IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 375 OF 2019

Dated: 19th January, 2026

Present: Hon`ble Ms. Seema Gupta, Technical Member (Electricity)
Hon`ble Mr. Virender Bhat, Judicial Member

In the matter of:

M/S JK MINERALS
Main Road
Balaghat -481001
Madhya Pradesh … **Appellant(s)**

VERSUS

1. **MADHYA PRDESH ELECTRICITY REGULATORY COMMISSION**
Through Secretary,
5th Floor, Metro Plaza, Arera Colony,
Bittan Market, Bhopal – 462016. … **Respondent No.1**

2. **M. P. POWER TRANSMISSION COMPANY LTD.**
Through its Managing Director,
Block No.2, Sakti Bhawan, Rampur,
Jabalpur – 482008
Madhya Pradesh … **Respondent No.2**

3. **M.P. PASCHIM KSHETRA VIDYUT VITARAN COMPANY LTD.**
Through Managing Director,
G.P.H. Compound
Polo Ground, Indore
Madhya Pradesh … **Respondent No.3**

4. **M/S INDORE TEASURE ISLAND PVT. LTD**
Through Director,
Plot No.11, South Tukoganj, Indore
Madhya Pradesh … **Respondent No.4**

Counsel on record for the Appellant(s)	:	Mr. Parinay Deep Shah Ms. Ritika Singhal Ms. Surabhi Pandey for App. 1
Counsel on record for the Respondent(s)	:	Mr. C.K. Rai for Res. 1 Mr. Vignesh Adithiya S for Res. 2 Mr. Ganesan Umapathy, Sr. Adv. Ms. Pavitra Balakrishna Ms.Vaishnavi Viswanathan for Res. 3

JUDGMENT

(PER HON'BLE MRS. SEEMA GUPTA, TECHNICAL MEMBER, ELECTRICITY)

1. The captioned appeal has been filed by the Appellant-JK Minerals assailing the Order dated 16.08.2019 passed by the Madhya Pradesh Electricity Regulatory Commission in Petition No. 22 of 2017 ("**Impugned Order**").

The facts, in brief, which lead to filing of the instant appeal, are as follows:

2. The Appellant- JK Minerals is a renewable energy generator having a 1 MW Solar Power Plant **("Solar Plant")** installed at village Ranthbawar, district Shajapur. The Appellant is connected on dedicated 33kV Ujjas (M&B) Feeder and Developer.

3. Respondent No. 1 is Madhya Pradesh Electricity Regulatory Commission (hereinafter referred as **State Commission / MPERC**) and Respondent No. 2 is the MP Power Transmission Company Ltd. **(**hereinafter referred as **Respondent No. 2/MPPTCL)** undertaking the activities relating to inter-State transmission of electricity for and on behalf of erstwhile MPSEB. Respondent No 3 is M.P Paschim Kshetra Vidyut Vitran Company Ltd, (hereinafter referred as **Respondent No. 3/MPPKSVCL),** Respondent No. 4 is M/s Indore Treasure Island Pvt. Ltd. **("Treasure Islands")** situated in Indore and was desirous of sourcing solar power through Open Access from the Appellant – JK Minerals.

4. On 19.07.2016, a Power Purchase Agreement (PPA) was signed between the Appellant and the 4th Respondent- M/s Treasure Island, and Appellant, vide application dated 20.07.2016, applied to Respondent No. 2-MPPTCL, seeking permission to avail Long-Term Open Access (LTOA) under the provisions of the Open Access Regulations, 2005, for third-party sale of 100% of the power generated from its Solar Plant to M/s Treasure Islands, having a contracted demand of 2200 KVA, which was denied vide letter dated 22.08.2016.

5. The Appellant, vide its letter dated 02.09.2016, informed Respondent No. 2-MPPCL that Respondent No 4- Treasure Islands had not applied for any enhancement of contract demand, consumption, or feeder load, and would consume power strictly within its existing contracted demand and requested for grant of LTOA. It has been submitted that Respondent No 4 - Treasure Islands had also, confirmed that no additional contract demand or load had been sought and consumption would remain within existing limits.

6. Thereafter, Respondent No. 2- MPPCL vide its letter dated 08.09.2016, requested the Director (Commercial), **MPPKSVCL** – Respondent No 3 to reconsider technical feasibility to comply with statutory and regulatory requirements of providing non-discriminatory Open Access to the Appellant. Meanwhile, the Appellant commissioned its Solar Plant on 20.09.2016 and, being a solar generating station, started injecting power into the grid. Respondent No 3 vide its letter dated 01.10.2016, rejected the Respondent No. 2's request and Respondent No. 2-MPPCL, vide its letter dated 15.10.2016 rejected the Appellant's application seeking LTOA for third-party sale of 100% power. Appellant vide its letter dated 27.10.2016 to the Secretary MPERC, sought review of denial of LTOA under Regulation 8.35 of MPERC Regulation 2006 and again requested for intervention on 07.11.2016. Secretary, MPERC vide its letter dated 12.01.2017 advised that the dispute between the Generating Company and Licensee be pursued before the State Commission in accordance with MPERC (Conduct of Business) (Revision –I), Regulation 2016.

7. Consequently, the Appellant filed Petition No. 22 of 2017 before the State Commission, seeking directions to Respondents Nos. 2 and Respondent No 3 to allow the Appellant to avail LTOA for third party sale of 100% power from its Solar Plant.

8. The State Commission, vide its order dated 15.09.2017, dismissed the Appellant's petition, whereupon the Appellant, being aggrieved, preferred Appeal No. 21 of 2018 before this Tribunal seeking setting aside of the State Commission's order and grant of financial compensation for losses suffered on account of the wrongful rejection of LTOA; the said appeal culminated into order dated 19.03.2019, whereby this Tribunal

held that the Order passed by State Commission is cryptic and does not contain any discussion or valid reason while coming to the conclusion of rejecting the claim of the Appellant and opined that State Commission should have taken a balance view and remanded the matter to the State Commission for fresh consideration.

9. During the pendency of the Appeal before this Tribunal, Appellant signed PPA with a new Consumer named M/s Deepak Fastner and was granted LTOA w.e.f.11.05.2018.

