

**RECEIPT**  
**APPELLATE TRIBUNAL FOR ELECTRICITY**

Core 4,7th Floor,SCOPE Building,Lodhi Road,New Delhi-110003

DFR/2375/2019

Date: 07/11/2019

Case Type:-APL

Appellant Name:- Delhi Transco Limited

Respondent Name:- Delhi Electricity Regulatory Commission

**Impugned order Details**

Commission Name	Case No	Case Year	Date of Order
Delhi State Electricity Regulatory Commission	13	2019	31/07/2019

No. of IA :- 2

Amount Received:- 105000

**Caveat Details**

Caveater No	Caveator Name :	Filed By :	Date of Caveat Filing
-------------	-----------------	------------	-----------------------

COUNTER ASSISTANT



**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**PAPER BOOK**

**(VOLUME - 1/4)**

**[PAGE NO. A TO 296]**

**[FOR INDEX KINDLY SEE INSIDE]**

**ANAND K GANESAN/SWAPNA SESHADRI ADVOCATES FOR THE  
APPELLANT**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**PAPER BOOK**

**(VOLUME - 2/4)**

**[PAGE NO. 297 TO 602]**

**[FOR INDEX KINDLY SEE INSIDE]**

**ANAND K GANESAN/SWAPNA SESHADRI ADVOCATES FOR THE  
APPELLANT**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**PAPER BOOK**

**(VOLUME - 3/4)**

**[PAGE NO. 603 TO 895]**

**[FOR INDEX KINDLY SEE INSIDE]**

**ANAND K GANESAN/SWAPNA SESHADRI ADVOCATES FOR THE  
APPELLANT**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**PAPER BOOK**

**(VOLUME - 4/4)**

**[PAGE NO. 896 TO 1165]**

**[FOR INDEX KINDLY SEE INSIDE]**

**ANAND K GANESAN/SWAPNA SESHADRI ADVOCATES FOR THE  
APPELLANT**

**OPENING SHEET**  
(To be enclosed at the time of filing)

Appeal /DFR No.	Date of filing	Appellant	Respondents	Counsel of Appellant	Full DD/Cheque Details	Relief sought-briefly & accurately for permanent record purpose with provisions of law involved.
	07.11.2019	1. Delhi Transco Limited	1. Delhi Electricity Regulatory Commission 2. BSES Rajdhani Power Limited 3. BSES Yamuna Power Limited. 4. Tata Power - Delhi Distribution Limited 5. New Delhi Municipal Council 6. Military Engineers Services 7. Northern Railway	Mr. Anand K. Ganesan, Mrs. Swapna Seshadri Mr. Ashwin Ramanathan & Mr. Utkarsh Singh	Bank draft No. 011221 dated 23.10.2019 for amount of Rs. 105000/- drawn on SBI Bank in favour of Pay & Account Officer, Ministry of Power, New Delhi	(a) Allow the Appeal and set aside the Tariff Order dated 31.07.2019 passed by the State Commission in Petition No. 13 of 2019 to the extent challenged in the present Appeal  (b) Pass any further order (s) as deemed fit;

Remarks:-



Signature of Verificant

**IN THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**MASTER INDEX**

<b>S. NO.</b>	<b>PARTICULARS</b>	<b>PAGES</b>
<b>1.</b>	Synopsis & List of Dates.	
<b>2.</b>	Memo of parties.	
<b>3.</b>	Appeal under Section 111(1) of the Electricity Act, 2003 along with supporting affidavit.	<b>1-34</b>
<b>4.</b>	<b>Annexure A</b> – Copy of the Impugned Order dated 31.07.2019 passed by State Commission.	<b>35-133</b>
<b>5.</b>	<b>Annexure B</b> – Copy of the Petition being Petition No. 13/2019.	<b>134-738</b>
<b>6.</b>	<b>Annexure C (colly)</b> – Copies of the additional submissions, letters, affidavits and clarifications submitted by the Appellant.	<b>739-819</b>
<b>7.</b>	<b>Annexure D</b> – Copy the DERC Tariff Regulations, 2017	<b>820-1068</b>
<b>8.</b>	<b>Annexure E</b> – Copy of the Judgment dated 01.02.2016 passed by the Appellate Tribunal in Appeal no. 255 of 2013.	<b>1069-1141</b>
<b>9.</b>	<b>Annexure F</b> – Copies of the relevant extract of the order dated 26.08.2011 and 13.07.2012 passed by the State Commission.	<b>1142-1149</b>
<b>10.</b>	<b>Annexure G</b> – Copy of the list of Assets capitalized during FY 2017-18.	<b>1150-1154</b>
<b>11.</b>	Application seeking condonation of delay in filing the appeal along with supporting affidavit.	<b>1155-1158</b>

<b>12.</b>	Application seeking exemption from filing legible and clear copies of the annexures along supporting affidavit.	<b>1159-1162</b>
<b>13.</b>	Authorization letter	<b>1163</b>
<b>14.</b>	Vakalatnama	<b>1164</b>
<b>15.</b>	<b>Court Fee:</b> Demand Draft No. 011221 Dated 23.10.2019 for Rs. 105000/-, in favour of Pay & Accounts Officer, Ministry of Power	<b>1165</b>

FILED BY:-



(MSA PARTNERS)

ADVOCATES FOR THE APPELLANT

D-246, DEFENCE COLONY

NEW DELHI - 110024

DATED: 07.11.2019

PLACE: NEW DELHI



**IN THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2018**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**INDEX**

**VOLUME- I (PAGES A TO 296)**

<b>S. NO.</b>	<b>PARTICULARS</b>	<b>PAGES</b>
<b>1.</b>	Synopsis & List of Dates.	
<b>2.</b>	Memo of parties.	
<b>3.</b>	Appeal under Section 111(1) of the Electricity Act, 2003 along with supporting affidavit.	<b>1-34</b>
<b>4.</b>	<b>Annexure A</b> – Copy of the Impugned Order dated 31.07.2019 passed by State Commission.	<b>35-133</b>
<b>5.</b>	<b>Annexure B</b> – Copy of the Petition being Petition No. 13/2019.	<b>134-738</b>

**Contd. in Vol. – II (Pages 297 to 602)**

**IN THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2018**

**IN THE MATTER OF:**

**Delhi Transco Limited**

**... Appellant**

**VERSUS**

**Delhi Electricity Regulatory Commission & Ors.**

**... Respondents**

**INDEX**

**VOLUME- II (PAGES 297 TO 602)**

S. NO.	PARTICULARS	PAGES
1.	<b>Annexure B</b> – Copy of the Petition being Petition No. 13/2019.	<b>134-738</b>

**Contd. in Vol. – III (Pages 603 to 895)**

**IN THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

**Delhi Transco Limited**

**... Appellant**

**VERSUS**

**Delhi Electricity Regulatory Commission & Ors.**

**... Respondents**

**VOLUME- III (PAGES 603 TO 895)**

<b>S. NO.</b>	<b>PARTICULARS</b>	<b>PAGES</b>
<b>1.</b>	<b>Annexure B</b> – Copy of the Petition being Petition No. 13/2019.	<b>134-738</b>
<b>2.</b>	<b>Annexure C (colly)</b> – Copies of the additional submissions, letters, affidavits and clarifications submitted by the Appellant.	<b>739-819</b>
<b>3.</b>	<b>Annexure D</b> – Copy the DERC Tariff Regulations, 2017	<b>820-1068</b>

**Contd. in Vol. – III (Pages 896 to 1165)**

**IN THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**VOLUME- IV (PAGES 896 TO 1165)**

<b>S. NO.</b>	<b>PARTICULARS</b>	<b>PAGES</b>
<b>1.</b>	<b>Annexure D</b> – Copy the DERC Tariff Regulations, 2017	<b>820-1068</b>
<b>2.</b>	<b>Annexure E</b> – Copy of the Judgment dated 01.02.2016 passed by the Appellate Tribunal in Appeal no. 255 of 2013.	<b>1069-1141</b>
<b>3.</b>	<b>Annexure F</b> – Copies of the relevant extract of the order dated 26.08.2011 and 13.07.2012 passed by the State Commission.	<b>1142-1149</b>
<b>4.</b>	<b>Annexure G</b> – Copy of the list of Assets capitalized during FY 2017-18.	<b>1150-1154</b>
<b>5.</b>	Application seeking condonation of delay in filing the appeal along with supporting affidavit.	<b>1155-1158</b>
<b>6.</b>	Application seeking exemption from filing legible and clear copies of the annexures along supporting affidavit.	<b>1159-1162</b>
<b>7.</b>	Authorization letter	<b>1163</b>
<b>8.</b>	Vakalatnama	<b>1164</b>
<b>9.</b>	<b>Court Fee:</b> Demand Draft No. 011221 Dated 23.10.2019 for Rs. 105000/-, in favour of Pay & Accounts Officer, Ministry of Power	<b>1165</b>

## **SYNOPSIS**

The present Appeal is being filed under Section 111 of the Electricity Act, 2003 against Tariff Order dated 31.07.2019 passed by the Respondent No. 1- Delhi Electricity Regulatory Commission (hereinafter called the 'State Commission') in Petition No. 13 of 2019 dealing with the truing up of the financials of the Appellant – Delhi Transco Limited for the period Financial Year 2017-18, and the Aggregate Revenue Requirement (hereinafter called 'ARR') and Transmission Tariff for FY 2019-20.

