

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400 005.
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Case No.151 of 2008

In the matter of
Petition filed by M/s. Cipla Cancer & AIDS Foundation seeking reliefs
as per ATE's Judgment dated 16.02.2009

Shri V. P. Raja, Chairman
Shri S. B. Kulkarni, Member
Shri. V.L. Sonavane, Member

M/s. Cipla Cancer Palliative Care and
Training Centre, Pune ... Petitioner

Vs.

Maharashtra State Electricity Distribution
Co. Ltd. ... Respondent

ORDER

9th December, 2009

M/s. Cipla Cancer Palliative Care and Training Centre, Pune, submitted a Petition before the Commission on March 16, 2009 praying for the following reliefs :

- “
1. *Set aside / amend the Impugned Tariff Order dated 31.05.2008 to the extent it classifies the Petitioner under the category of HT-II Commercial and apply the tariff applicable under HT-1 (Non-continuous) or HT-IV category to the Petitioner;*
 2. *Classify the Petitioner under any other category of public service or any category having similarity of consumption pattern as the Petitioner;*

3. *If the Commission deems fit, direct the Distribution Licensee viz. the Respondent in this Petition, to determine the billing for the Petitioner under any other category of public service or any category having similarity of consumption pattern as the Petitioner.”*

2. The Petitioners had initially filed a Writ Petition No. 26089 of 2008 before the Hon’ble High Court of Judicature at Bombay challenging the Commission’s Order dated May 31, 2008 in the matter of MSEDCL’s Petition for Truing Up for FY 2007-08, Annual Performance Review for FY 2008-09 and Tariff Determination for FY 2009-10. The Hon’ble High Court of Judicature at Bombay in its Order dated November 14, 2008 dismissed the writ Petition with a liberty to the Petitioners to approach the Appellate Tribunal for Electricity (“ATE”).

3. The Petitioners thereafter filed an appeal before the ATE numbered as Appeal No. 160 of 2008 challenging the aforesaid Tariff Order dated May 31, 2008.

4. The Hon’ble ATE vide its Judgment dated February 16, 2009 in Appeal No. 160 of 2008 was pleased to remand the matter to the Commission, with the following observations and directions:

“ It is specifically stated in the appeal and emphatically submitted by the learned Counsel for the appellant that it is not a hospital and does not own any luxurious facilities like air conditioned rooms, fridge, T.V. etc. to provide facilities to the indoor patients, and as such, if opportunity is given to him, he would establish before the Commission that they are not hospitals owning such facilities and that in that event, the Appellant will be re-categorised as HT I Non-Continuous category and not HT II Commercial. We find force in this contention.

Under these circumstances, we are of the opinion that the matter can be remanded to the Commission and the Commission can be directed to consider this question and pass suitable orders in accordance with law, with reference to the aspect which has been raised by the learned counsel for the appellant before this Tribunal, on the basis of the materials placed before the Commission by the appellant after hearing the learned counsel for the distribution licensee. Accordingly, it is ordered.

This could be done as expeditiously as possible. It is made clear that we are not expressing any opinion in that regard.”

5. The Commission heard the parties on April 9, 2009, August 20, 2009, and September 15, 2009. Shri S.V. Iyer, Managing Trustee, and Shri. Parakash Shetye appeared on behalf M/s. Cipla Cancer & AIDS Foundation, Pune and Shri. S.V. Bapat, S.E. (TRC) and Shri Ravi Prakash, Advocate appeared on behalf of MSEDCL.

6. During the hearing the Petitioner submitted that it has received certain reliefs due to the implementation of the recent Tariff Order in Case No.116 of 2008, and that therefore, they do not wish to pursue their present Petition and wish to withdraw the present Petition.

7. Accordingly, the petition stands dismissed as withdrawn.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman, MERC



(Sanjay Sethi)
Secretary, MERC