

MEGHALAYASTATEELECTRICITYREGULATORYCOMMISSION

1stFloor(Front Block Left Wing),New Administrative
Building LowerLachumiere,Shillong–793 001
East Khasi Hills District,
Meghalaya

ORDER

(Date: 22.10.2018)

In response to the order in Case Number 9A /2017 of 2018 dated 10/9/2018, issued by the Meghalaya State Electricity Regulatory Commission, (hereinafter referred to as MSERC) the MePDCL had, vide letter No MePDCL /SE/RA/71C/Pt IV/2018-19/66 dated 25th September 2018, submitted a request for an opportunity to be heard before implementation of the order for separate Tariff Categorisation for Ferro Alloy Industries for FY 2018-19.

The Commission had accordingly scheduled a hearing at 12.00 noon on the 11/10/2018, where the representatives of the MePDCL were present. Representatives of the Byrnihat Industries Association (hereinafter referred to as the BIA) were also present for the hearing.

MePDCL raised certain issues in support of their petition for review of the order dated 10/9/2018. Also heard Dr. N. Mozika, Advocate on behalf of MePDCL who submits that this Commission does not have jurisdiction to hear the instant application and that the order dated 10/9/2018 passed by this Commission is without jurisdiction in view of the judgment dated 12th April 2018 passed by the Honorable Supreme Court of India in Civil Appeal No 14697 of 2015, State of Gujarat and Ors vrs Utility Users Welfare Association and Ors(2018) 6 SCC 21. No formal application/petition regarding this issue has however been filed by the MePDCL in this regard, and Shri. N. Mozika sought leave to file a formal application to such effect, which is hereby granted. Shri. E. B. Kharmujai, CE Commercial, MePDCL also made certain submissions on the matter.

On behalf of the Byrnihat Industries Association, Shri. K. Paul, Advocate submitted that MePDCL cannot be allowed to blow hot and cold at the same time as they had already filed an application in the nature of a review petition seeking modification of the order dated 10/9/2018, on which the hearing was fixed for today but later raised the issue of jurisdiction of this Commission to hear the application/petition. It is further his

submission that the application which has been filed by the MePDCL is one seeking review of the order dated 25/9/2018, and that review of any order can be done only on special grounds and not as a matter of course. As such a prayer has been made that BIA should be permitted to file a response to the application seeking review as well as on the issue of jurisdiction of this Commission.

Later a petition has been filed by the MePDCL but without the requisite fees, challenging the jurisdiction of this Commission to pass any orders post the 12th April 2018, the date of the above mentioned order of the Hon'ble Supreme Court.

In normal circumstances this Commission would not have entertained this application without the requisite fees. However considering the fact that MePDCL has raised the issue of jurisdiction of this Commission to hear any matter, it is thought appropriate that this application/petition be taken on board for decision and MePDCL be permitted to file the requisite fees later. It would also be appropriate that BIA be given a copy of this application/petition for their response on the same.

It would also be in the fitness of things that BIA be permitted to file their reply to the application/petition filed by MePDCL seeking review of the order dated 10/9/2018, as they are likely to be effected by any order to be passed by this Commission in the said application/petition. Also MePDCL is permitted to file rejoinder to the response filed by BIA.

Accordingly the hearing is adjourned today and refixed on 14.11.2018 for response/reply by the Byrnihat Industries Association on both the applications filed by the MePDCL as well as rejoinder by MePDCL. Let the exercise of filing the response and rejoinder be completed by 09.11.2018. Let a copy of the application/petition filed by MePDCL be furnished to the BIA alongwith a copy of this order.

Separately, on the very same day, i.e. the 11/10/2018, another petition has been filed by the MePDCL, seeking for an opportunity to be heard in the matter relating to the order of this Commission dated 10/9/2018. In view of the petition submitted by the MePDCL on the matter of jurisdiction of this Commission as noted above, no action will be taken on this petition at the present juncture.

Dated: Shillong
The 22nd October 2018

Sd/-
Chairman
Meghalaya State Electricity Regulatory Commission
Shillong