The State Commission, inter alia, while conducting the True Up for FY 17-18 has artificially reduced the expenses of the Appellant and inflated the incomes to give an impression that the Appellant had in surplus in FY 2017-18 whereas the Appellant had sought a deficit of Rs. 74.73 Crore to be passed on in the subsequent years.

The State Commission has ignored the settled principles relating to truing - up laid down by this Hon'ble Tribunal namely, that truing up is not a time to re-think the tariff philosophy determined in the original Order but only to see the difference between projection and actual figures and deciding on the admissibility of the claims of a Licensee.

The State Commission has erred in passing the Impugned Order wherein many of the elements of revenue requirements determined and/or trued up by the State Commission are contrary to the provisions of the Tariff Regulations as applicable and issues raised by the Appellant are as follows:

### **I. ISSUES PERTAINING TO TRUING UP FOR FY 17-18**

1. Computation of Income Tax for FY 2017-18
2. Operation & Maintenance Expenses for FY 2017-18
3. Asset Capitalization for FY 2017-18
4. Depreciation for FY 2017-18
5. Non-Tariff Income for FY 2017-18

### **II. ISSUES PERTAINING TO ARR FOR FY 2019-20**

6. Operation and Maintenance expenses for FY 2019-20

7. Return on Capital Employed for FY 2019-20
8. Income tax expenses for FY 2019-2020
9. Non - Tariff Income for FY 2019-2020

### LIST OF DATES

- |            |   |
|------------|---|
| 31.03.2007 | The Appellant till now was also the bulk purchaser of electricity to be then given to the distribution licensees for supply to consumers.   |
| 01.04.2007 | The Appellant started discharging the functions of transmission of electricity in NCT of Delhi.   |
| 31.08.2017 | The State Commission issued Tariff Regulations vide gazette notification for specifying Terms and Conditions for Determination of Tariff for Transmission of Electricity under the Multi Year Tariff (MYT) framework for the period FY 2017-18 to FY 2019-20. |
| 25.01.2019 | The Appellant filed Petition being Petition No. 13 of 2019 before the State Commission for truing up of the financials of the Appellant for FY 2017-18 and determination of ARR and Transmission Tariff for FY 2019-20.                                       |
| 21.02.2019 | The above petition being Petition No. 13 of 2019 was admitted before the State Commission.  |
| 07.03.2019 | The State Commission published a public notice indicating salient features of the petition for inviting comments from the stakeholders requesting to submit the response on the petition on or before 05.04.2019 in the given newspapers.                     |
| 10.07.2019 | The Public hearing was conducted by the State Commission.   |
| 31.07.2019 | The State Commission passed the Impugned Order wherein it had trued up the financials of the Appellant for the FY 2017-18 and has determined the Annual Revenue Requirements for the FY 2019-20.  |
| 29.08.2019 | The Impugned Order dated 31.07.2019 was communicated to the Appellant.  |
| 07.11.2019 | The present appeal is being filed by the Appellant.   |

C

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI**

**APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Ors.

... Respondents

**MEMO OF PARTIES**

**IN THE MATTER OF:**

Delhi Transco Limited  
Shakti Sadan Building, Kotla Road  
New Delhi - 110002

...Appellant

**VERSUS**

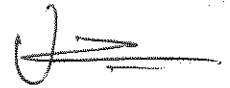
1. Delhi Electricity Regulatory Commission  
Through its Secretary  
Viniyamak Bhavan, C-Block,  
Malviya Nagar, New Delhi - 110017
2. BSES Rajdhani Power Limited,  
Through its Chairman and Managing Director  
BSES Bhawan, Nehru Place,  
New Delhi - 110 019
3. BSES Yamuna Power Limited,  
Through its Chairman and Managing Director  
Shakti Kiran Building,  
Karkardooma, Delhi - 110 092.
4. Tata Power - Delhi Distribution Limited  
Through its Chairman and Managing Director  
Grid Sub Station Building,  
Hudson Lines, Kingsway Camp,  
Delhi - 110 009
5. New Delhi Municipal Council,  
Through its Secretary  
Palika Kendra, Parliament Street,  
New Delhi - 110001

D

6. Military Engineers Services,  
Ministry of Defence, Government of India,  
Through its Engineer  
ME Line, Near COD, Kirby Place, Delhi Cantt,  
P/H, Uri Enclave, Delhi Cantonment,  
New Delhi, Delhi 110010
7. Northern Railway  
Through its General Manager  
NDCR Building,  
State Entry Road , New Delhi - 110055

....Respondents

FILED BY:-



(MSA PARTNERS)  
ADVOCATES FOR THE APPELLANT  
D-246, DEFENCE COLONY  
NEW DELHI - 110024

DATED: 07.11.2019  
PLACE: NEW DELHI



**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI  
APPELLATE JURISDICTION**

**APPEAL NO. .... OF 2019**

**IN THE MATTER OF:**

Appeal against the Tariff Order dated 31.07.2019 passed by the Delhi Electricity Regulatory Commission in Petition No. 13 of 2019.

**AND**

**IN THE MATTER OF:**

Delhi Transco Limited  
Shakti Sadan Building, Kotla Marg  
New Delhi – 110 002

...Appellant

**VERSUS**

1. Delhi Electricity Regulatory Commission  
Viniyamak Bhawan, C-Block,  
Malviya Nagar, New Delhi – 110 017.
2. BSES Rajdhani Power Limited,  
BSES Bhawan, Nehru Place, New Delhi – 110 019
3. BSES Yamuna Power Limited,  
Shakti Kiran Building,  
Karkardooma, Delhi - 110 092.
4. Tata Power - Delhi Distribution Limited  
Grid Sub Station Building,  
Hudson Lines, Kingsway Camp, Delhi – 110 009
5. New Delhi Municipal Council,  
Palika Kendra, Parliament Street,  
New Delhi – 110 001
6. Military Engineers Services,  
Ministry of Defence, Government of India,  
ME Line, Near COD, Kirby Place, Delhi Cantt,  
P/H, Uri Enclave, Delhi Cantonment,  
New Delhi, Delhi 110010
7. Northern Railway  
NDCR Building, State Entry Road , New Delhi

.... Respondents

**APPEAL UNDER SECTION 111(1) OF THE ELECTRICITY ACT, 2003**

**MOST RESPECTFULLY SHOWETH:**

**1. DETAILS OF APPEAL**

The present Appeal is being filed under Section 111 of the Electricity Act, 2003 against Tariff Order dated 31.07.2019 passed by the Respondent No. 1, Delhi Electricity Regulatory Commission (hereinafter called the '**State Commission**') in Petition No. 13 of 2019 dealing with the Truing up of the financials of the Appellant – Delhi Transco Limited for the period Financial Year 2017-18, and the Aggregate Revenue Requirement (hereinafter called '**ARR**') and Transmission Tariff for FY 2019-20.

A certified copy of the Impugned Order dated 31.07.2019 is attached hereto and marked as **Annexure A**.

2. The Impugned Order was communicated to the Appellant on 29.08.2019.

3. **THE ADDRESS OF THE APPELLANT FOR SERVICE IS SET OUT HEREUNDER:**

- i) Delhi Transco Limited (DTL)  
Regd. Office: Shakti Sadan Building,  
Kotla Marg, New Delhi – 110 002
- ii) Name and Address of the Counsel,  
Mr. Anand K. Ganesan, Mrs. Swapna Seshadri and Mr. Ashwin Ramanathan & Utkarsh Singh  
MSA Partners, Advocates,  
D-246, Defense Colony,  
New Delhi – 110024  
Phone: 011-41403716  
Email: anand@msapartners.in, swapna@msapartners.in

4. **THE ADDRESS OF THE RESPONDENTS FOR SERVICE OF ALL NOTICES IN THE APPEAL ARE AS SET OUT HEREUNDER:**

- (i) Delhi Electricity Regulatory Commission  
Viniyamak Bhawan, C-Block,  
Malviya Nagar, New Delhi – 110 017.
- (ii) BSES Rajdhani Power Limited,  
BSES Bhawan, Nehru Place, New Delhi – 110 019
- (iii) BSES Yamuna Power Limited,  
Shakti Kiran Building, Karkardooma, Delhi - 110 092.
- (iv) Tata Power - Delhi Distribution Limited  
Grid Sub Station Building,

- Hudson Lines, Kingsway Camp, Delhi – 110 009
- (v) New Delhi Municipal Council,  
Palika Kendra, Parliament Street,  
New Delhi – 110 001
  - (vi) Military Engineers Services,  
Ministry of Defence, Government of India,  
ME Line, Near COD, Kirby Place, Delhi Cantt,  
P/H, Uri Enclave, Delhi Cantonment,  
New Delhi, Delhi 110010
  - (vii) Northern Railway  
NDCR Building,  
State Entry Road , New Delhi - 110055

## **5. JURISDICTION OF THE APPELLATE TRIBUNAL**

The Appellant declares that the subject matter of the appeal is within the jurisdiction of this Hon'ble Tribunal.

## **6. LIMITATION.**

The impugned Tariff Order dated 31.07.2019 was communicated to the Appellant on 29.08.2019. There is a delay in approaching this Hon'ble Tribunal against the Impugned Order as compared to the period of limitation prescribed in Section 111 of the Electricity Act, 2003. The Appellant is filing a separate Application seeking condonation of delay of 25 days.