10. On 16.08.2019, the State Commission passed the Impugned Order whereby it allowed the Appellant's prayer for grant of LTOA subject to the condition that Respondent No 3 restricts its maximum demand within contract demand and PPWA and HT agreement are modified accordingly. However, in the Impugned Order, request for grant of compensation to the Appellant for the period from 22.08.2016 to 10.05.2018 for the losses suffered on account of the denial of LTOA by Respondent Nos. 2 and 3 was declined. Aggrieved thereby, the Appellant has filed present Appeal and sought following relief :

> *"i. Allow the appeal and set aside the Impugned Order dated 16.08.2019 in Petition No. 22/2017 to the extent that no compensatory relief has been granted to the Appellant;*
>
> *ii. Direct Respondent No. 3 to adjust the units of power generated by the Appellant and injected into the grid from 22.08.2016 to 10.05.2018 against the future drawl of M/s Treasure Islands or revised old bills for the period;*

iii. In the alternate, Direct Respondent No. 3 to make good the loss of INR 1,39,99,326 suffered by the Petitioner and INR 25,10,350 to M/s Treasure Island due to refusal of open access along with interest;

SUBMISSIONS URGED ON BEHALF OF THE APPELLANT

11. It is submitted that the State Commission rejected the Appellant's claim for unit adjustment on the ground of an undertaking that no payment would be claimed for energy injection pending approval of LTOA. However, no such undertaking has been produced by the Respondents before this Tribunal. The only document relied upon is a letter dated 11.05.2018, which pertains solely to injection of energy post 10.05.2018. Without prejudice, even assuming such an undertaking existed, it was contingent upon timely grant of LTOA or a valid rejection thereof. Since the Impugned Order itself holds that the rejection of LTOA was erroneous, the alleged undertaking, if any, stands vitiated. Consequently, the Appellant is entitled to compensation for the energy injected into the grid.

12. Regarding the contention of the Respondents, that the Appellant had abandoned its prayer for grant of LTOA before the State Commission, it is submitted that, if the Appellant in fact abandoned such claim, the State Commission would not have passed the finding in Para (viii) of the Impugned Order, directing execution of an amendment/addendum to the PPWA and the HT Agreement. On the contrary, the issuance of such specific directions clearly demonstrates that the State Commission acknowledged the Appellant's claim for LTOA as subsisting and proceeded to adjudicate the same on merits.

13. It is submitted that Appellant's substantive claim before the State Commission was not confined to the grant of LTOA alone, but expressly sought reimbursement and compensation for its wrongful denial; such reliefs were inherently contingent upon the existence or deemed grant of LTOA. Appellant had specifically urged before the State Commission that LTOA be held to have been deemed granted. Therefore, once the State Commission has found in the Impugned Order that LTOA should have been granted, the logical and compensation is the necessary consequence and must follow.

14. It is further submitted that during the hearing dated 22.08.2017 before the State Commission, Appellant had proposed that LTOA may be granted on the ground that an undertaking would be given by the Appellant that no additional demand over and above the contract demand shall be drawn. The State Commission, however, expressly rejected the said condition, while the same condition has been imposed in the Impugned Order for grant of Open Access. This reversal reflects a fundamental inconsistency and grave procedural irregularity in the Commission's reasoning. The Appellant cannot be prejudiced by such contradictory and erroneous conduct. Consequently, the State Commission ought to have acknowledged this inconsistency and awarded appropriate compensation for the financial losses suffered due to the wrongful denial of LTOA. In this regard, it is submitted that the maxim *actus curiae neminem gravabit* i.e., "an act of the Court shall prejudice no man", is a well-established and settled principle of law and squarely applies to the facts of the present case (Supreme Court Judgement in ***"Neeraj Kumar Sainy & Ors. v. State of Uttar Pradesh & Ors",; (2017) 14 SCC 136).***

15. It is stated that had the State Commission imposed these very conditions in its earlier Order dated 15.09.2017, the Appellant would have complied immediately with the said directions and the LTOA would have been granted without further delay. By now imposing the same conditions that were previously rejected on substantive grounds, the State Commission effectively acknowledges the error in its prior reasoning while simultaneously seeking to deprive the Appellant of compensation for the loss caused by that erroneous rejection. The Appellant cannot be prejudiced by such contradictory conduct, and the doctrine that no party may take advantage of its own wrong (*nullus commodum capere potest de injuria sua propria*) squarely applies to preclude the State Commission from relying upon conditions it had earlier rejected.

16. It is submitted that since the Respondent DISCOM has consumed and derived benefit from the power injected by the Appellant, the Appellant is entitled to compensation for such injection, which position is supported by the judgments of this Tribunal in ***Appeal No. 187 of 2017 (Green Energy Association v. MERC & Ors.)*** **and** ***Appeal No. 103 of 2021 (Greenko Maha Wind Energy Pvt. Ltd. v. MERC & Ors.)*****.**

17. The principles of law, namely, the doctrine of quasi-contracts, the concept of unjust enrichment, and the maxim *nullus commodum capere potest de injuria sua propria* clearly mandate that the Respondent DISCOM cannot be allowed to retain the benefit of the power injected by the Appellant while simultaneously denying compensation on the basis of an alleged undertaking or other technical objections; no man can take advantage of his own wrong as recognised and applied by the Hon'ble Supreme Court **in "*Union of India v. Maj. Gen. Madan Lal Yadav",;* (1996) 4 SCC 127;** a similar reiteration is found in "***Municipal Committee***

Katra & Ors. v. Ashwani Kumar" **(2024)SCC OnLine 840,** wherein the Supreme Court held that no person can be permitted to take undue benefit of his own wrong, and that one who prevents a thing from being done cannot rely upon the non-performance he has occasioned. In the present case, the Respondent DISCOM consumed and benefited from the power injected by the Appellant between 22.08.2016 and 10.05.2018, and the wrongful reversal of position by the State Commission, first rejecting the undertaking condition and later imposing it, cannot stand as a bar to the Appellant's rightful claim for compensation.

18. In view of above, present Appeal deserves to be allowed and the Impugned Order set aside insofar as it denies compensation to the Appellant, and a direction be issued to the Respondent DISCOM to compensate the Appellant for the energy injected into the grid during the period from 22.08.2016 to 10.05.2018, as neither the State Commission nor the Respondent DISCOM can be permitted to benefit from their own wrong or procedural irregularity.

SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.1- HPERC

19. It is submitted that M.P. Power Management Co. Ltd. (MPPMCL), the holding company of the Discoms, vide its letter dated 14.09.2016 permitted commissioning of the Appellant's Solar Plant on the date of readiness and allowed injection of power into the grid free of cost, subject to feasibility of grid connectivity, until obtaining Open Access permission, further clarifying that no payment would be made for the injected energy and that the Appellant never raised any objection to these conditions. The fact of such consent has not been denied by the Appellant. Accordingly, the Appellant is estopped from taking a contrary stand at this stage to seek

benefit for such injection (judgment dated 03.09.2025 of this Tribunal in **"*Technocrat and Managers Society of Advanced Learning and Gramothan vs. RERC & Ors."* in Appeal No. 314 of 2019).**

20. The State Commission, in the Impugned Order at Para 18(viii), granted Open Access to the Appellant prospectively from the date of incorporation of the stipulated terms into the Wheeling Agreement (PPWA) and the HT Agreement, specifically requiring the HT consumer to restrict maximum demand at all times within the contract demand and the Open Access to become operational only from the date of execution of the amendment/addendum in both the Agreements. Since the Appellant has not challenged the prospective grant of Open Access in the present Appeal, the Appellant is estopped from claiming the benefit of injection of energy from any retrospective date. Appellant has wrongly claimed that this Tribunal in its order dated 19.03.2019 has held that rejection of LTOA was wrong. This Tribunal in its remand order dated 19.03.2019 had not dealt the Appeal on merits but rather on the ground that the order passed by the Commission is a cryptic and non-speaking order and while remanding the case kept all the contentions of the parties open to be considered afresh by the Commission.

21. It is further submitted that the Appellant had abandoned its original claim for grant of Open Access in favour of M/s Indore Treasure Island during the remand proceedings, as by that time it had already executed a Power Purchase Agreement with another entity, Deepak Fasteners Ltd., Khoki (Sehore), for which Open Access was duly granted on 11.05.2018. Accordingly, having given up its original claim of Open Access before the State Commission, the Appellant cannot now maintain a plea of deemed Open Access, which as such is not supported by any provisions of

Electricity Act 2003. Furthermore, when the main prayer/claim i.e. grant LTAO to the Appellant is itself waived/abandoned by the Appellant, the consequential prayer to make good the loss suffered by the Appellant does not survive at all.

22. It is submitted that the Appellant's reliance on the judgment of this Tribunal dated 22.10.2024 passed in Appeal No. 103 of 2021 titled **"*Greenko Maha Wind Energy Pvt. Ltd. vs. MERC & Ors.*"** is wholly misplaced and clearly distinguishable. In the cited judgment, the Tribunal noted that *"28. …… the injection of power into the grid from subject WTG by the appellant and its scheduling has been duly accepted by MSEDCL without any demur for 5 years till the WTG was disconnected on 11.06.2020."* In contrast, in the present case, the Appellant had expressly undertaken that injection of power into the grid would be free of cost, subject to the feasibility of grid connectivity, until the grant of Open Access permission for the respective plants.

SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.3-MPPKVVCL.

23. It is submitted that the Appellant in the written submissions filed before the MPERC, expressly waived its claim for grant of Long-Term Open Access ("LTOA") and confined its prayers solely to payment towards adjustment of units and there cannot be any deemed grant of LTOA which is not supported by any provisions of the EA, 2003 or the applicable regulations.

24. It is submitted that the principle that a party cannot approbate and reprobate is well-established in law. During the pendency of Appeal No.

21 of 2018 before this Tribunal, the Appellant entered into a fresh Power Purchase Agreement with M/s Deepak Fasteners Ltd. and was granted Long-Term Open Access for supply of power to the said entity vide letter dated 11.05.2018. By voluntarily entering into a new and independent commercial arrangement with a third party and securing LTOA thereunder, the Appellant has clearly demonstrated that it no longer intended to pursue LTOA for M/s Treasure Island, thereby abandoning the very foundation of Petition No. 22 of 2017; elected a different remedy and cannot now seek compensation for an abandoned claim.

25. It is contended that the Appellant had expressly waived its claim for grant of Long-Term Open Access, and no court or tribunal has rendered any finding to the effect that LTOA stood granted with retrospective effect from 22.08.2016; in the absence of any such determination, the Appellant cannot claim adjustment of units or any payment therefor without a subsisting agreement validating the injection of power into the grid. Further, the letter dated 14.09.2016 issued by MPPMCL clearly portrays that the Appellant had agreed to inject power without any payment against the same. The Appellant has never challenged the said letter or disputed the solemn undertaking contained therein, thereby affirming that it would not claim any payment for the injected energy until execution of the LTOA. The communication issued by MPPMCL to Respondent No. 3 clearly establishes that there was neither any deemed acceptance nor any obligation on the part of the Respondents to make payment for such injection, and that Respondent No. 3 was, from inception, aware that no liability to pay would arise until the LTOA was formally granted and executed. Further, the Appellant had given a similar undertaking on 11.05.2018. It is further submitted that this Tribunal in its judgement dated 03.09.2025 in Appeal No. 314 & 320 of 2019, considered a similar case

where a generator had injected power pursuant to an express undertaking not to claim any consideration for such injection and held generator is precluded from claiming charges for such energy later on.

ANALYSIS AND DISCUSSION

26. We have heard Mr Parinay Deep Shah, learned counsel on behalf of the Appellant, Mr C.K.Rai, learned counsel on behalf of the Respondent Nos. 1 and 2, and Mr G.Umapathy, learned Senior Counsel on behalf of Respondent No 3. We have also perused the Impugned Order, the documents placed on record, and the written submissions filed by the learned counsels on behalf of Appellant, and Respondent No. 1 & Respondent No. 3. No written submissions have been filed separately by Respondent No.2. The main issue emerges for consideration is whether Appellant is entitled for compensation for the loss incurred to it for the period from 22.08.2016 to 10.05.2018 on account of the denial of LTOA. In this connection it is noted that, in the first round, the Appellant vide its letter dated 02.09.2016, along with Respondent No. 4 – Treasure Islands had proposed /confirmed that no additional contract demand or load had been sought and that consumption would remain within existing limits, while seeking grant of LTOA of 1 MW from Appellant's solar power plant to Respondent No. 4.

