

Before the

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

World Trade Centre, Centre No.1, 13th floor, Cuffe Parade, Mumbai 400 005.

CASE Nos. 31, 33, 34 and 35 of 2002

In the matter of

Applications filed by (i) Eurotex Industries Limited, (ii) Amit Spinning Industries Limited (iii) M/s Lupin Chemicals Limited, and (iv) M/s NRC Limited for excess billing for the supply of electricity, and threatening disconnection of power supply by MSEB, etc.

**Shri P. Subrahmanyam, Chairman
Shri Jayant Deo, Member
Dr Pramod Deo, Member**

INTERIM ORDER

Dated: 22nd July , 2003

In its Order in Writ Petition Nos. 6433 of 1999, 894 of 2000, 2109 of 2001 and 5279 of 2002 dated 18th October 2002 the High Court has stated that [para 22] "... it would be just and proper that the Petitioners file their petitions before the Maharashtra Electricity Regulatory Commission, which in our view, will be wholly competent to decide the controversies raised in the present matters". The High Court has also ordered [para 24] "*the Respondents [MSEB and others] not to disconnect the power supply to all the four Petitioners for a period of four and half months hereafter within which time the Maharashtra Electricity Regulatory Commission is expected to decide the petitions to be filed before it. The Court however makes it clear that in the event these petitions are not filed within 6 weeks hereof before the MERC the stay will stand vacated*". Accordingly, the Petitioners (i) M/s Lupin Chemicals Limited, (ii) M/s Amit Spinning Industries Limited, (iii) M/s. Eurotex Industries Limited and (iv) M/s NRC Limited, have submitted their respective Petitions before the Commission on 29th November 2002.

In brief, the common prayer of the applicants are:

- i) To declare MSEB's Commercial Circular No.627 dated 2.9.1999 as illegal and invalid.
- ii) To quash the notice and bills raised by MSEB pursuant to the said Commercial Circular and also refund the excess amount recovered, if any.
- iii) To restrain MSEB from taking any further action, including disconnection, in pursuance of implementation of the impugned Commercial Circular referred to above till the matter is finally heard.
- iv) In the case of M/s NRC Limited, also to declare that Commercial Circular No.619 dated 25.5.1999 is not applicable to them.

v) Ad-interim injunction in respect of the above.

2. The Petitioners (except M/s NRC Limited) approached the Supreme Court through SLP(C) Nos. 23253, 23254 and 23719 of 2002, but these were dismissed on 5th May 2003. During this period, the Commission had decided to adjourn the proceedings before it.

3. Under letter received on 13.6.2003, followed by a copy of the Supreme Court Order dismissing the SLPs, M/s Hareh Jagtiani & Associates, Advocates, on behalf of the Petitioners (except M/s NRC Limited) have sought a formal extension of the stay granted by the High Court until the hearing and final disposal of these matters by the Commission.

4. In the circumstances of these cases, and considering the thrust of the High Court's Order, namely that *"this stay will continue ... for a further period of four weeks after the decision of the Commission in the event decision goes against the Petitioners. ... If ... the Petitions are not decided within three months, ... it will be open to the Petitioners to apply for extension of stay and the MERC will consider those applications appropriately"*, the Commission hereby extends the stay till the final disposal of the cases before it. The stay will be confined to the amounts claimed by MSEB in the Petitions before the High Court.

Sd/-
(Jayant Deo)
Member

Sd/-
(Dr Pramod Deo)
Member

Sd/-
(P. Subrahmanyam)
Chairman, MERC

Sd/-
(A.M. Khan)
Secretary, MERC