## **7. FACTS OF THE CASE**

- A.** The Appellant, Delhi Transco Limited is a Company incorporated under the Companies Act, 1956 and is engaged in the business of transmission of electricity in the National Capital Territory (NCT) of Delhi, having its Registered Office in the State of Delhi.
- B.** The Appellant initially came to be vested with the functions of Transmission and Bulk supply of electricity pursuant to the unbundling of the Delhi Vidyut Board (**DVB**) under the provisions of the Delhi Electricity Reform Act, 2000 and the Statutory Transfer Scheme notified by the Government of NCT of Delhi under the said Act as was prevalent at the relevant time. The Appellant till

31.03.2007 was also doing the bulk purchase of electricity to be then given to the Distribution Licensees for supply to consumers.

- C. The Appellant, since 01.04.2007, discharges only the functions of Transmission of Electricity in NCT of Delhi, the State Transmission Utility and State Load Dispatch Centre. As stated above, prior to 01.04.2007, the Appellant was also undertaking the functions of Bulk Purchase of Electricity from Generating Stations and Bulk Sale of Electricity to Respondents No. 2 to 6 – Distribution Licensees in the NCT of Delhi. The liability to pay for the Bulk Power Purchase was also of the Appellant for this prior period.
- D. The Respondent No. 1 (hereinafter referred to as “**State Commission**”) is the Delhi Electricity Regulatory Commission for the State of Delhi exercising powers and discharging functions under the provisions of the Electricity Act, 2003.
- E. The Appellant had on 25.01.2019 filed a petition being Petition No. 13 of 2019 before the State Commission for Truing up of the financials of the Appellant for FY 2017-18, and determination of ARR and Transmission Tariff for FY 2019-20. The said Petition was admitted vide Order dated 21.02.2019. A copy of the Petition No. 13 of 2019 is attached hereto and marked as **Annexure B**.
- F. The State Commission published a Public Notice indicating salient features of the petition for inviting comments from the stakeholders requesting to submit the response on the petition on or before 05.04.2019. A public hearing was also held on 10.07.2019.
- G. During the course of the matter, the Appellant filed additional submissions, letters, affidavits and clarifications. Copies of the same are attached hereto and marked as **Annexure C. (colly)**
- H. By the Impugned Order dated 31.07.2019, the State Commission has disposed of the Petition No. 13 of 2019 filed by the Appellant and has Trued up the financials of the Appellant for the FY 2017-18 and has

determined the Annual Revenue Requirements and Transmission Tariff for the FY 2019-20.

- I. It is respectfully submitted that in determining the financials of the Appellant for the above financial years, the State Commission failed to allow the revenue requirements in terms of settled principles and the provisions of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter referred to as "**Tariff Regulations, 2017**"). A copy of the Tariff Regulations, 2017 are attached hereto and marked as **Annexure D**.
- J. It is submitted that the State Commission has illogically Trued up the financials of the Appellant for FY 2017-18 leading to an artificial surplus of Rs 483.63 Crore, whereas the Appellant had sought a deficit of Rs. 74.73 Crore to be passed on in the subsequent years.
- K. The State Commission has simply rejected the valid claims of the Appellant for FY 2017-18 as well as overestimated the income to give a distorted projection of the tariff of the Appellant. As against, the approved ARR of Rs. 785.47 Crore which had been allowed to the Appellant vide Tariff Order dated 31.08.2017, the Appellant has sought an ARR of Rs. 860.20 Crore. However, the State Commission has allowed only Rs. 301.84 Crore as the ARR for FY 2017-18 and held that the Appellant has surplus of Rs. 483.63 Crore.
- L. In the circumstances and aggrieved by the Tariff Order dated 31.07.2019, the Appellant is filing the present appeal.

8. (i) **FACTS IN ISSUE:**

• **ISSUES RELATING TO TRUE UP FOR FY 2017-18**

○ **TREATMENT OF INCOME TAX EXPENSES FOR FY 2017-18**

- (a) The State Commission in the Impugned Order, even after noting the Judgment of this Hon'ble Tribunal passed Appeal No. 255 of

2013 in Para 3.36 of the Impugned Order, State Commission has not allowed the 'actual' income tax paid as a pass through but restricted the income tax to the extent of Return on Equity which has been specifically set aside in the above mentioned judgment.

- (b) While the State Commission notes, the actual income tax paid by the Appellant is Rs. 165.21 Crore as per the ITR Return Statement, the State Commission has wrongly allowed only Rs. 42.39 Crore as the pass through. The Appellant has no discretion not to pay the income tax and has in fact has already paid the amount of Rs. 165.21 Crore. In terms of the clear direction of this Hon'ble Tribunal dated 01.02.2016 in Appeal No. 255 of 2013, the above said amount needs to be recognized in tariff computation.
- (c) There are also several other errors in the computation of income tax as details hereinafter in the grounds.

○ **OPERATION & MAINTENANCE EXPENSES FOR FY 2017-18**

- (d) The State Commission vide the Impugned Tariff Order, has erred in not considering the expenses relating to the salaries of IPGCL staff amounting to Rs. 10.98 Crore. The State Commission has erred in observing in this regard that in the True Up of IPGCL, the normative O&M expenses allowed to IPGCL was higher in comparison to the actual O&M Expenses incurred, partly due to reduced Employee Expenses burden to IPGCL.
- (e) The State Commission has not considered the Additional Security Expenses of Rs. 10.10 Crore, License Fee for Land of Rs. 4.03 Crore and Additional Property Tax of Rs. 2.08 Crore, even after each of which were justified in detail during Prudence Check Meetings by the Appellant before the State Commission.

○ **ASSET CAPITALIZATION FOR FY 2017-18**

- (f) The State Commission has erroneously permitted the capitalization of only Rs. 154.60 Crore as against Rs. 172.03 Crore (tentatively) sought by the Appellant on the basis that the difference is not reflected in the Audited Financial Statement of the Appellant. Subsequently, Appellant vide its letter dated 14.06.2019 has provided the details of Actual Assets Capitalization of Rs. 173.49 Crore for FY 2017-18 to State Commission. The Appellant has already put into service assets worth Rs. 173.49 Crore i.e. the assets commissioned and are giving services to beneficiaries.
- (g) The entire amount of Rs. 173.49 Crore was not being reflected in the Audited Financial Statement since, the booking of cost takes some time and certain cost even though incurred do not get booked due to issues such as contract closure, other adjustments to be paid, etc. This however, does not mean that the assets are not commissioned or given services to the beneficiaries.
- (h) There is also a major error made by the State Commission in computing the interest on the “so called excess capitalization” with a variation of more than 5% as compared to the ARR which is explained with detailed calculation hereinafter in the grounds.

○ **DEPRECIATION FOR FY 2017-18**

- (i) The State Commission has erred in allowing the Depreciation of Rs. 211.05 Crore as against the claim of the Appellant for Rs. 224.59 Crore for FY 2017-18. This is the consequential issue and if the capitalization is accepted at Rs. 173.49 Crore, the Depreciation could also have to go up accordingly. The other

tariff parameters would also have to be adjusted based on the capitalization decided.

○ **NON- TARIFF INCOME FOR FY 2017-18**

- (j) The State Commission in arriving at the Non- Tariff income of Rs. 574.33 Crore has made several errors in over estimating the amount and reducing artificially the revenue requirement of the Appellant for FY 2017-18. The major error has occurred in assuming that the Appellant received an amount of 60.36 Crore as *"Provision No Longer Written Back"*. This was only a book entry and not a single rupee out of the same was received by the Appellant in FY 2017-18.
- (k) Further, the State Commission has erroneously assumed that the Tariff from ISTS Transmission Lines of the Appellant, which are being determined by the Central Electricity Regulatory Commission (**CERC**), was recovered along with interest whereas no interest was granted by the CERC while passing the Tariff Orders dated 21.03.2016 and 29.06.2018. The other errors are explained in detail hereinafter in the grounds.

○ **RETURN ON CAPITAL EMPLOYED FOR FY 2017-18**

- (l) The State Commission has incorrectly computed the Return on Capital Employed (ROCE) since the Net GFA has been taken for arriving at the Equity and Debt component respectively instead of the Gross GFA. Further, if the Asset Capitalization is decided in favor of the Appellant as Rs. 173.49 Crore, there will also be a further increase in ROCE.

○ **WORKING CAPITAL REQUIREMENT FOR FY 2017-18**

- (m) Since the State Commission has significantly reduced the ARR of the Appellant for FY 2017-18 by truing up, the resultant Interest on Working Capital has also come down.



- **AGGREGATE REVENUE REQUIREMENT (ARR) FOR FY 2019-20**

- **OPERATION & MAINTENANCE EXPENSES FOR FY 2019-20**

- (n) The State Commission in determining the O&M Expenses for FY 2019-20 has excluded the Spare Bays, Bus-Coupler Bays, etc. from the Normative O&M Expenses, even though the Appellant is actually incurring expenditure on Spare Bays and Bus-Coupler Bays. Further, the State Commission has also not allowed O&M Expenses on account of salaries to IPGCL staff, Additional Security Expenses, License Fee for Land and Additional Property Tax.

- **RETURN ON CAPITAL EMPLOYED FOR FY 2019-20**

- (o) The State Commission in the Impugned Tariff Order while computing the ROCE has erred in considering Equity and Debt on Net GFA instead of Gross GFA.

- **INCOME TAX EXPENSES FOR FY 2019-20**

- (p) The State Commission has erred in allowing Income Tax by grossing up the rate of return on equity to 18.73% as against 21.41% submitted by the Appellant. The State Commission has also considered effective tax rate @25.25% as per the income tax return filed by the Appellant for Assessment Year 2018-19 against 34.608% as submitted by the Appellant.