27. Respondent No 3, has conveyed its inability to grant NOC for such open access considering congestion in the system. However, Respondent No 2-MPPCL, vide its letter dated 08.09.2016 addressed to Respondent No. 3 – MPPKVVCL, made following observation, and requested to reconsider the grant of NOC for the LTOA sought, especially in view of the fact that Respondent No. 4 shall be consuming power within its existing contract demand:

" The contents of the order of Hon'ble MPERC on petition no 31/2016 have been analysed by this office. In relation to the issue of congestion in the distribution network due to availing partial open access supply to consumer. The observation regarding the same are as follows:

(1) The aforesaid order of the Hon'ble MPERC does not stipulate anything about network congestion in case of partial open access consumers, instead, it stipulates and clarifies the methodology of billing in terms of the Hon'ble Commission's most recent retail Tariff order dated 05.04.2016;

(2) The stipulated methodology considers and admits the concept of demand separately attributable to partial open access and specifies the method to calculate the monthly billing demand for the retail HT connection, by considering the injection/drawl in each of the 15 minutes' time blocks as per the MRI data;

(3) If a retail HT consumer is already connected to the network and drawing power from the distribution network, then availing partial open access by him cannot mean a sudden artificial increase in his power demand. Otherwise, if the aforesaid order of the Hon'ble Commission on petition no, 31/2016, is interpreted in any other way, then it would directly lead to violation of the primary condition of non-discriminatory open access mandated by the Electricity Act, 2003 and various relevant regulations, rules and procedures;

(4) If the partial open access consumer, already connected to the network as a retail consumer, maintains or gives an undertaking to maintain his power drawl within the contract demand for the H.T. connection, then open access cannot be denied to him on grounds of network congestion. Moreover, there is a provision in the Tariff order Dtd. 5-04-2016 and as also stipulate to Hon'ble Commission's order Dtd. 1-07-2016, for penal billing in case of actual demand exceeding the contract demand as per agreement for H.T. retail connection. The conditions are exactly identical for an ordinary retail consumer and for a partial open access consumer. Therefore, how can the excess demand (if any) of an ordinary retail consumer be allowed and that for a partial open access consumer disallowed, all the other things being identical.

(5) On the whole, the rights and interests of the distribution company/utility and the partial open access consumers are evenly balanced from the point of view of non-discriminatory open access, if the order of the Hon'ble Commission on petition no.31/2016 is interpreted as Indicated in the preceding paragraphs. Otherwise, it will lead to unfair denial of 15cess in any perfectly legitimate and eligible case.

Apart from the foregoing, it is pertinent to mention here that, M/s J.K. Minerals, Balaghat have themselves written à letter dtd. 2nd September, 2016 (a copy is appended for reference) to this office raising the following points:

- *MPERC's order dtd. 1st July, 2016 on petition no. 31/2016 is not relevant as it states regarding billing demand calculations;*

- *M/s Treasure Island Pvt. Ltd., Indore, the third party beneficiary for LTOA, has not applied for any additional contract demand or consumption or load but shall be consuming power as per existing contract demand and consumption only, hence there will be no effect or additional load on the feeder due to open access.*

In the context of the facts outlined and explanation given in the preceding paragraphs, it is requested, that, the decision about technical feasibility in the instant case may be reconsidered and examined afresh to comply with the statutory and regulatory requirements of providing non-discriminatory open access, please."

28. Respondent No. 3 reiterated its stand and declined to grant NOC and Respondent No. 2 vide its letter dated 15.10.2016, rejected the Appellant's application seeking LTOA for third-party sale of 100% power. In the meantime, the Appellant commissioned its Solar Plant on 20.09.2016 and pending grant of open Access, started injecting power into the grid. The Respondents have placed substantial reliance on the

undertaking given by the Appellant, whereby permission was sought to inject power into the grid free of cost, till grant of Open Access. The Appellant, however, has contended that no such undertaking was given and that the Respondents have not produced any such undertaking given by Appellant prior to commissioning of its solar plant. From a perusal of the Impugned Order, it is noted that, vide letter dated 14.09.2016 issued by MPPMCL, the holding company of all Discoms, addressed to MPPTCL and MPPKVVCL, permission was granted for commissioning of solar plants (including that of Appellant) and injection of power in the grid free of charges is allowed till obtaining Open Access by them. Although, the said letter dated 14.09.2016 has not been placed before this Tribunal, however we have no reason to disbelieve/disregard the contents of the letter as mentioned in the Impugned order; furthermore same has not been specifically disputed by the Appellant and it has also synchronised its plant into the grid and injected power into the grid pending grant of Open Access.

29. We take note that State Commission, in its order dated 15.09.2017 (first round) did not find merit in the undertaking furnished by the Appellant that they shall not avail demand over and above the contract demand of the Consumer after grant of Open Access and accordingly declined to grant open Access to the Appellant, the relevant extract from the order is reproduced below:

> *"Having heard the petitioner and the respondent and on considering their written submissions, the Commission is of the view that the undertaking for not availing the demand over and above the contract demand will not serve the purpose for allowing the open access because once the open access is allowed the petitioner would be entitled to receive power over and above the contract demand. The clause 3.4 of the M.P. Electricity Supply Code is equally applies to the petitioner whether it is availing power*

as per sanctioned contract demand or through open access. The precedence of allowing open access to the consumers does not entitle the petitioner to get permission of open access under the overloading of the system. Also, drawl of power within the contract demand in the past does not form a basis for allowing open access on the feeder in case the concerned distribution licensee does not find it technically feasible to allow open access in existing arrangements. Under the above circumstances, the request of the petitioner cannot be allowed."

30. The aforesaid order passed by the State Commission was assailed before this Tribunal by the Appellant in Appeal No 21 of 2018 and this Tribunal in its order dated 19.03.2019 found that the said order of the State Commission is cryptic in nature and various facts/issues has not been duly considered and addressed. It is profitable to reproduce the observation of this Tribunal in the order dated 19.03.2019 in Appeal No 21 of 2018.

"10. After careful perusal of the reasoning assigned in para 7 of the impugned Order dated 15.09.2017, as extracted above, it is manifest on the face of the order that the same is cryptic in nature neither the impugned order does contained any discussion nor any valid reasons while coming to the conclusion for rejecting the claim of the Appellant contrary to the case made out by the Appellant and also contrary to the relevant material available on record,

11. It is significant to note that there is a Report dated 22.08.2016 submitted by the Director (Commercial), M.P. Paschim Kshetra Vidyut Vitran Co Ltd., Indore, 3rd Respondent herein, bearing No. MD/WZ/05/Com-HT/AK/14543, which has not been discussed in the impugned Order dated 15.09.2017 except opined that the precedence of access to the consumers does not entitle the Appellant/petitioner to get permission of open access under the overloading of the system and also, drawl of power within the contract demand in the past does not form a basis for allowing open access on the feeder in case the concerned distribution licensee does not find it significant to note that the 1st Respondent/MPERC ought to have taken a holistic approach

having regards to the facts and circumstances of the case made out by the Appellant and ought to have taken a balanced view on the around that the long term open access is already given by the Respondent Nos. 2 & 3 and specifically they have pointed out and contended that since last six months, there is no over-drawl of power by the Appellant/petitioner. This aspect of the matter has neither been looked into nor considered nor given any valid and cogent reason for denying the relief sought in the petition filed by the Appellant. Therefore, we are of the considered view that the impugned Order cannot be sustainable and is liable to be vitiated on the ground that the impugned Order passed by the 1st Respondent/ MPERC is not a speaking order and it would suffice this Tribunal to meet the ends of justice, pass an appropriate order without going further into merits or demerits of the case in the interest of justice and equity."

