



Chhattisgarh State Electricity Regulatory Commission
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P. No. 19 of 2019

"In the matter of petition under section 86(1)(a) of the Electricity Act, 2003 regarding refund of the amount collected from the petitioner towards cross subsidy surcharge and demand charges for FY 2014-15."

M/s SAIL Ltd., Bhilai Steel Plant (BSP) ... Petitioner

V/s

Chhattisgarh State Power Distribution
Company Limited & Others ... Respondents

PRESENT : **D.S.Misra, Chairperson**
Arun Kumar Sharma, Member
Vinod Deshmukh, Member (Judicial)

Appearance : Ms. Anushree Bardhan, Counsel for petitioner.
Shri Vinay Kumar Jain, Counsel for respondent CSPDCL.

ORDER

(Passed on 31.03.2021)

The petition has been filed by BSP, seeking relief for refund of cross subsidy surcharge and demand charges for the year 2014-15 on the basis of orders dated 05.12.2017 and 02.07.2018 passed by the Commission in petitions No. 13 of 2017 and 63 of 2017 respectively.

2. Petitioner's (BSP) contention is that the Commission, in petition No. 13/2017, has decided the issue of applicability of cross subsidy surcharge on the energy supplied to BSP as distribution licensee for the year 2015-16. Similarly, in petition No. 63 of 2017, the Commission has decided 'in principle' the issue of applicability of maximum demand charges. Petitioner further submits that the same principles are applicable to the claims for the year 2014-15. Hence, the amount paid by the petitioner towards cross

subsidy surcharge and maximum demand charges for the year 2014-15 are refundable in line with the aforesaid orders.

3. Respondent's contention is that BSP was in the know of the issues of cross subsidy surcharge and demand charges. However, in petition No. 13 of 2017 and 63 of 2017, they had not included the claims for the respective charges for year 2014-15. Hence, the present petition filed in May 2019, is barred by limitation. The respondent CSPDCL further submits that the Commission, in its order dated 02.07.2018, in petition No. 63 of 2017, has disallowed the interest on the demand charges collected from the petitioner by CSPDCL for the period 2015-16, 2016-17 and 01.04.2017 onwards, which implies that the Commission's this order does not cover the issue of maximum demand charges for the year 2014-15.

4. As regards cross subsidy surcharge, the petitioner, in their reply, submits that the period of limitation would start from the date CSPDCL raised the bill for recovery of cross subsidy surcharge for the year 2014-15. The said bill was raised on 26.05.2017 and the present petition has been filed on 02.05.2019 i.e. within a period of three years from the cause of action. Therefore, the issue of limitation does not arise.

As regards the issue of maximum demand charges, the petitioner submits that the same was decided 'in principle' by the Commission, vide its order dated 02.07.2018, in petition No. 63 of 2017. Therefore, their claims for the year 2014-15, is not barred by limitation.

5. Respondent's contention that the order of the Commission on payment of interest is to be construed as denial of the claims of the petitioner for the year 2014-15, was countered by the petitioner, stating that the same was in respect of specific issue of 'payment of interest' for 'certain years' and not in relation to claims for maximum demand charges.

6. Commission's view:

6.1 The issue for decision is whether the present petition, filed by the petitioner, for their claims for refund of cross subsidy surcharge and maximum demand charges for the year 2014-15 are time-barred?

6.2 We have considered the contentions of the parties and perused the records. So far as the first issue i.e. cross subsidy surcharge is concerned, the Commission's order dated 05.12.2017 was in respect of the year

2015-16. However, as per the petitioner's submission and enclosed records, it is clear that they had raised the issue of cross subsidy surcharge for the year 2014-15 in their submission in suo motu petition No. 13/2017. Para xvi of their submission reads as follows:

"BSP vide letter No. DGM/F&A/366 dated 08.06.2017 (copy of letter is enclosed at Annexure-20) requested for refund of the amount paid by BSP to CSPDCL towards cross subsidy charges on the energy drawn for distribution by BSP TEED as a distribution licensee from Unit-2 of PP3 for the FY 2014-15, FY 2015-16 and FY 2016-17."

The relevant extract of the annexed letter referred to above reads as follows:

"In view of the above, you are requested to facilitate the refund of the amount paid by BSPT to CSPDCL towards cross subsidy charges on the energy drawn for distribution by BSP TEED as a distribution licensee from unit 2 of PP3 for FY 2014-15, 2015-16 and 2016-17, as mentioned in table-1 above."

Therefore, it is not proper to say that the petitioner BSP had not raised the issue in time. Hence, the claim is within limitation.

6.3 As regards the second issue i.e. demand charges, the petitioner, in petition No. 63/2017, had prayed as follows:

"direct that the CSPDCL should consider the maximum demand only in regard to the quantum of electricity actually supplied by CSPDCL to SAIL against the contract demand maintained by SAIL under the agreement with CSPDCL and not for any quantum of electricity taken by SAIL from NSPCL"

Thus, the petition was not with respect to the demand charges in any particular year; rather it was for 'in principle' decision on the issue concerned.

6.4 As regards the observation of the Commission regarding payment of interest for the years 2015-16, 2016-17 and 01.04.2017 onwards in its order dated 02.07.2018, we agree with the argument of the petitioner that the same was in respect of 'payment of interest' for 'specific years' and not in relation to the issue of maximum demand charges. Therefore, it would be inappropriate to say that the petition is time barred.

6.5 In view of the aforesaid, we direct the respondent CSPDCL to refund the cross subsidy surcharge and maximum demand charges recovered by them from the petitioner for the year 2014-15, based on the principles decided by the Commission in order dated 05.12.2017 in petition No. 13 of 2017 and order dated 02.07.2018 in petition No. 63 of 2017 respectively.

7. Petition is allowed accordingly.

**Sd/-
(Vinod Deshmukh)
Member (Judicial)**

**Sd/-
(Arun Kumar Sharma)
Member**

**Sd/-
(D. S. Misra)
Chairperson**