- **NON-TARIFF INCOME FOR FY 2019-20**

- (q) The State Commission has wrongly estimated Non-Tariff Income of Rs. 47.34 Crore for FY 2019-20. It is submitted that the State Commission has considered incomes from sources such as Reactive Energy Charges, STOA Charges, and Sale of Scrap etc. towards Non-Tariff Income in the ARR of FY 2019-20.

**(ii) QUESTIONS OF LAW:**

The following questions of law arise in the present appeal:

- A. Whether the State Commission has followed the provisions of the Tariff Regulations, 2017 in determining the Revenue Requirements in the True up process and also in the period for Tariff Determination?
- B. Whether the State Commission has followed the decisions of the Hon'ble Tribunal on the Income Tax to be allowed to be recovered in the revenue requirements on actual basis?
- C. Whether the State Commission has justified in computing the Asset Capitalization, Working Capital Requirement and Depreciation in a prudent manner?
- D. Whether the State Commission is justified in not considering the Employee Expenses which have in fact been prudently incurred by the Appellant for its operations?
- E. Whether the State Commission has correctly computed the Return on Capital Employed and Non-Tariff Income in a prudent manner?

## 9. **GROUND'S RAISED WITH LEGAL PROVISIONS**

### **GENERAL GROUND'S:**

- A. The State Commission while conducting True Up for FY 2017-18 has artificially reduced the expenses of the Appellant and inflated the incomes to give an impression that the Appellant had in surplus in FY 2017-18 whereas the Appellant had sought a deficit of Rs. 74.73 Crore to be passed on in the subsequent years.
- B. The State Commission has simply rejected the valid claims of the Appellant for FY 2017-18 as well as overestimated the income to give a distorted projection of the tariff of the Appellant. As against, the approved ARR of Rs. 785.47 Crore which had been allowed to the Appellant vide Tariff Order dated 31.08.2017, the Appellant had sought an ARR of Rs. 860.20 Crore. However, the State Commission has allowed only Rs. 301.84 Crore as the ARR for FY 2017-18 and

held that the Appellant has surplus of Rs. 483.63 Crore. The approach of the State Commission is absolutely perverse and will bring the tariff of the Appellant to artificially low level on which no Transmission Licensee can be expected to function.

- C. The illogical approach of the State Commission become writ large from the very fact that it had allowed the ARR to the Appellant (Rs. 785.47 Crore) which was more than double of what it has found to be the actual ARR of the Appellant for FY 2017-18 (Rs. 301.84 Crore).
- D. The State Commission has completely lost sight of the principles relating to Truing-up laid down by this Hon'ble Tribunal namely, that Truing up is not a time to re-think the tariff philosophy determined in the original Order but only to see the difference between projection and actual figures and deciding on the admissibility of the claims of a Licensee.
- E. The State Commission has erred in passing the Impugned Order wherein many of the elements of revenue requirements determined and/or Trued up by the State Commission are contrary to the provisions of the Tariff Regulations as applicable. The State Commission has failed to appreciate that the Tariff Regulations are binding on all including the State Commission and there was no occasion for the State Commission to deviate from the same.

**1. GROUND ON THE ISSUES PERTAINING TO TRUING UP FOR FY 2017-18**

**I. TREATMENT OF INCOME TAX PAID BY APPELLANT FOR FY 2017-18**

- F. The State Commission with respect to the Income Tax paid by the Appellant for FY 2017-18 has held as under:

***“Commission Analysis:***

3.41 The Commission has observed that as per note 37 of audited statement of account for FY 2017-18, the income tax expense is indicated as Rs.211.89 Crore and the effective income tax rate applicable is 25.25% to the Petitioner. Further, during the prudence check, the Commission has sought details regarding the actual income tax paid by the Petitioner. In this regard, the Petitioner vide letter no. F/DTL/203/F.1/2019-20/Oprn.GM(C&RA) dated 21.06.2019 has submitted the Income Tax Return statement and it was observed that the actual income tax of Rs. 165.20 crores is paid by the Petitioner for FY 2017-18.

3.42 The Petitioner has also submitted to consider the Income tax of Rs. 93.69 crore payable on account of past power purchase dues received from NTPC. The Commission has observed that the Petitioner has not passed on the amount of Rs. 267.11 Crore to the beneficiaries/Discoms in the same year and has booked this amount as his income. If the Petitioner had passed this amount to the distribution licensee during FY 2017-18, there could not have been any impact of income tax. Therefore, the Commission has not allowed the income tax payable on account of past power purchase dues received from NTPC.

3.43 The Commission has considered base rate of return on equity as 14% for grossing up with the effective tax rate for FY 2017-18 for computing tax on Return on Equity. Accordingly, the Commission has allowed the Income Tax of Rs 42.32 Crore as the as per the Regulation 72 of the DERC (Terms and Conditions for determination of Tariff) Regulations 2017 and Regulation 21 of DERC (Business Plan) Regulations 2017. The details of Income tax approved for transmission business is as below:

Table 16: Commission Approved: Income tax for FY 2017-18				
S. No.	Income Tax	UOM	Approved	Remarks
A	Average Equity for Capitalisation (limited to 30%)	(Rs. Cr)	896.28	Table 14
B	Rate of return (re)	(%)	14%	As per Regulations
C	Return on equity	(Rs. Cr.)	125.48	A*B
D	Income Tax Rate	(%)	25.25%	As per Audited Accounts
E	Return on equity including income tax	(Rs. Crore)	167.87	A*B/(1-D)
F	Income Tax	(Rs. Crore)	42.39	E-C
G	Actual Tax Paid	(Rs. Crore)	165.21	Income Tax Return Statement
H	Tax allowed	(Rs. Crore)	42.39	Minimum (F,G)

G. The State Commission has erroneously ignored the Judgment dated 01.02.2016 passed by this Hon’ble Tribunal in Appeal No. 255 of 2013 which has directed the State Commission to allow the actual income tax paid by the Appellant after due- verification to be passed on in the tariff computation, which is demonstrated as under:

*“45.4 In our opinion, the Commission has to consider the income tax actually paid by the Appellant with due verification and the same has to be included in the Tariff computation and shall be passed on to the beneficiaries. Further, tax on any income other than through its licensed business shall not be passed through, and it shall be payable by the Transmission Licensee itself. Accordingly, the issue is decided in favour of the Appellant and the issue is remanded back to consider the Income Tax amount paid with due verification and prudence check”*

A copy of the above Judgement dated 01.02.2016 is attached and marked as **Annexure E**.

- H. The perversity in the approach of the State Commission is such that even after noting the above judgment in Para 3.36 of the Impugned Order, State Commission has not allowed the ‘actual’ income tax paid as a pass through but restricted the income tax to the extent of Return on Equity which has been specifically set aside in the above mentioned judgment.
- I. The major error conducted by the State Commission is disallowance of the income tax of Rs. 93.69 Crore which had to be paid by the Appellant on account of Past Power Purchase Dues received from NTPC. In FY 2017-18, the Appellant for the first time had received the amount of Rs. 267.11 Crore from NTPC which was a refund pertaining to period prior to the year 2007, at which time the Appellant was carrying on with the business of Bulk Purchase and Sale of Electricity.
- J. The reasoning given by the State Commission, is that this income tax liability would not have arisen if the Appellant would have passed on the above amount to the DISCOMs during FY 2017-18. The State Commission, has not explained as to how the Appellant would have passed on the amount of Rs. 267.11 Crore to the DISCOMs directly without showing the amount received as an “Income” in its Book of Accounts. This is an impossible accounting treatment and any money received by a Company is reflected in its Books of Accounts. In earlier ARR Orders pertaining to FY 2011-12 and FY 2012-13, when NTPC has raised the bills for additional arrears, the Appellants had not

passed on this bill directly to the DISCOMs. Instead, the Appellant has paid this bill and thereafter claimed this as an expense which was allowed by the State Commission in the Transmission Tariff Orders. Copies of the relevant extract of the Order dated 26.08.2011 and 13.07.2012 are attached and marked as **Annexure F**.

**K.** The State Commission has not cared to explain as to the how amounts are to be passed on by the Appellant to the DISCOMs directly. The Appellant provides transmission services to the DISCOMs and charges transmission tariff as determined by the State Commission. Any and all amounts which are to be either charged or refunded to the DISCOMs are only through the Transmission Tariff. It is not understood as to how, the Appellant could have independently passed on the amount of Rs. 267.11 Crore to the DISCOMs in the same year. In fact, even assuming but not admitting that the said amount had been passed on by the Appellant to the DISCOMs in FY 2017-18, the Appellant would still have had to pay the Income Tax of Rs. 93.69 Crore as the Amount of Rs. 267.11 Crore would have entered the Books of the Appellant, as an amount "received".

**L.** The approach of the State Commission is appalling since even after noting that the Actual Income Tax paid by the Appellant is Rs. 165.21 Crore as per the ITR Return Statement, State Commission has wrongly allowed Rs. 42.39 Crore as the pass through. The Appellant has no discretion not to pay the Income Tax and has in fact already paid the amount of Rs. 165.21 Crore. In terms of the clear direction of this Hon'ble Tribunal dated 01.02.2016 in Appeal No. 255 of 2013, the above said amount needs to be recognized in tariff computation. The Impugned Order is a gross violation of the judgment rendered by this Hon'ble Tribunal.

