

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)
COURT-II**

**IA NO. 776 OF 2021 IN
DFR NO. 82 OF 2020 &
IA NOS. 301 & 298 OF 2020**

Dated: **4th May, 2021**

Present: **Hon'ble Mr. Ravindra Kumar Verma, Technical Member
Hon'ble Mr. Justice R.K. Gauba, Judicial Member**

In the matter of:

Vedanta Limited Appellant(s)

Versus

Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel for the Appellant(s) : Ms. Swapna Seshadri

Counsel for the Respondent(s) : Mr. B. Vinodh Kanna for R-2

ORDER

This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

ON BEING MENTIONED

IA NO. 776 OF 2021

[For Early Hearing & Direction]

The main matter, being DFR No. 82 of 2020, has not come up before us yet for consideration for condonation of delay in challenge to the impugned Order dated 04.01.2019 passed by the State Commission in MP-10/2018, in as much as the hearing of the routine matters is held up due to the limited hearing being accorded only to the urgent matters in these times of ongoing Pandemic conditions.

The learned counsel, Ms. Swapna Seshadri representing the appellant, however, mentioned this matter for urgent hearing for reasons which would be clear from the discussion that follows. Having secured through her aegis the presence of the learned counsel, Mr. B. Vinodh Kanna, representing the second respondent/TENGEDCO, and having heard both of them, on our direction the matter is being shown in the supplementary cause list.

We take judicial notice of the fact that on account of ongoing Covid pandemic, there being acute shortage of medical grade oxygen, the Constitutional Courts including the Supreme Court have taken *suo-motu* cognizance of the situation prevailing and have issued several directions to resolve issues of deficiencies plaguing the public health infrastructure. We are informed by the learned counsel on both sides that by Order dated 27.04.2021 in IA no. 55831 of 2021 in SLP (Civil) nos. 10159-10168/2020, directions were issued by Supreme Court in terms of which the Government of the State of Tamil Nadu has issued certain orders including for facilitating generation of medical grade oxygen for immediate supply to the needy. We are also informed that the appellant owns a plant, essentially a copper smelting unit, the operations whereof have been shut down for several years due to issues of pollution, under directions of the National Green Tribunal (NGT), the matter being presently pending statedly before the Supreme Court. Be that as it may, the plant of the appellant also has the capacity to produce medical grade oxygen. This was acknowledged and by express directions in the order of the Supreme Court, the appellant has been permitted to open its plant solely for production of medical grade oxygen, the present permission being for a period of four months. For such production of medical grade oxygen, however, the appellant needs supply of electricity. The respondent/TANGEDCO also agreed before the Supreme Court to supply the electricity for such purposes.

It appears that the appellant is in all readiness to comply with the abovesaid directions for production of medical grade oxygen but is finding it difficult to begin such operations since the terms on which electricity supply has been offered by the respondent/TANGEDCO include the condition of compliance with the direction for payment of parallel operation charges (POC) which is subject matter of the present appeal.

The learned counsel for the appellant assured and submitted a solemn undertaking on behalf of the appellant that under the cover of the operations to produce medical grade oxygen, the appellant does not intend to nor will carry out any other activity that might cause pollution or result in generation of electricity, there being no need whatsoever for any generation of power as might attract the levy of parallel operation charges for the limited period for which such operations have been permitted.

The learned counsel for the respondent/TANGEDCO also fairly concedes that the Order impugned in the appeal is under challenge by several other appeals presented by similarly placed generators in which this tribunal has already granted interim relief in the form of inhibition against any precipitative action to be taken on the bills raised towards parallel operation charges.

In the above facts and circumstances, we find it a fit case where similar relief as granted in other similarly-placed appeals deserves to be granted immediately to the appellant so that it can comply with the directions of the State Government and the Supreme Court immediately and begin urgent production of medical grade oxygen for supply to the COVID treatment facilities.

For the above reasons, we direct that the respondent/TANGEDCO shall start supplying electricity to the appellant forthwith, without any further delay, not insisting on the payment of parallel operation charges till further orders.

Having regard to the critical situation currently faced by the public health infrastructure in India, we express hope and trust that the assurances held out by the learned counsel on both sides that electricity will be supplied forthwith, and the production of medical grade oxygen will commence without any further delay, will be scrupulously and sincerely followed up by all concerned.

Ordered accordingly.

IA no. 776 of 2021 is disposed of.

(Justice R.K. Gauba)
Judicial Member
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(Ravindra Kumar Verma)
Technical Member