31. It is observed that this Tribunal, in its order dated 19.03.2019 has not specifically mentioned that LTOA to Appellant has been wrongfully denied as being contended by the Appellant, however after hearing all the parties, this Tribunal has found that several material issues has not been addressed and that the State Commission ought to have adopted a balanced approach considering facts and circumstances of the case made out by the Appellant. Pursuant to the remand, the State Commission passed the Impugned Order and granted the Long term Open Access to the Appellant, subject to the condition that Respondent No. 4 (M/s Treasure Island Pvt Limited) restrict its maximum demand all the time within the contracted demand applicable to it as an HT consumer and shall amend the PPWA and HT Agreement with the concerned parties accordingly. Relevant paragraph of the Impugned Order is reproduced below:

"(viii) In view of the above and nature of generating source which is a renewable solar generating plant, the permission for long term open access may be granted to the petitioner from the existing network, if the Respondent No. 3 is agreed to restrict its maximum demand all the time within the Contract Demand as a HT Consumer

by incorporating the condition of aforesaid restriction appropriately in both the Agreements i.e. PPWA & HT agreement with the concerned parties in this matter. In such case, the permission for LTOA shall be granted from the date of execution of aforesaid amendment/addendum in both the Agreements i.e. PPWA & HT agreement with the concerned parties The maximum demand, which would be the sum total of the power availed from the Respondent No. 2 and through open access from the petitioner's solar generating station, should not exceed the Contract Demand so that no additional load/ power is drawn from the Respondent No. 2's system. However, the billing demand and billing shall be as per Clause 1.5 in General Terms and Conditions under Retail Supply Tariff order issued by the Commission on 9th August' 2019."

32. Thus, by the Impugned Order, Long term Open Access has been granted to the Appellant, which is on the basis of similar undertaking which the Appellant has given when the first Order was passed by State Commission on 15.09.2017, which undertaking had not been found acceptable by the State Commission for grant of open access at that stage. It is also to note that this Tribunal, in its remand order dated 19.03.2019, did not examine the merit of the case and thus it cannot be said that the State Commission, while passing the impugned order, merely implemented the direction given in the Order of Tribunal; rather, the findings recorded in the Impugned Order constitute an independent and considered decision of the state Commission.

33. During the intervening period between the State Commission's order dated 15.09.2017, and this Tribunal Order dated 19.03.2019, in the absence of Long term Access for Respondent No. 4 (M/s Indore Treasure Island Pvt Limited), the Appellant has signed PPA with a new Consumer named M/s Deepak Fastner and LTOA has been granted w.e.f 11.05.2018. Thus, grant of LTOA to Appellant/Respondent No. 4 vide

Impugned Order, albeit certain conditions is of no relevance/benefit to the Appellant. The only issue remaining is with respect to compensation for the energy injected into the Grid by the project of the Appellant upto 10.05.2018, as claimed by the Appellant, which otherwise would have generated revenue to the Appellant from Respondent No 4, had the Long-Term Access was granted within a reasonable time.

34. With regard to the contentions of Respondents that the Appellant has given undertaking that energy shall be injected by them free of cost till grant of open Access and accordingly they are not allowed to take a contrary stand and placed reliance on the judgement of this Tribunal in **"*Technocrat and Managers Society of Advanced Learning and Gramothan vs. RERC & Ors."* in Appeal No. 314 of 2019).** In this said case, the Appellants have given specific undertaking stating that *"we shall not claim for any energy adjustment and shall supply the free energy generated from our plant to Jodhpur Discom before submission of LTOA subject to permission of RW. Kindly grant us the permission to synchronise the project in this financial year only in order to avail the fiscal benefit".* Accordingly, this Tribunal, in this judgement held that Appellant being conscious of the fact that they are not authorised to inject power into the grid prior to grant of LTOA and given such an undertaking and are not entitled for any compensation. The facts of the present case, however, are different, as no such specific undertaking of the Appellant has been placed before us and considering the contents of letter dated 14.09.2016, allowing synchronisation of solar generation project was permitted only subject to the condition that energy would be injected into the grid free of cost till grant of LTOA, in our view, the Appellant had no option but to inject power into the grid being solar project, waiting for the permission of grant of Open Access, for which application was already submitted. There is

nothing on record to show that synchronisation of generation project and injection of energy free of cost by Appellant was to avail any fiscal benefit by commissioning the project in a particular financial year. Thus, the referred judgement is of no avail to Respondents. In fact, the injection of free power into the grid till grant of Open Access was a case of legitimate expectation that Long-term Access shall be granted in a stipulated time, especially when an undertaking has also been given by Appellant & Respondent No. 4 that total power shall be drawn within the existing Contract demand of Respondent No 4, thereby adequately addressing the concerns of system congestion.

35. In the present case, by allowing the Appellant to inject power into the grid from their project free of cost pending grant of Open Access and subsequently denying the NOC for grant of LTOA citing congestion of network, in spite of undertaking furnished by the Appellant to restrict its total drawl within the contracted demand, which is otherwise also served by Discom, the concerned Discom- the Respondent No. 3 has been unduly benefitted. It is a settled law, that no one can be permitted to take undue and unfair advantage of its own wrong. (**"*Union of India v. Maj. Gen. Madan Lal Yadav",;* (1996) 4 SCC 127;** "***Municipal Committee Katra & Ors. v. Ashwani Kumar",*(2024)SCC OnLine 840).** Respondent No. 3- Discom has not disputed the receipt of generation from the Appellant's project and during the entire period from commissioning of the Project of the Appellant and subsequent to denial of NOC/LTOA, Respondent No 2 and Respondent No 3, the concerned Discom, never directed the Appellant to desist from injecting power into the Grid as there is no valid Long Term Access and continued to receive energy from Appellant's Solar project, without making any payment, while same in our

view would have been utilised in serving its consumer leading to unjust enrichment to them.