## **II. OPERATION & MAINTENANCE EXPENSES FOR FY 2017-18**

**M.** The State Commission through the Impugned Order has determined the O&M Expenses for FY 2017-18 as under:

*“3.10 The Commission observed that the Petitioner has considered Spare Bays & Bus-Section bays for computation of number of bays. The Commission in its Explanatory Memorandum on DERC (Business Plan) Regulations, 2017 had indicated that No. of Bays to be computed excluding Spare Bays & Bus-Section bays. Accordingly, the Commission has determined the O&M expenses based on the network addition during the year as per the norms approved in the DERC (Business Plan) Regulations, 2017 and explanatory Memorandum.*

*3.11 The Petitioner has claimed Rs.39.06 Crore on account of impact of 7th pay revision. The Commission had sought the detail of payment made on account of 7th pay revision during the prudence check. The Petitioner has submitted the details vide letter NO.F/DTL/203/F.1/2019-20/Oprn.GM(C&RA)/57 dated 21.06.2019. Therefore, the Commission has considered additional O&M Expenses of Rs. 39.06 Crore on account of 7th pay revision.*

*3.12 The Petitioner has also submitted additional O&M expenditure of Rs.10.98 crore on account of IPGCL staff. The Commission has already decided the matter in previous Tariff Order dated 28.03.2018. The relevant extract is produced below:*

*“3.20 The Petitioner has claimed Rs.8.52 Cr. in respect of IPGCL staff diverted to them. It is observed from the true up of IPGCL that normative O&M expenses allowed to IPGCL is higher in comparison to the actual O&M expenses incurred by IPGCL partly due to reduced employee expenses burden to IPGCL. Therefore, the Commission has not considered additional claim of the Petitioner on account of Salary of IPGCL staff deployed with Petitioner as the same was part of employee expenses of IPGCL of the base year.”*

*3.13 Therefore, additional O&M expenses on account of IPGCL Staff for 2017-18 have not been considered.*

*3.14 The Petitioner has claimed Rs. 4.30 Crore for FY 2017-18 on account of annual premium for land at Dev- Nagar (Karol Bagh), R.K. Puram and Dwarka to GoNCTD. The Commission observed from Note 28 of the Audited Accounts of FY 2017-18 that DTL has booked expense of Rs. 4.3 Crore as Licence fee for Land. Further, the Petitioner has claimed Rs. 1.63 Crore for FY 2016-17 on account of Property Tax. The Petitioner has also claimed security expenses of Rs.10.10 Crore for FY 2017-18*

*3.15 The norms specified by the Commission for O&M expenses contain both factors of escalation on year to year basis and increase in O&M expenses based on addition in the network capacity.*

3.16 While fixing the norms for O&M expenses, the Commission has considered actual O&M expenses of the Petitioner for the period from FY 2011-12 to FY 2015-16 which already includes expenses on account of security expenses, property tax & license fee for land. Therefore, the additional expenses claimed by the Petitioner are already covered in the normative O&M expenses. Accordingly, the Commission approves the O&M Expenses for FY 2017-18 based on the norms specified in the DERC (Business Plan) Regulations, 2017 as follows:-

Table 4: Commission Approved: O&M Expenses for FY 2017-18

Sl. No.	Voltage	Rs. Lakh/bay	Rs. Lakh/ckm	No. of Bays	Ckt.km	Bay (Rs. Cr.)	Ckm (Rs. Cr.)	Total (Rs. Cr.)
		A	B	C	D	$E=A*C/100$	$F=B*D/100$	$G=E+F$
1	400kV	45.23	8.13	62	249.19	28.04	20.26	48.30
2	220kV & below	15.30	2.03	1198	823.64	183.29	16.72	200.01
3	Total O&M expenses			1260	1072.83	211.34	36.98	248.32
4	Impact of Interim Relief on Account of 7th Pay Revision							39.06
6	Total O&M expenses allowed for True up of 2017-18							287.38

- N. The State Commission vide the Impugned Tariff Order, has erred in not considering the expenses relating to the salaries of IPGCL staff amounting to Rs. 10.98 Crore. The State Commission has erred in observing in this regard that in the True Up of IPGCL, the normative O&M expenses allowed to IPGCL was higher in comparison to the actual O&M Expenses incurred, partly due to reduced Employee Expenses burden to IPGCL.
- O. The State Commission failed to appreciate that IPGCL and the Appellant being two separate entities, the Truing up of the Appellant’s financials should not have been affected in any way whatsoever by the True up done in case of IPGCL. Further, the Appellant has already paid the said expenses to IPGCL staff as and when claimed by IPGCL. Thus, same should be considered in the Employee Expenses of the Appellant.
- P. Further, it has been observed that State Commission has allowed normative O&M Expenses on the average basis of Capacity/Transmission Network details for FY 2017-18 and FY 2019-20, except for the “220kV & Below” bays for FY 2017-18, for which the State Commission has considered the opening values instead of average values.



- Q.** The State Commission has also disallowed the Additional Security Expenses of Rs. 10.10 Crore, License Fee for Land of Rs. 4.03 Crore and Additional Property Tax of Rs. 2.08 Crore, even after each of which were justified in detail during Prudence Check Meetings by the Appellant before the State Commission.
- R.** The State Commission has erroneously held that the O&M Expenses fixed as norms already include Security Expenses, License Fees for Land and Additional Property Tax. It is stated that the escalation in the normative O&M Expense would not cover the above expenses.
- S.** The Appellant in its Tariff Petition has claimed Rs. 10.10 Crore which is difference of the actual expenditure incurred and the escalated value for FY 2017-18 which was allowed in base calculation. The same was claimed as the amount is huge in comparison to what has been considered in base calculation. The Appellant have been striving it's all efforts in order to ensure the safety of the personals as well as the grids. The Appellant had deployed security personnel through Private Security Agencies (PSA) since its formation and the experience has not been very satisfactory and encouraging on account of various labour law violations, non-compliance to the terms and conditions of the contract, malpractices & litigations; and had failed to improve despite several reminders, advisories, show cause notices, etc. This has forced Appellant to invoke the clause of termination of the contract before the expiry of its tenure. In line with Govt. of India Directives, Appellant had deployed security personnel through DGR sponsored agency. The Director General of Resettlement, Govt. of India issues notices of minimum wages for the workmen deployed through its sponsored agencies. The minimum wages decided by DGR are higher than the minimum wages determined for Delhi Government. Therefore, the financial expenses had increased as well as number of personnel increased due to deployment of security in various offices/sub stations/installations of Appellant as well as due to commissioning of new Sub-Stations.

- T.** Further, as per directions of Govt. of NCTD, the Appellant has been paying License Fee for use of land to Govt. of NCTD. Earlier, such cost was added in the Gross Block of the Asset, but after the implementation of the IND-AS, Accounting Policy is modified whereby such cost is now charged as Expenses. In FY 2017-18, Appellant has paid Rs. 4.30 Crore of Annual Premium for Land at Dev Nagar (Karol Bagh), R. K. Puram and Dwarka, to GNCTD and the same has been claimed in the petition. In respect to License Fee for Land, it is submitted that the said expense was not there in FY 2015-16, on the basis of which the State Commission has finalized the normative O&M parameters. In the present Order, the State Commission has deviated from the approach taken by it in its Tariff Order dated 28.03.2018 in which the License Fee for Land had been allowed as under -

*"3.25 The Petitioner has claimed Rs. 1.34 Crore for FY 2016-17 on account of Licence Fee for land at Molarband to GoNCTD. The Commission observes from Note 27 of the Audited Accounts of FY 2016-17 that DTL has booked expense of Rs. 1.34 Crore as Licence fee for Land. This expense is un-controllable and can be equated as Force Majeure, therefore, the Commission has considered this expense."*

- U.** Further, an amount of Rs. 2.08 Crore has been considered in the Petition on the basis of actual amount of Additional Property Tax paid by Appellant based on the demand raised and enforced by the respective Municipal Corporations which has not been allowed by the State Commission. It cannot be that the escalation provided in the O & M norms would cover all such expenses.

### **III. ASSET CAPITALIZATION FOR FY 2017-18**

- V.** With respect to the Asset Capitalization of the Appellant for the FY 2017-18, the State Commission as held as under:

#### **"COMMISSION'S ANALYSIS**

*3.18 The Commission observed that the amount of capitalization indicated in Audited financial statement for FY 2017-18 is Rs. 154.60 Crore against Rs 172.03 Crore as claimed by the Petitioner.*

Accordingly, the Commission has now considered the capitalization provisionally for FY 2017-18, based on the Audited financial statement of the petitioner subject to physical verification of assets capitalized during FY 2017-18, as follows:-

**Table 6: Commission Approved: Capitalization for FY 2017-18 (Rs. Crore)**

Particular	FY 2017-18	Remarks
Additional Capitalization	154.60	As per Audited financial statement

3.19 The Regulations 62 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 provides as follows:

*“62 In case of the existing projects/scheme, the Generating Entity or Transmission Licensee, as the case may be, shall be allowed tariff by the Commission based on the admitted capital cost as on 1st April of the relevant year and projected additional capital expenditure for the respective years of the Control Period in accordance with the Regulation: Provided that:*

*(i) The Generating Entity or Transmission Licensee, as the case may be, shall continue to bill the beneficiaries at the existing tariff approved by the Commission for the period starting from 1st April of new Control Period till approval of tariff by the Commission for new Control Period in accordance with these Regulations;*

