with Section 86 (1) (b) of the Electricity Act, 2003 which mandates written approval of a PPA by the State Commission. It is settled position of law that the consent of the State Commission is mandatorily required for a PPA to be enforceable (***Tata Power Company Ltd. v. Maharashtra Electricity Regulatory Commission & Ors. (2009) 16 SCC 659***).

90. Viewed in this light, the Commission's decision, as conveyed in its letter dated 01.08.2014, prescribing the twin conditions for deemed approval, appears to have been intended to dispense with a detailed scrutiny of PPAs conforming to the approved Model PPA, and not to dispense with the requirement of placing the

PPA before the Commission altogether. The concept of deemed approval cannot, therefore, be construed as permitting automatic approval of a PPA without the same being placed before the Commission.

91. In view of the forgoing, we do not find any error in the finding of the APERC that the said PPA between the parties was unenforceable and not binding on APSPDCL.

Issue 2: Whether the DISCOM acted beyond its authority in disconnecting the facility of VGIPL?

92. The sum and substance of the argument of VGIPL is that having acted upon the PPA and having consumed the power generated for about three years, APSPDCL cannot be permitted to contend that the PPA lacked validity or regulatory approval and to proceed with the disconnection of the Project.

93. We find that, from the conceptualisation of the project until its commissioning, VGIPL substantially complied with the procedural requirements expected of a developer. It approached the NREDCAP for approval, which was granted in February/ March 2013; complied with NREDCAP's communication dated 13.10.2016 advising that the project be commissioned on or before 31.03.2017; obtained the approval of the Chief Electrical Inspector in March 2017 for synchronisation of the project; addressed communications to NREDCAP and APSPDCL for execution of the PPA; deposited the prescribed PPA application fee; furnished the undertaking sought by APSPDCL regarding the treatment of the GBI amount; and ultimately executed the PPA on 30.03.2017.

94. It is noted that VGIPL had filed a petition with the APERC earlier also. The same was returned by the Receiving Officer of APERC to the advocate vide a letter bearing no. Lr.No.APERC/RO/SR No. 38 of 2018 dated 16.07.2018. The letter

inter-alia states- *“In this connection, this is to state that the PPA dated 30-03-2017 is not submitted to the Commission for grant of approval / consent and therefore, the further question of taking the same on record of the Commission by granting / according consent or directing the respondents to issue COD certificate to the petitioner, would not arise……..”.* This clearly indicates that the State Commission was expecting the PPA to be submitted by the APSPDCL and not by the developer.

95. There is another letter on record dated 21.12.2018 by Principal Secretary to Government, Energy, I&I Department addressed to Chairman APPCC & CMD, APTRANSCO, which conveys the Government approval to permit APSPDCL to seek the permission of the Commission for execution of the Power Purchase Agreements with M/s. Vibrant Greentech India Private Limited and another developer, and advised the Chairman, APPCC & CMD, APTRANSCO to take further necessary action accordingly. The said letter indicates the Government’s understanding that the PPAs were required to be placed before the State Commission for approval through the Distribution Licensee. However, the reasons as to why the said PPA was not placed before the State Commission by APSPDCL for approval are not clear.

96. It is evident from discussion in preceding paragraphs and our findings on Issue 1 that the only material lapse on the part of VGIPL was that it proceeded on the erroneous premise that the said PPA enjoyed deemed approval, overlooking the true import of the State Commission’s orders and Regulations, as well as the requirements of the APERC Reforms Act, 1998 and the Electricity Act, 2003.

97. In this background, the unenforceability of the PPA does not, by itself, answer the question whether the APSPDCL was justified in disconnecting the VGIPL’s facility. Indeed, the APSPDCL itself consistently maintained before the State Commission and in this Appeal that the PPA required the State Commission’s approval. Having executed the PPA and acted upon it to a considerable extent by

permitting the evacuation of energy and recording the energy injected through jointly signed meter readings, the APSPDCL could not unilaterally proceed to disconnect the project. The Appellant-VGIPL's PPA, which appears to stand on the same footing as the other 41 PPAs placed before the Commission for approval, was, however, not so placed. More importantly, at the time the APSPDCL disconnected the facility, the VGIPL's petition concerning the very PPA was already pending adjudication before the Commission. In these circumstances, the APSPDCL ought to have awaited the Commission's determination instead of unilaterally disconnecting the facility. As a corollary, it would have been open to the APSPDCL to disconnect the facility after the State Commission, by the Impugned Order, held that the PPA was unenforceable and not binding on the DISCOM.

98. In view of the forgoing analysis, we have come to the conclusion that APSPDCL had exceeded its authority by disconnecting the facility of VGIPL even when the petition about the said PPA was pending for adjudication before the State Commission.

Issue 3: Whether the APERC was right in awarding compensation under Section 70 of the Contract Act? If the answer is affirmative, was the compensation granted fair & adequate?

99. The crux of the submissions of the APSPDCL & APPCC is that one of the conditions for compensation to be awarded under Section 70 of the Contract Act is that the person must "lawfully" do something for another; and the injection of power cannot be said to be lawful- (i) in the absence of a valid PPA approved by the Commission and (ii) lack of proper scheduling under intimation to SLDC.