36. This Tribunal, in its Order dated 28.08.2024 passed in Appeal No. 187 of 2017 "***Green Energy Association vs Maharashtra Electricity Regulatory Commission and Ors"***-reliance on which has been placed by Appellant, deliberated the issue of delay in processing Long Term Access applications during which time generators injected power in to the grid and no relief was granted on account that SEMs, which is a mandatory requirement was not complied and there was no valid Energy Purchase Agreement. This Tribunal in the judgement deliberated the concept of doctrine of quasi-Contracts under Section 70 of the Indian Contract Act, 1872 and held that members of Appellant association therein (generators) are entitled to the payment of power injected into the grid from the respective solar power projects pending signing of EPA. The relevant paragraph of the said Judgement are reproduced hereinbelow :

> *"23. It is evident from the rival contentions of the parties that the members of the appellant association had been injecting power from their solar power projects into the grid even though they had not been granted open access and had not installed SEMs. It also appears that no objection was raised by MSEDCL to such injection of power into the grid by the members of appellant association from their solar power projects at any point of time. In fact MSEDCL appears to have provided connectivity to their power projects with the grid as the injection of power could not have been possible without such connectivity. Concededly, MSEDCL utilized such power by selling it to the consumers and realizing tariff from them and thereby causing financial gain to itself. We wonder as to why such conduct of parties i.e. supply of power by the members of appellant association from their solar power generators (even though without any open access permission or a EPA) on the one hand and receipt as well as utilization of such power by MSEDCL without any objection or demur on the other hand, cannot be construed to constitute a contractual relationship between the parties. Such kind of contracts are known as "quasi contracts"*

which have given legal recognition in India also by way of Section 70 of the Indian Contract Act, 1872.

24. "Quasi Contract" is also known as "implied contract" which acts as a remedy for a dispute between two parties which do not have an express contract between them. A Quasi Contract is a legal obligation, not a traditional contract. Such transactions are also referred as "constructive contract" as these are constructed by the Court when there is no existing contract between the parties. Such arrangements may be inferred or imposed by the Court when goods or services are accepted by a party even though there might not have been any order. The acceptance and utilization of the goods or services by the other party creates an expectation for payment in the mind of the party providing the goods/services

25. The concept of Quasi Contract is basically founded on the doctrine of "unjust enrichment". This doctrine itself is based upon the maxim "Nul ne doit s' enricher aux depens des autres" (No one ought to enrich himself at the expense of others.) The rationale behind the doctrine of unjust enrichment is that in certain situations, it would be unjust to allow the defendant to retain a benefit at the plaintiff's expenses. To apply this doctrine, it must be established that :-

(i) the Defendants/Respondents have been enriched by the receipt of a "benefit";

(ii) this enrichment is "at the expenses of the plaintiff";

(iii) the retention of the enrichment is unjust.

26. The Hon'ble Supreme Court had the occasion to deal with and explain the contours of Section 70 of the Contract Act, 1972 in State of West Bengal Vs. B.K. Mondol & Sons, AIR, 1962 SCC 779 and it was held as under:-

"Three conditions must be satisfied before S. 70, Contract Act can be invoked. <u>The first condition is that a person should lawfully do something for another person or deliver something to him. The second condition is that in doing the said thing or delivering the said thing he must not intend to act gratuitously; and the third is that the other person for whom something is done or to whom something is delivered must enjoy the benefit thereof</u>. When these conditions are satisfied S. 70 imposes upon the latter person the liability to make compensation to the former in respect of, or to restore, the thing so done or delivered.

The person said to be made liable under S. 70 always has the option not to accept the thing or to return it. It is only where he

voluntarily accepts the thing or enjoys the work done that the liability under S. 70 arises. Section 70 occurs in Chap. V which deals with certain relations resembling those created by contract. In other words, this chapter does not deal with the rights or liabilities accruing from the contract. It deals with the rights and liabilities accruing from relations which resemble those created by contract

In cases falling under S. 70 the person doing something for another or delivering something to another cannot sue for he specific performance of the contract nor ask for damages for the breach of the contract for the simple reason that there is no contract between him and the other person for whom he does something or to whom he delivers something. All that S. 70 provides is that if the goods delivered are accepted or the work done is voluntarily enjoyed then the liability to pay compensation for the enjoyment of the said goods or the acceptance of the said work arises. Thus where a claim for compensation is made by one person against another under S. 70, it is not on the basis of any subsisting contract between the parties, it is on the basis of the fact that something was done by the party for another and the said work so done has been breach of the contract for the simple reason that there is no contract between him and the other person for whom he does something or to whom he delivers something. All that S. 70 provides is that if the goods delivered are accepted or the work done is voluntarily enjoyed then the liability to pay compensation for the enjoyment of the said goods or the acceptance of the said work arises. Thus where a claim for compensation is made by one person against another under S. 70, it is not on the basis of any subsisting contract between the parties, it is on the basis of the fact that something was done by the party for another and the said work so done has been voluntarily accepted by the other party.

The word 'lawfully' in the context indicates that after something is delivered or something is done by one person for another and that thing is accepted and
enjoyed by the latter, a lawful relationship is born between the two which under the provisions of S. 70 gives rise to a claim for compensation.

The thing delivered or done must not be delivered or done fraudulently or dishonestly nor must it be delivered or done gratuitously. Section 70 is not intended to entertain claims for compensation made by persons who officiously interfere with the affairs of another or who impose on others services not desired by

them. When a thing is delivered or done by one person it must be open to the other person to reject it. Therefore, the acceptance and enjoyment of the thing delivered or done which is the basis for the claim for compensation under S. 70 must be voluntary.

What S. 70 prevents is unjust enrichment and it applies as much to individuals as to corporations and Government. On principle S. 70 cannot be invoked against a minor. There is good authority for saying that S. 70 was framed in the form in which it appears with a view to avoid the niceties of English law on quasi-contracts."

(Emphasis supplied)

. . .

28. We may further note that in similar facts and circumstances in case No. 28 of 2020 (Bothe's case) where there was no valid EPA between the power generators and the distribution licensee (it was MSEDCL in that case also), the MERC awarded compensation to the power generator i.e. M/s Bothe for the electricity generated and injected into the grid on the following reasoning:-

"21.8 The Commission however would like to also consider the conduct of MSEDCL and BWDPL. It has been accepted by MSEDCL that it has taken the benefits by considering this power for fulfilling its non- Solar RPO targets for three years i.e. from FY 2014-15 to 2016-17 i.e till such time the procurement methodology had not been changed to Competitive Bidding. The Commission thus feels that MSEDCL should compensate BWDPL for that limited period. As there was no valid EPA between the parties, generic tariff applicable at that point of time cannot be made applicable in the present matter. Only other method that can be considered is sale of power at Average Power Purchase Cost (APPC) to Distribution Licensee which is akin to REC mechanism. Therefore, the Commission directs MSEDCL to compensate BWDPL for the period of FY 2014-15 to 2016- 17 at rate of approved APPC (excluding renewable sources) for respective year. Further, as MSEDCL has used this energy for meeting its RPO, green attribute of the same also needs to be paid. Hence, in addition to APPC rate, MSEDCL should also compensate BWDPL for such energy at Floor price of non-solar REC prevailing at that point of time. Accordingly, the Commission direct MSEDCL to pay compensation for energy injected by BWDPL from 3 WTGs aggregating 6.3 MW capacity in the year FY 2014-15 to FY 2016-17 at the rate of APPC (excluding RE) plus floor price of non-solar REC applicable for respective year. However, such compensation would be without any carrying cost as MSEDCL was not responsible for delay in raising bills for FY 2014-15 to FY 2016-17.