*(ii) where the capital cost considered in tariff by the Commission on the basis of projected capital cost as on COD or the projected additional capital expenditure submitted by the Generating Entity or Transmission Licensee, as the case may be, exceeds the actual capital cost incurred on year to year basis by more than 5%, the Generating Entity or Transmission Licensee, as the case may be, shall refund to the beneficiaries/consumers, the excess tariff recovered corresponding to excess capital cost, as approved by the Commission along with interest at 1.20 times of the bank rate as prevalent on April 1 of respective year;*

*(iii) The Generating Entity or Transmission Licensee, as the case may be, shall file a true up Petition to the Commission, along with all supporting documents for consideration of any upward revision in the tariff, where the capital cost considered in tariff by the Commission on the basis of projected capital cost as on COD or the projected additional capital expenditure falls short of the actual capital cost incurred on year to year basis by more than 5%. The Generating Entity or Transmission Licensee, as the case may be, shall be entitled to recover from the beneficiaries for the shortfall in tariff corresponding to addition in capital cost, as approved by the Commission along with interest at 0.80 times of bank rate as prevalent on 1st April of respective year.”*

3.20 The Commission in Tariff Order dated 31.08.2017 for FY 2017-18 has approved capitalization of Rs.204 Crore. The

*Commission observed that the projected capitalization approved by the Commission in Tariff Order dated 31.08.2017 exceeds the provisional capitalization approved above by more than 5%. Accordingly, the Commission in terms of Regulation 62 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 has considered refund to the beneficiaries/consumers, the excess tariff recovered corresponding to excess capital cost along with interest at 1.20 times of the bank rate of as prevalent on 1st April 2017. The carrying cost on excess tariff has been computed as under:*

**Table 7: Commission Approved: Refund on account of variation in Capitalization (Rs Crore)**

S. No	Particulars	UOM	Amount	Remarks
A	Capitalization approved in Tariff Order for FY 2017-18	(Rs. Cr)	204.00	Para 4.18 of T.O dated 31.08.2017
B	Capitalization approved by the Commission	(Rs. Cr)	154.60	Table 6
C	Projected and actual capital cost difference	(Rs. Cr)	49.40	A-B
D	Amount calculated on 5% of Capitalization approved in TO for FY 2017-18	(Rs. Cr)	7.73	$B \times 5/100$
E	Excess amount	(Rs. Cr)	41.67	C-D
F	WACC (as projected in TO dated Aug 2017)	%	12.08%	Table no. 59 of T.O dated 31.08.2017
G	Excess RoCE	(Rs. Cr)	2.52	$(E/2) \times F$
H	Rate of Depreciation (as projected in TO dated Aug 2017)	%	5.20	Table No. 56 of T.O dated 31.08.2017
I	Depreciation	(Rs. Cr)	1.08	$(E/2) \times H$
J	Excess Tariff	(Rs. Cr)	3.60	G+I
K	Bank rate as prevalent as on 1st April 2017	%	8.00	
L	1.20 time of bank rate	%	9.60	$K \times 1.2$
M	Effective recovery of interest	%	4.80	L/2
N	Carrying Cost	(Rs. Cr)	0.17	$J \times M$

- W.** The State Commission has erroneously permitted the capitalization of Rs. 154.60 Crore as against Rs. 173.49 Crore sought by the Appellant on the basis that the difference is not reflected in the Audited Financial Statement of the Appellant. The Appellant has already put into service assets worth Rs. 173.49 Crore i.e. the assets commissioned and giving services to beneficiaries. A list of Assets capitalized during FY 2017-18 is attached as **Annexure G**.
- X.** The State Commission has failed to appreciate that the entire amount of Rs. 173.49 Crore is not being reflected in the Audited Financial Statement since the booking of cost takes some time and certain cost even though incurred do not get booked due to issues such as contract closure, other adjustments to be paid etc. This however, does not mean that the assets are not commissioned or giving services to the beneficiaries.

- Y.** In the circumstances mentioned above, the full capitalization of Rs. 173.49 Crore ought to have been allowed with necessary changes in all tariff parameters.
- Z.** The State Commission has also committed an error in the computation of refund on account of carrying cost on the excess tariff allowed by earlier vis-à-vis the Capitalization of Rs. 154.60 Crore. The State Commission has thus overestimated the carrying cost to be paid by the Appellant to the beneficiary. The following table clearly demonstrates the error as under:

<b>Appellant's Calculation (In Crore)</b>		<b>State Commission's Calculation (In Crore)</b>	
Capitalization approved in Tariff Order for FY 2017-018	204.00	Capitalization approved in Tariff Order for FY 2017-018	204.00
Capitalization approved by Commission	154.60	Capitalization approved by Commission	154.60
Projected and Actual Capital Cost difference	49.40	Projected and Actual Capital Cost difference	49.40
Amount calculated on 5% of Capitalization approved in TO for FY 2017-18	10.20	Amount calculated on 5% of Capitalization approved in TO for FY 2017-18	7.73
Excess Amount WACC (as projected in TO dated Aug 2017)	39.20	Excess Amount WACC (as projected in TO dated Aug 2017)	41.67
Excess ROCE Rate of Depreciation (as projected in TO dated Aug 2017)	12.08%	Excess ROCE Rate of Depreciation (as projected in TO dated Aug 2017)	12.08%
Excess Tariff	2.37	Excess Tariff	2.52
Bank Rate as prevalent as on 1st April 2017	5.20%	Bank Rate as prevalent as on 1st April 2017	5.20%
1.20 time of bank rate	1.02	1.20 time of bank rate	1.08
	3.39		3.60
	8.00%		8.00%
	9.60%		9.60%

Effective recovery of interest	4.80%	Effective recovery of interest	4.80%
Carrying Cost	0.16	Carrying Cost	0.17

AA. Further, if the Asset Capitalization is decided in favor of the Appellant as Rs. 173.49 Crore, there will also be a further reduction in the carrying cost on the excess tariff to be paid by the Appellant to the beneficiary.

IV. DEPRECIATION FOR FY 2017-18

BB. The State Commission vide the Impugned Order for Depreciation of the Appellant’s plant for FY 2017-18 has held as under:

“COMMISSION’S ANALYSIS

3.23 The Commission has considered the approved GFA upto FY 2016-17 in Tariff Order dated 28.03.2018 as the opening GFA for FY 2017-18 and capital addition for FY 2017-18 has been considered as approved by the Commission above. The Commission has considered the provisional depreciation at 4.66% as per the rates prescribed for individual class of asset as prescribed under appendix -1 of the DERC (Terms and Conditions for determination of Tariff) Regulations, 2017. The Commission has observed that the Petitioner has availed the Government grant of Rs. 204 crores till 31.03.2017 and Rs.1.22 crore in FY207-18 and the same has been taken into account for computing depreciation. The depreciation as approved by the Commission is computed as below:

Table 9: Commission Approved: Depreciation for FY 2017-18				
S. No	Particulars	UOM	Approved	Remarks
A	Opening GFA	Rs.Cr	4660.69	Table 19 of T.O dated 28.03.2018
B	Addition	Rs.Cr	154.60	Table 7
C	Assets Retired during the Year	Rs.Cr	8.94	

S. No	Particulars	UOM	Approved	Remarks
D	Closing GFA	Rs.Cr	4815.29	A+B-C
E	Average GFA	Rs.Cr	4737.99	(A+D)/2
F	Opening Grant	Rs.Cr	204.00	Books of Accounts
G	Addition Grant	Rs.Cr	1.22	Books of Accounts
H	Closing Grant	Rs.Cr	205.22	F+G
I	Average Grant	Rs.Cr	204.61	(F+H)/2
J	Depreciation Rate	%	4.66%	Para 3.18
K	Total Depreciation	Rs.Cr	211.05	(E-I)*J

CC. The State Commission has erred in allowing the Depreciation of Rs. 211.05 Crore as against the claim of the Appellant for Rs. 224.59 Crore for FY 2017-18. The above is the consequential issue if the

Capitalization is accepted at Rs. 173.49 Crore, the Depreciation could also have to go up accordingly.

V. NON- TARIFF INCOME FOR FY 2017-18

DD. The State Commission has held as under on the aspect of Non- Tariff Income -

“COMMISSION’S ANALYSIS

3.50 As per DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, "Non-Tariff Income “means income incidental to the licensed business other than the income from Tariff.

3.51 The Petitioner has indicated tariff of Rs. 59.52 Crore from ISTS lines owned by DTL towards Non Tariff Income from FY 2011-12 to FY 2017-18 as approved by the Central Electricity Regulatory Commission vide Order dated 21.03.2016 and 29.06.2018. It is observed that this amount of Rs. 59.52 Crore includes Rs. 3.12 Crore of the tariff for FY 2018-19. Accordingly, the Commission has reduced Rs. 3.12 Crore from Rs. 59.52 Crore to arrive for tariff from Fy 2011-12 to FY 2017-18. Further, it is observed that the Petitioner has not included the amount of carrying cost as applicable for recovery of the tariff. It is felt that the Petitioner should have collected the amount including the carrying cost. Therefore, the Commission has calculated the tariff of Rs. 91.78 Crore from ISTS lines owned by DTL towards Non Tariff Income from FY 2011-12 to FY 2017-18. The details are as follows:

Table 20: Commission Approved: Tariff of ISTS lines till FY 2017-18

S.No	Particulars	UOM	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
A	Opening gap	Rs. Cr	0.00	12.32	30.05	49.19	59.38	69.83	80.68
B	Addition during year	Rs. Cr	11.65	15.43	14.94	4.28	3.83	3.14	3.13
C	Closing Balance	Rs. Cr	11.65	27.75	44.99	53.47	63.21	72.97	83.81
D	Carrying cost rate	%	11.50	11.50	11.20	11.50	10.80	10.80	9.69
E	Carrying cost	Rs. Cr	0.67	2.30	4.20	5.90	6.62	7.71	7.97
F	Closing gap	Rs. Cr	12.32	30.05	49.19	59.38	69.83	80.68	91.78

3.52 The Commission observed that as per Audited accounts, the Petitioner has received interest on collection of the Late Payment surcharge. The Commission has considered the net interest on LPSC as Non Tariff Income and the details are as below:

Table 21: Commission Approved: Interest on LPSC

S. No	LPSC	Amount	Remarks
A.	LPSC collected	18.89	As per Audited Accounts
B.	LPSC Rate	18%	As per Regulations
C.	Principal amount	104.94	A/B
D.	Carrying cost	9.69%	Tariff Order dated 31.08.2017
E.	Interest allowed	10.17	C*D
F.	Net Interest on LPSC	8.72	A-F

3.53 The Commission has observed that the Petitioner has received Rs. 267.11 Crore on account of past power purchase dues received from NTPC and the same has been considered as part of Non Tariff Income.