100. APSPDCL & APPCC has cited this Tribunal's judgement in ***Kamachi Sponge & Power Corporation Ltd. v. TANGEDCO & Ors., Appeal No. 120 of***

2016 to support its argument. We have perused this judgement and we find that the facts of this case are not applicable to case in our hand. In *Kamchi Sponge*, no PPA was signed between the CGP and the Discom; the grid connectivity and short-term open access granted by the TRANSCO had clear provision that any excess energy injected into the grid without contractual arrangement will not be accounted for. On the other hand, in the instant case, APSPDCL had signed PPA with VGIPL which was only later found to be non-enforceable by the State Commission and the joint meters readings of injected energy were signed by officials of APSPDCL.

101. Another judgment of this Tribunal cited by APSPDCL & APPCC is ***Renew Wind Energy (AP) Pvt. Ltd. v. KERC & Ors., Appeal No. 117 of 2016***. The facts of this case are also different; the grant of provisional interconnection to the grid clearly conveyed that *pumping of power without any contractual agreement is not permitted;* and *prior approval* of SLDC for injection of power to the grid would be required. So is the case of **M/s Indo Rama Synthetics (I) Ltd. v. Maharashtra Electricity Regulatory Commission & Ors., Appeal No. 123 of 2010** cited by the APSPDCL & APPCC. In case of *Indo Rama* also, there was no agreement with Discom and no Remote Terminal Unit was installed, which made the SLDC blind to the energy injection. In the case in hand i.e., of VGIPL, the allegation is that energy was not scheduled through SLDC. No document such as state grid code etc. has been placed on record to establish what was the scheduling procedure for wind generators at that point of time. We understand that every grid code empowers SLDC to take appropriate action if any action of any participant has potential to endanger grid security. However, no documentary evidence has been placed on record to show that SLDC perceived such continued injection as threat to grid security.

102. We are unable to accept the contention that, merely because the PPA was subsequently held to be unenforceable, the injection of electricity into the grid prior

to the Commission's determination thereby became an unlawful act for the purposes of Section 70 of the Indian Contract Act, 1872. The expression "lawfully" occurring in Section 70 qualifies the nature of the act done and is intended to exclude acts which are prohibited by law, fraudulent, officious or otherwise unauthorized. As explained by the Hon'ble Supreme Court in ***State of W.B. v. B.K. Mondal and Sons, 1961 SCC OnLine SC 76,*** Section 70 is itself intended to operate in situations where no enforceable contract exists, provided the act was lawfully done, was not intended to be gratuitous and the benefit thereof was accepted and enjoyed by the other party. The invalidity or unenforceability of the underlying contract does not, by itself, render the act performed unlawful. In the present case, the generation and injection of electricity were not activities prohibited by law. On the contrary, the project had obtained the requisite statutory clearances, was synchronized with the grid and the energy injected was knowingly accepted and recorded by the APSPDCL through jointly signed meter readings. The subsequent determination by the State Commission that the PPA was unenforceable cannot retrospectively convert an otherwise lawful supply of electricity into an unlawful act so as to exclude the application of Section 70.

103. In view of the foregoing, we have come to the conclusion that APERC was right in awarding compensation to VGIPL under Section 70 of the Contract Act.

104. Next comes the related issue of rate of compensation. The gist of submission of VGIPL is that rate of Rs. 2.93 per unit is less compared to Rs. 4.84 per unit determined by APERC for wind power projects during the relevant period. We note from the Annexure to the Impugned order that the rate of Rs. 2.93 per unit was decided by APERC based on weighted average of some projects awarded by SECI and Gujarat during February to December 2017. However, the awarded projects take at least 18 to 24 months to get commissioned. Thus, the projects which were considered for deciding the rate were expected to be commissioned much later, whereas the VGIPL project had been commissioned in March 2017 itself. Since

the expected capital cost of technology vary over time, the APERC should have considered rate appropriate for wind projects getting commissioned in, say first half of calendar year 2017.

105. Further, APERC had determined this rate for energy injected up to disconnection. Now that we have held that APSPDCL had exceeded its authority by disconnecting the project, suitable compensation, need to be given for opportunity of energy injection lost during the period the project remained disconnected till the issuance of Impugned Order. These aspects need to be considered by the APERC afresh and accordingly we remand the matter to APERC for (i) re-determination of compensation for energy injected and (ii) compensation for the lost opportunity for energy injection during disconnection. APERC may also consider all the relevant factors including conduct of APSPDCL and decide whether compensation under (ii) to be included as part of ARR or not.

ORDER

For the foregoing reasons as stated above, the captioned Appeal 468 of 2022 is disallowed while Appeal No. 11 of 2022 is partly allowed in the following terms:

(i) The finding of the State Commission that the Power Purchase Agreement dated 30.03.2017 is unenforceable is affirmed.

(ii) However, it is held that APSPDCL was not justified in disconnecting the Appellant's project during the pendency of the proceedings before the State Commission.

(iii) The finding of the State Commission awarding compensation under Section 70 of the Indian Contract Act, 1872 is upheld. However, the determination of compensation at the rate of Rs. 2.93 per unit is set aside.

(iv) The matter is remanded to the State Commission for fresh determination of the compensation payable for the energy supplied by the Appellant, as well as the compensation, if any, payable on account of lost opportunity for energy injection during the period of disconnection of the project, in the light of the observations made in this judgment.

PRONOUNCED IN THE OPEN COURT ON THIS 7TH DAY OF JULY, 2026.

(Ajay Talegaonkar) **Technical Member**	**(Virender Bhat)** **Judicial Member**

REPORTABLE / ~~NON-REPORTABLE~~

kns/mkj/kks