21.9 Energy injected by BWDPL form FY 2017-18 onwards, which has not been utilized by MSEDCL for its RPO, needs to be treated as energy injection without a valid EPA and hence need not be compensated."

[Emphasis supplied]

29. We may further note that the above noted order of the Commission in Bothe's case was assailed before this Tribunal by way of appeal No.119/2020 which was decided along with the batch of identical appeals vide judgment dated 18.08.2022 setting aside the Commission's order and holding the appellants entitled to tariff for the electricity generated and supplied from the respective dates. It has been further held that the conduct of the parties leaves no room for doubt that the contracts had come into being with the MSEDCL permitting not only commissioning but also connectivity as well as enjoying the electricity injected into the system without demur, accounting it towards its RPO obligations and indisputably reaping financial gains by receiving corresponding tariffs from its consumers. It has further been held that signing of an EPA, model of which had already been approved by MERC, was only a matter of formality and the MEDA registration would relate to the respective dates with the application for registration by appellants…"

……..

Conclusion

35. We, therefore, direct the 2nd respondent MSEDCL to purchase solar energy injected by the members of the appellant into the grid at APPC rate for the financial year 2014-15 and at preferential tariff for the financial year 2015-16"…….

37. This, Tribunal, by its Order dated 22.10.2024 passed in Appeal No. 103 of 2021 **("*Greenko Maha Wind Energy Pvt. Ltd. v. MERC & Ors".*),** considered a similar case concerning the entitlement of a power generator to compensation for power injected into the grid in the absence of a valid agreement and relying upon the above referred judgement dated 28.08.2024 allowed compensation to the Wind Generator for the energy injected into the Grid. The said judgement was assailed by MSEDCL before the Supreme Court in Civil Appeal No. 920 of 2025; however, the

Supreme Court dismissed the appeal and affirmed the findings of this Tribunal, holding as under:

> *"We do not find any good ground and reason to interfere with the impugned judgment, which rightly criticizes the pleas, contentions and conduct of the appellant, Maharashtra Energy Development Agency, after the grant of the Permission to Commission (PTC), upon which respondent No. 1, Greenko Maha Wind Energy Pvt. Ltd., incurred capital costs.*
>
> *It is to be also noted that the energy supply has been consumed and used by the Discom, that is, respondent No. 3, Maharashtra State Electricity Distribution Company Limited.*
>
> *Recording the aforesaid, the present appeal is dismissed."*

38. We do not find merit in the contention of the Respondents that Tribunal Judgement dated 22.10.2024 is not applicable to the present case on the ground that, in the said judgement, it has been noted that scheduling of the WTG *has been duly accepted by MSEDCL without any demur for 5 years till the WTG was disconnected on 11.06.2020, while in the* present case, the Appellant had expressly undertaken that injection of power into the grid would be free of cost, subject to the feasibility of grid connectivity, until the grant of Open Access permission ; the issue with regard to undertaking of the Appellant has already been dealt in the preceding paragraphs, and therefore does not merit further consideration.

39. We find merit in the submissions of Appellant that Maxim *actus curiae neminem gravabit* i.e., “an act of the Court shall prejudice no man”, is a well-established and settled principle of law and is applicable in the present case. It is profitable to reproduce relevant para from the Supreme Court Judgement in **“Neeraj Kumar Sainy & Ors. v. State of Uttar Pradesh & Ors”;, (2017)14 SCC 136**, as under:

> *"31. In this regard, we may usefully refer to a passage from Kalabharati Advertising v. Hemant Vimalnath Narichania and others20, wherein it has been ruled that the maxim actus curiae neminem gravabit, which means that the act of the court shall prejudice no one, becomes applicable when a situation is projected where the court is under an obligation to undo the wrong done to a party by the act of the court. In a case, where any undeserved or unfair advantage has been gained by a party invoking the jurisdiction of the court, and the same requires to be neutralized, the said maxim is to be made applicable."*

40. Thus, in view of above deliberations, we are of the view that the Appellant is entitled to receive compensation for the loss it has accrued to it due to denial of Long Term Access. It is also acknowledged that Appellant agreed for the condition imposed for injection of power free of cost in terms of the letter dated 14.09.2016, till grant of Open Access. We are, therefore, not able to agree to the contention of Appellant that it is entitled to receive compensation from the date of commissioning of the project i.e 22.08.2016, as the Appellant has synchronised its plant and injected power into the grid free of cost till grant of open Access to Respondent No. 4, in terms of the aforesaid letter. We are, however, of the view that , had the State Commission allowed the open Access to the Appellant, vide its earlier order dated 15.09.2017 on the similar conditions, which were proposed by the Appellant at that stage and which has been agreed and imposed vide the Impugned Order, LTOA would have been granted for third party sale and Appellant would have been able to transfer energy generated from its project to Respondent No. 4 and earned revenue from that date onwards . Notably, the State Commission directed grant of LTOA to the Appellant vide impugned order dated 16.08.2019 upon remand by this Tribunal vide order dated 19.03.2019 in Appeal No. 20 of 2018, on the same facts as were before the Commission while passing earlier order dated 15.09.2017. Thus, the Appellant was

deprived of the compensation for the energy fed into the grid from its solar plant, only due to the erroneous order passed by the Commission. The Appellant cannot be made to suffer for the error of the Commission. Accordingly, we hold the Appellant entitled to compensation for the energy injected by it from its solar power plant into the grid during the period from 15th September, 2017 upto 10th May, 2018.

41. We note that no PPA has been executed between the Appellant and Respondent No. 3 and, therefore, there is no agreement between the parties as regards the rate at which the Appellant was to be paid in lieu of the electricity injected into the grid to be used by Respondent 3. In the absence of any such agreement between the Appellant and Respondent No. 3, we feel it justified to direct Respondent No. 3 to pay the compensation to the Appellant for the energy injected by it into the grid during the above noted period at APPC rate of Respondent No. 3.