3.54 The Commission observed from Note 23 and 24 of the audited accounts for FY 2017- 18 that the Petitioner has not considered STU Charges for Open Access, Reactive Energy Charges, provisions no longer written back, licensee fee recovery, net interest on LPSC and adjustment due to income from past power purchase in its Petition. However, as per Tariff Regulations, all incomes being incidental to electricity business and derived by the Licensee from sources, including miscellaneous receipts shall constitute Non-Tariff Income of the Licensee. Therefore, the Commission has considered following revenue heads indicated in the Note 23 & 24 of the audited financial statement as part of Non Tariff Income for FY 2017-18. Accordingly the approved Non Tariff Income is computed as follows:

Table 22: Commission Approved: Non Tariff Income for FY 2017-18 (Rs. Crore)

S. No.	Parameters	2017-18	Remarks
A.	Income from sale of scrap	1.34	As per books of accounts
B.	External Project – Revenue	0.53	As per books of accounts
C.	Tariff from ISTS Lines	91.78	Table 20
D.	STOA Charges	111.73	As per books of accounts
E.	STU charges open access	21.53	As per books of accounts
F.	Reactive energy Charges	7.48	As per books of accounts
G.	Provision no longer written back	60.36	As per books of accounts
H.	License Fee recovery	0.20	As per books of accounts
I.	Net interest on LPSC	8.72	As per books of accounts
J.	Adjustment due to income from past power purchase	267.11	As per books of accounts
K.	Miscellaneous Receipts	3.54	As per books of accounts
L.	Total	574.33	Sum (A:L)

EE. The State Commission in arriving at the Non- Tariff income of Rs. 574.33 Crore has made several errors in over estimating the amount and reducing artificially the revenue requirement of the Appellant for FY 2017-18. The major error has occurred in assuming that the Appellant received as amount of 60.36 Crore as “provision no longer written back”. This was only a book entry and not a single rupee out of the same was received by the Appellant in FY 2017-18. The State



Commission has ignored the detailed justification which was given by the Appellant in the tariff proceeding which is as under

- I. In FY 2004-05, an amount of Rs. 60.36 Crore was released by the NTPC on the basis of Indemnity Bond filed by NTPC as a tariff matter was challenged by the NTPC before Delhi High Court. Since Appellant had issued an Indemnity Bond/Deed of Undertaking in favour of NTPC, provision for liability was created equivalent to the same amount under the head "Disputed Utilities Account".
- II. The above amount of Rs. 60.36 Crore was received by the Appellant in FY 2004-05 itself and taken into subsequent tariff calculations. The Appellant however had created a contingency in case the above amount was to be refunded by the Appellant to NTPC. In FY 2017-18, no amount was received by the Appellant. Since the Delhi High Court had decided the final matter in favor of the Appellant, the contingency became irrelevant.
- III. Since the outcome of the case came in the favour of Appellant and with non-relevance of Indemnity Bond and such provision was not required, a book entry was made in FY 2017-18. Thus, a mere reversal of book entry with no cash inflow would not mean that the Appellant has received an amount of Rs. 60.36 Crore in FY 2017-18.
- IV. As per State Commission's (Terms and Conditions for Determination of Tariff) Regulations, 2017, *"Non-Tariff Income means income incidental to the licensed business other than the income from Tariff."* As such no income is earned in the present case, it cannot be considered as Non-Tariff Income (NTI).
- V. Since the effect of Rs. 60.36 Crore was already factored in submission of Petition for FY 2004-05, considering Rs. 60.36

Crore in FY 2017-18 as an income is nothing but reversal of book entry on account of provision written back would have double effect and to that extent income/tariff of the company will be wrongly reduced.

- FF.** In fact, the State Commission has wrongly reflected in Table 22 of the Impugned Order (as above) that the amount of Rs. 60.36 Crore was as per the books of account even though no income was earned by the Appellant and there was no cash in flow to the extent of Rs. 60.36 Crore.
- GG.** The State Commission has also erred in considering an amount of Rs. 7.48 Crore (Reactive Energy Charges) as a Non-Tariff Income. The Appellant is collecting this charge and paying the same to the NR Pool Account. Thus, Appellant is only the coordinator to recover the Reactive Charges from the Distribution Company and pay the same to NRLDC. There can be no question therefore of assuming the Reactive Charges as Non-Tariff Income since the Appellant is not allowed to retain this amount.
- HH.** It is submitted, in the alternative, that if at all the Reactive Energy Charges are to be considered as Non-Tariff Income, the Appellant ought to be allowed as expenses any amount which is demanded by NRLDC to be paid into the NR pool on account reactive charges.
- II.** It is further submitted that the Appellant has not received any amount on account of LPSC during FY 2017-18, accounting of Rs. 18.89 Crore. However, the TDS gets deducted by DISCOMs i.e. BYPL and BRPL as per their calculation of LPSC on delayed payment of wheeling charges bills raised by the Appellant. The DISCOMs even though despite the deduction of TDS, do not pay the LPSC to the Appellant. Therefore, the same should not be considered as Non-Tariff Income of the Appellant.
- JJ.** The State Commission has also erred in assuming the Tariff from ISTS lines received by the Appellant along with Carrying Cost as a Non-Tariff Income. Two of the lines of the Appellant i.e. 400 kV D/C

Bamnauli-Ballabgarh and 400 kV D/C Mandaula-Bawana Transmission Lines have been declared as an ISTS Transmission Lines by the Central Electricity Regulatory Commission / CERC and the tariff of these lines was determined for the period from FY 2011-2012 to FY 2017-18 vide the Tariff Order dated 21.03.2016 and 29.06.2018 passed by the CERC. However, the CERC has not allowed any carrying cost on the tariff determined. This fact was specifically clarified by the Appellant to the State Commission.

**KK.** The State Commission by giving a vague reasoning that the Appellant ought to have also collected the carrying cost has assumed the Income of the Appellant to be 91.78 Crore as against Rs. 56.39 Crore (not Rs. 59.32 Crore provided in the Impugned Order as Revised details of Rs. 56.39 Crore was later submitted to the State Commission vide letter dated 21.06.2019 during Prudence Check). When the Appellant has not received Rs. 56.39 Crore through ISTS Tariff during those years and started receiving the ISTS Tariff only from 2017 onwards, it is not understood as to how the State Commission can presume a further income of Rs. 35 Crore (approx) as carrying cost which was never received by the Appellant.

**LL.** The State Commission cannot sit in Appeal over the Orders passed by Central Commission and cannot assume that the Appellant should have received carrying cost when factually no carrying cost has been allowed by the Central Commission.

#### **ISSUES PERTAINING TO ARR FOR FY 2019-20**

#### **VI. OPERATION AND MAINTANANCE EXPENSES FOR FY 2019-20**

**MM.** The State Commission in determining the O&M Expenses for FY 2019-20 excluding the O&M on the Spare Bays, Bus-Coupler Bays, etc. from the normative O&M Expenses, even though the Appellant is actually incurring expenditure on Spare Bays and Bus-Coupler Bays. The State Commission failed to appreciate that the expenditure on these Spare Bays and Bus-Coupler Bays have to serviced by the Appellant even if

they are not being used. The expenditure already having been incurred, there is no justification or rationale in not allowing the expenses in the ARR.

- NN.** Further, the State Commission has also not allowed O&M Expenses on account of salaries to IPGCL staff, additional security expenses and license fee for land.
- OO.** The State Commission has erred in rejecting a provisional amount of Rs. 11.65 Crore for the FY 2019-20 on account of salary in respect of staff deputed from Indraprastha Power Generation Company Ltd. (IPGCL), who actually worked for the Appellant. The State Commission has not given any reasons for rejection of the amount of Rs. 11.65 Crore, apart from what it has stated while disallowing the claim in true up for FY 2017-18.
- PP.** As stated above, it is submitted that IPGCL and the Appellant being two separate entities, the State Commission has grossly erred in not allowing the salaries of IPGCL staff employed in the Appellant company for the reason that the said amounts have been allowed to IPGCL in its normative O&M Expenses. It is stated that the State Commission has not questioned the prudence in employment of the staff, but has still not allowed the expenditure in this regard when the Appellant has actually incurred the expense.
- QQ.** It is submitted that the Truing up of the Appellants financials should not be affected in any way whatsoever by the True up done in case IPGCL.
- RR.** Further, the State Commission has erred in not allowing expenses on account of Additional Security Expense of Rs. 11.27 Crore, License Fee for Land of Rs. 2.19 Crore and Additional Property Tax of Rs. 3.16 Crore. Further, the State Commission has not given any reason for rejection of the same. There is no justification or rationale in disallowing the said expenses, when they have actually been incurred

by the Appellant and that too without any finding of imprudence on its part.

