



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110 017.

F.11(2003)/DERC/2022-23/7473

Review Petition No. 38/2022

In the matter of: Review Petition for seeking Review of the Commission's Order dated 21.07.2022 purportedly in compliance of the Hon'ble Tribunal's Judgement dated 24.05.2022 in Appeal No. 213 of 2018, 332 of 2021 IA No. 1971 of 2021 in Appeal No. 334 of 2021 and DFR No. 38 of 2022.

Tata Power Delhi distribution Ltd.

.....Review Petitioner

Coram:

Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson

Hon'ble Dr. A. K. Ambasht, Member

Appearance:

Sri Venkatesh, Adv., TPDDL, Review Petitioner

ORDER

(Date of Order: 11.11.2022)

1. The instant Review Petition has been filed by Tata Power Delhi Distribution Limited (TPDDL) under Section 94(1)(F) of the Electricity Act, 2003 read with Regulation 7 of DERC Comprehensive (Conduct of Business) Regulations, 2001. The Petitioner has sought the review of Order dated 21.07.2022 vide reference No. F11(1619)/DERC/2018-19 passed by this Commission purportedly in compliance of the Hon'ble Tribunal's Judgement dated 24.05.2022 passed in Appeal No. 213 of 2018, Appeal No. 332 of 2021, I.A. 1971 of 2021 in Appeal No. 334 of 2021 and Appeal (DFR) No. 38 of 2022.
2. The Petition was heard for quite some time on two occasions, i.e., on 08.09.2022 and on 30.09.2022. The consistent query of the Commission was to the effect as to how the Petition is maintainable. Sri Venkatesh exhaustively argued on paragraph 78 of the judgement, available on page 200 of the Petition. We have given our anxious consideration to the contents of this paragraph in the light and totality of the complete Judgement rendered by the Hon'ble Tribunal. Sri Venkatesh, however, failed to impress upon the Commission that there is any error apparent on the face of the record or there has been discovery of any new facts which were not available to the Petitioner at the relevant time after due diligence and which later on came to his knowledge. The Compilations of Judgements provided by Sri Venkatesh carry a number of judgements, one of them namely,

Commissioner of Sales Tax, Jammu & Kashmir Vs. Pine Chemical Ltd. and Others, (1995) 1 Supreme Court Cases 58, has been elaborated by Sri Venkatesh. He has referred to page 8 placitum 'c' of the judgement which is quoted here below

“.....

c. With respect, we are unable to appreciate the above reasoning which is at variance with the clear and simple language employed in Section 8(2-A). The language of the sub-section does not bear or admit the construction placed upon it in the judgement under review. We are, therefore, of the opinion that the judgement under review suffer from a manifest error of law.

.....”

3. Sri Venkatesh has also taken our attention to paragraph 13 and 17 of the same judgement. We have given our anxious and respectful consideration to the observations and the law laid down in the judgement. However, we are constrained to observe that the law laid down in the aforesaid judgement is not relevant for the purposes of the present case in any manner. We are in respectful agreement with the judgement of the Hon'ble Supreme Court. But Sri Venkatesh has failed to connect the judgement with his prayer of review in the present dispute. We find that the Review Petition is not maintainable under these circumstances. Without commenting on the merits of the case or the judgement of the Tribunal, we dismiss the Review Petition solely on the ground maintainability.

Sd/-
(Dr. A.K. Ambasht)
Member

Sd/-
(Justice Shabihul Hasnain 'Shastri')
Chairperson