42. Now we come to the aspect of carrying cost on the aforesaid arrears of compensation to be paid by Respondent No. 3 to the Appellant. Since the Appellant should have received such compensation from Respondent No. 3 in the years 2017-18 and has been deprived of the same on account of the error committed by the Commission not attributable to the Appellant, we do not find it justified to deprive the Appellant from carrying cost.

43. We may note that payment of “interest” or “carrying cost” cannot be equated to payment of penalty or fine. “Interest” is normal accretion to money when invested lawfully by the person in whose hands it is. When a person is deprived of the use his money to which he is lawfully entitled, he would have a legitimate claim for interest upon such amount of money for the period during which he was deprived of its use. In other words, any person who has enriched himself by use of the money belonging to some

other person, is legally duty bound to compensate the latter by payment of interest on the said money, from the use of which he had been deprived. Payment of interest is a necessary corollary to the return on money retained by a person unjustly or unlawfully. This has been explained by the Supreme Court succinctly in Alok Shanker Pandey v. Union of India & Ors. (2007) 3 SCC 545 by way of the following illustrations: -

> *"For example if A had to pay B a certain amount, say 10 years ago, but he offers that amount to him today, then he has pocketed the interest on the principal amount. Had A paid that amount to B 10 years ago, B would have invested that amount somewhere and earned interest thereon, but instead of that A has kept that amount with himself and earned interest on it for this period. Hence equity demands that A should not only pay back the principal amount but also the interest thereon to B. With these observations the impugned judgment is modified and the appeal is disposed of accordingly."*

44. In this context, we also find the following observations of the Hon'ble Supreme Court in a recent judgment dated 18.02.2025 in Dr. Purnima Advani and Anr. v. Government of NCT and Anr. Civil Appeal No.2643 of 2025, very material: -

"25. If on facts of a case, the doctrine of restitution is attracted, interest should follow. Restitution in its etymological sense means restoring to a party on the modification, variation or reversal of a decree or order what has been lost to him in execution of decree or order of the Court or in direct consequence of a decree or order. The term "restitution" is used in three senses, firstly, return or restoration of some specific thing to its rightful owner or status, secondly, the compensation for benefits derived from wrong done to another and, thirdly, compensation or reparation for the loss caused to another.

26. In Hari Chand v. State of U.P., 2012 (1) AWC 316, the Allahabad High Court dealing with similar controversy in a stamp matter held that the payment of interest is a necessary corollary to the retention of the money to be returned under order of the appellate or revisional authority. The High Court directed the State to pay interest @ 8% for the

period, the money was so retained i.e. from the date of deposit till the date of actual repayment/refund.

27. In the case of O.N.G.C. Ltd. v. Commissioner of Customs Mumbai, JT 2007 (10) SC 76, (para 6), the facts were that the assessment orders passed in the Customs Act creating huge demands were ultimately set aside by this Court. However, during pendency of appeals, a sum of Rs.54,72,87,536/- was realized by way of custom duties and interest thereon. In such circumstances, an application was filed before this Court to direct the respondent to pay interest on the aforesaid amount w.e.f. the date of recovery till the date of payment. The appellants relied upon the judgment in the case of South Eastern Coal Field Ltd. v. State of M.P., (2003) 8 SCC 648.

This Court explained the principles of restitution in the case of O.N.G.C. Ltd. (supra) as under:-

"Appellant is a public sector undertaking. Respondent is the Central Government. We agree that in principle as also in equity the appellant is

> *entitled to interest on the amount deposited on application of principle of restitution. In the facts and circumstances of this case and particularly having regard to the fact that the amount paid by the appellant has already been refunded, we direct that the amount deposited by the appellant shall carry interest at the rate of 6% per annum. Reference in this connection may be made to Pure Helium Indian (P) Ltd. v. Oil & Natural Gas Commission, JT 2003 (Suppl. 2) SC 596 and Mcdermott International Inc. v. Burn Standard Co. Ltd. JT 2006 (11) SC 376."*

45. Thus, where there is an order for restitution by way of return or restoration/payment of some specific money or thing to its rightful owner, the direction to pay interest must follow. It is noteworthy that in the case of O.N.G.C. Ltd. v. Commissioner of Customs Mumbai, JT 2007 (10) SC 76 (referred by the Supreme Court in the above noted judgment), the application for payment of interest was filed for the first time before the Supreme Court during the pendency of the appeal, which was entertained and allowed by the Supreme Court.

46. In the instant case, the Appellant has been found entitled to compensation for the electricity injected into the grid by it from its solar

power plant between 15th September, 2017 upto 10th May, 2018. Thus, the compensation for such energy would be paid to the Appellant now after a long wait of about 8 years during which period it was deprived of the use of such money to which it was lawfully entitled whereas Respondent No. 3 had been using it as per its commercial wisdom. Hence, the Respondent No.3 is liable to pay such compensation to the Appellant along with carrying cost from the date, the charges became due till actual payment by the said Respondent.

47. As regards the rate of carrying cost, we may note that in the absence of any agreement in this regard between the Appellant and Respondent No. 3, it is found justified to award carrying cost at the rate of SBI Prime Lending Rate (SBI PLR) +2% which is the rate of interest normally adopted by the Commissions while issuing directions for payment of unpaid money.

ORDER

Considering the above discussion, the Impugned Order of the State Commission cannot be sustained as it suffers from errors and infirmities and we hereby, set aside the same. The Appellant is held entitled to compensation for the energy injected into the grid from its solar power project during the period commencing from the date of first order of the State Commission i.e. 15th September, 2017 upto 10th May, 2018 at APPC rates during this period of Respondent No. 3 along with carrying cost at the rate SBI PLR+2%.

The parties shall now appear before the State Commission within one month from the date of this judgement and Appellant shall in the meantime submit all requisite details/documents with regard to amount payable to them as per this judgement. The State Commission shall pass consequential orders in terms of this judgement by calculating the total amount (actual compensation + carrying cost) payable by Respondent No. 3 to the Appellant. The State Commission shall conclude such exercise within one month of furnishing of such details/documents by the Appellant and Respondent No. 3 shall pay the entire payable amount, as per the fresh orders of the State Commission, to the Appellant within four weeks from the date of the order of the State Commission.

The appeal stands allowed accordingly in the above terms. All pending IAs stand disposed of.

Pronounced in open court on this _19th Day of January, 2026

(Virender Bhat)
Judicial Member

(Seema Gupta)
Technical Member (Electricity)

Reportable / ~~Non-Reportable~~

pr/ag/dk