## **VII. RETURN ON CAPITAL EMPLOYED FOR FY 2019-20**

- SS.** The State Commission in the Impugned Tariff Order while computing the ROCE has erred in considering Equity and Debt on Net GFA instead of Gross GFA.
- TT.** Without prejudice to the above submission, it is stated that even on an assumption that the values considered are correct, the State Commission has made an arithmetic mistake in computing the value of ROCE. The ROCE should come out to Rs. 433.40 Crore [12.21% (WACC) x 3549.56 (RRB Average)] instead of Rs. 433.35 Crore (as approved by the State Commission).
- UU.** Therefore, in view of the above it is submitted that the State Commission has grossly erred in computation of ROCE for FY 2019-21.

## **VIII. INCOME TAX EXPENSES FOR FY 2019-20**

- VV.** The State Commission has erred in allowing Income Tax by grossing up the Rate of Return on Equity to 18.73% against 21.41% as submitted by the Appellant. The State Commission has also considered effective tax rate @25.25% as per the income tax return filed by the Appellant for Assessment Year 2017-18 against 34.608% as submitted by the Appellant.
- WW.** Further, the computation of Equity component and Debt component on the Net GFA instead of Gross GFA has led to the reduction in the Equity component and thereby reduction in Return on Equity component and the Income Tax on Return on Equity component.

## **IX. NON - TARIFF INCOME FOR FY 2019-20**

- XX.** The State Commission has projected Non-Tariff Income of Rs. 47.34 Crore for FY 2019-20 as per the True Up for FY 2017-18 whereas the

Non-Tariff Income of the Appellant was projected as Rs. 9.38 Crore only. It is submitted that the State Commission has therefore considered incomes from sources such as Reactive Energy Charges, STOA Charges, and Sale of Scrap etc. towards Non-Tariff Income in the ARR of FY 2019-20. It is submitted that the State Commission has failed to appreciate that these are one-time payments, and cannot be considered for projecting ARR for FY 2019-20.

**YY.** The State Commission has failed to appreciate that by way of such projections, the Appellant's Revenue Requirements are being artificially reduced as the said income is not likely to be earned by the Appellant on a yearly basis.

**ZZ.** The Appellant crave leave to add to the grounds mentioned above and submits that the contentions are in the alternate and without prejudice to one another.

**10. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.**

The Appellant has not filed any other suit, appeal or has initiated any other legal proceeding against the Impugned Order dated 31.07.2019 passed by the State Commission.

**11. GROUNDS FOR SUCH RELIEF (S) AND THE LEGAL PROVISIONS, IF ANY, RELIED UPON**

As stated in Para 9 above.

**12. DETAILS OF INTERIM APPLICATION, IF ANY, PREFERRED ALONG WITH APPEAL.**

- i. Application seeking condonation of delay in filing the appeal.
- ii. Application seeking exemption from filing and clear Copies of annexures.

**13. DETAILS OF APPEAL/S, IF ANY PREFERRED BEFORE THIS APPELLATE TRIUBNAL AGAINST THE SAME IMPUGNED ORDER/DIRECTION, BY RESPONDENTS WITH NUMBERS, DATES AND INTERIM ORDER, IF ANY PASSED IN THAT APPEAL.**

NO

**14. DETAILS OF INDEX**

An index containing the details of the documents to be relied upon is enclosed.

**15. PARTICULARS OF FEE PAYABLE AND DETAILS OF BANK DRAFT IN FAVOUR OF PAY AND ACCOUNTS OFFICER, MINISTRY OF POWER, NEW DELHI.**

In respect of the fee of appeal.

Name of the Bank. 011221 payable at Delhi. DD No. 011221 Date 23.10.2019, Rs. 105000/-

**16. LIST OF ENCLOSURES.**

- Annexure A:** Copy of the Impugned Order dated 31.07.2019 passed by the State Commission.
- Annexure B:** Copy of the petition being Petition No. 13/2019
- Annexure C:** Additional submissions, letters, affidavits and clarifications submitted by the Appellant.
- Annexure D:** Copy of the DERC Tariff Regulations, 2017
- Annexure E:** Judgment dated 01.02.2016 passed by the Appellate Tribunal in Appeal No. 255 of 2013
- Annexure F:** Copies of the Relevant extract of the Order dated 26.08.2011 and 13.07.2012 passed by the State Commission
- Annexure G:** A list of Assets capitalized during FY 2017-18

**17. WHETHER THE ORDER APPEALED AS COMMUNICATED IN ORIGINAL IS FILED.**

Yes

**18. WHETHER THE APPELLANT IS READY TO FILE WRITTEN SUBMISSIONS/ARGUMENTS BEFORE THE FIRST HEARING AFTER SERVING THE COPY OF THE SAME ON RESPONDENTS.**

Yes

**19. WHETHER THE COPY OR MEMORANDUM OF APPEAL WITH ALL ENCLOSURES HAS BEEN FORWARDED TO ALL RESPONDENTS AND ALL INTERESTED PARTIES, IF SO, ENCLOSE POSTAL RECEIPT/COURIER RECEIPT IN ADDITION TO PAYMENT OF PRESCRIBED PROCESS FEE.**

No

32

**20. ANY OTHER RELEVANT OR MATERIAL PARTICULARS/DETAILS WHICH THE APPELLANT DEEMS NECESSARY TO SET OUT:**

N.D.

**21. RELIEFS SOUGHT.**

In view of the facts mentioned in Para 7 above, points in dispute and questions of law set out in Para 8 and the grounds of appeal stated in Para 9, the Appellant prays for the following reliefs:

- (a) Allow the Appeal and set aside the Tariff Order dated 31.07.2019 passed by the State Commission<sup>in P. No. 13 of 2019.</sup> to the extent challenged in the present Appeal.
- (b) Pass such other Order(s) and this Hon'ble Tribunal may deem just and proper.

Dated at New Delhi this 6<sup>th</sup> day of November, 2019



**COUNSEL FOR APPELLANT**



**APPELLANT**

M. A. KHAN  
General Manger (C & RA)  
DELHI TRANSCO LIMITED  
(Govt. of NCT of Delhi Undertaking)  
33KV Grid S/Stn. Building  
I.P. Estate, New Delhi-110002

**DECLARATION BY APPELLANT**

The Appellant above named hereby solemnly declare(s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original.

Verified at New Delhi on this 6<sup>th</sup> day of November 2019



**COUNSEL FOR APPELLANT**



**APPELLANT**

M. A. KHAN  
General Manger (C & RA)  
DELHI TRANSCO LIMITED  
(Govt. of NCT of Delhi Undertaking)  
33KV Grid S/Stn. Building  
I.P. Estate, New Delhi-110002



**VERIFICATION**

I, M. A. Khan, aged about 57 years, working as General Manager (Commercial and Regulatory Affairs) in Delhi Transco Limited, do hereby verify that the contents of Paras 1 to 7 and 10 to 20 are based on the records of the appellant maintained in the ordinary course of business and believed by me to be true and Paras 8, 9 and 21 are believed to be true on legal advice and that I have not suppressed any material facts.

Date: 06.11.2019

Place: New Delhi



Appellant/Authorized Officer

M. A. KHAN  
General Manger (C & RA)  
DELHI TRANSCO LIMITED  
(Govt. of NCT of Delhi Undertaking)  
33KV Grid S/Stn. Building  
I.P. Estate, New Delhi-110002

34

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI**  
**APPELLATE JURISDICTION**  
**APPEAL NO ..... OF 2019**

**IN THE MATTER OF:**

Delhi Transco Limited

.... Appellant

**VERSUS**

Delhi Electricity Regulatory Commission & Others

...Respondents

**AFFIDAVIT**

I, M. A. Khan, aged about 57 years, working as General Manager (Commercial and Regulatory Affairs) in Delhi Transco Limited, do hereby solemnly affirm and state as under:

1. I say that I am General Manager (Commercial and Regulatory Affairs) in the Delhi Transco Limited and am competent to swear the present affidavit.
2. I say that I have read the contents of the above appeal filed by the appellant against the Order dated 31.07.2019 passed by the State Commission and I have understood the contents of the same.
3. I say that the contents of the above appeal filed by the Appellant are based on the information available with the appellant in the normal course of business and believed by me to be true.
4. I say that the Annexures to the Memorandum of appeal are the true and correct copies of their original.

IDENTIFIED BY

DEPONENT

General Manager (C & RA)  
DELHI TRANSCO LIMITED  
(Govt. of NCT of Delhi Undertaking)  
33KV Grid S/Stn. Building  
I.P. Estate, New Delhi-110002

**VERIFICATION**

I, the deponent above-named, do hereby verify the contents of the above affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at ...Delhi... on this ...06... day of November, 2019

ATTESTED

Notary Public, Delhi  
(As Presented)

DEPONENT

General Manager (C & RA)  
DELHI TRANSCO LIMITED  
(Govt. of NCT of Delhi Undertaking)  
33KV Grid S/Stn. Building  
I.P. Estate, New Delhi-110002