ITEM NO.28 COURT NO.3 SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 8732-8733/2026

DELHI ELECTRICITY REGULATORY COMMISSION Appellant(s)

VERSUS

FORUM OF REGULATORS & ORS.ETC. Respondent(s)

FOR ADMISSION, IA No. 185386/2026 – INTERVENTION/IMPLEADMENT, IA No. 185544/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 185384/2026 - STAY APPLICATION

Date : 03-07-2026 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR
(PARTIAL COURT WORKING DAYS BENCH)

For Appellant(s) Mr. Tushar Mehta, Solicitor General
Ms. Pritha Srikumar Iyer, AOR
Ms. Mansi Binjrajka, Adv.
Mr. Abhyudaya Shishodia, Adv.
Mr. Ritwik Gupta, Adv.

For Respondent(s) Mr. Sidharth Sethi, AOR

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Shri Venkatesh, Adv.
Mr. Shryeshth Ramesh Sharma, Adv.
Mr. Ashutosh Kumar Srivastava, Adv.
Mr. Nihal Bhardwaj, Adv.
Mr. Aashwyn Singh, Adv.
Ms. Ananya Dutta, Adv.
Mr. Aniket Kanhaua, Adv.
Mr. Nitin Saluja, AOR

Mr. Amit Kapur, Adv.*

Mr. B. Ranganthan, Adv.*

UPON hearing the counsel the Court made the following

O R D E R

1. Heard Mr. Tushar Mehta, learned Solicitor General for the appellant, Dr. Abhishek Manu Singhvi, learned Senior Counsel,

Mr. Amit Kapur, Mr. B. Ranganthan and Mr. Shri Venkatesh, learned Senior Counsel/learned Counsel appearing for the respondent(s) on caveat.

2. The present Civil Appeals concern directly with the issue whether the action of the Delhi Electricity Regulatory Commission (for short, 'DERC') to initiate the process of audit of the distribution companies of Delhi by the Comptroller and Auditor General of India (for short, 'CAG') is legally permissible. The Appellate Tribunal for Electricity (for short, 'APTEL') on this issue has held that the action of the DERC in entrusting the strict and intensive audit as directed by this Court of the Delhi discoms to CAG is in contravention of the statutory provisions. After holding so, the APTEL has directed DERC 'to appoint any Chartered Accountant within one week from today' with specific directions to conclude the strict and intensive audit of the Delhi Discoms (paragraph 40 of the impugned order).

3. We have heard learned Senior Counsel and learned Counsel on this issue.

4. Issue notice.

5. Till further orders, there shall be a stay of operation of the direction to DERC given at paragraph 40 of the APTEL's order (impugned order) with regard to the direction of appointment of any Chartered Accountant for the purpose of audit. At the same time, till the Civil Appeals are decided, the CAG also shall not proceed with the audit.

6. During the course of the arguments, Mr. Tushar Mehta,

learned Solicitor General for India has raised an issue that the audit needs to be completed before recoveries can be effected from the consumers. He places reliance on the judgment of this Court in W.P.(C)No.104/2014 especially paragraph 71, clause (vi) thereto, which reads as follows:

> "Regulatory Commissions must provide the trajectory and roadmap for liquidation of the existing regulatory asset, which will include a provision for dealing with carrying costs. Regulatory Commissions must also undertake strict and intensive audit of the circumstances in which the distribution companies have continued without recovery of the regulatory asset."

7. On the other hand learned Senior Counsel/learned Counsel appearing for the distribution companies submit that the issue of audit and the issue of recovery pursuant to the creating of the regulatory assets are independent. Learned counsels submits that the Civil Appeals are confined to the issue of audit and the aspect of liquidation which has been dealt with separately in the impugned order, has not been called in question.

8. Mr. Tushar Mehta, learned Solicitor General for India, in response submits that, that is only a matter of technicality as they propose to file a Civil Appeal on that aspect also.

9. Learned Solicitor General for India also draws attention to the grounds to show that unless the audit is completed, permitting recovery from the consumers will be putting the *cart before the horse*.

10. Since this aspect of the matter involves interpretation

of the judgment of this Court dated 06.08.2025 in W.P. (C)No.104/2014, we are of the opinion that this matter should be heard by the Hon'ble Judges who were part of that Bench, subject to, of course, orders from Hon'ble the Chief Justice of India.

11. List these matters on 15th July, 2026.

12. Let the papers of these matters be placed before Hon'ble the Chief Justice of India.

13. Till 15th July, 2026, there shall be a *status quo* on all aspects.

14. List the impleadment application along with the main matters.

(NIRMALA NEGI)	**(MANOJ KUMAR)**
ASTT. REGISTRAR-cum-PS	**COURT MASTER (NSH)**

*appearance not given