



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE 23<sup>rd</sup> DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY

:: Present ::

**Justice C.V. Nagarjuna Reddy, Chairman**  
**Sri P. Rajagopal Reddy, Member**  
**Sri Thakur Rama Singh, Member**

**EXECUTION PETITION NO. 01 OF 2017 IN APPEAL NO. 228 OF 2012**  
**on the file of the Appellate Tribunal for Electricity**

**Between :**

M/s. SNJ Sugars and Products Limited  
Formerly known as M/s. Sagar Sugars and Allied Products Ltd.  
Nelavoy (V), Sri Rangarajapuram Mandal,  
Chittoor District, Pin Code - 517167 Andhra Pradesh. .... PETITIONER

**Versus**

1. Transmission Corporation of Andhra Pradesh Limited,  
Rep. by its Chairman and Managing Director Vidyut Soudha,  
Khairatabad Rd., Hyderabad, Telangana - 500004.

Now through A.P. Southern Power Distribution Company (APSPDCL)  
Rep. by its Chairman and Managing Director,  
D.No.: 19-13-65/A, Srinivasapuram,  
Tiruchanoor road, Tirupati - 517503,  
Chittoor District, Andhra Pradesh.

2. The Chief Engineer I.P.C., APTRANSCO,  
Vidyut Soudha, Khairatabad Rd.,  
Hyderabad, Telangana - 500004.

3. The Superintending Engineer (TL & SS),  
APTRANSCO Kadapa Zone, Kadapa,  
Hyderabad, Telangana - 500004.

4. Andhra Pradesh Electricity Regulatory Commission  
4th & 5th Floors 11-4-660,  
Singareni Bhavan Red Hills,  
Hyderabad, Telangana - 500004

.... RESPONDENTS

This matter came up for hearing finally on 26-08-2020 in the presence of Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents. After carefully considering the material available on record and after hearing the arguments of both the counsel, the Commission passed the following:

**ORDER**

1. These proceedings are in the nature of an execution petition filed by the petitioner before the APTEL seeking execution of order dt: 12-03-2020 in Appeal No. 228 of 2012. The APTEL chose to send the EP to this Commission for the simple purpose of quantification of the liability of the respondents towards the petitioner, having determined the date on which the principal debt fell due and the rate of interest the amount shall carry.
2. As the issue to be decided, as indicated above is quantification of the liability by applying the set parameters of the APTEL, the facts in detail need not be discussed. It will however suffice to extract the operative part of the order of the APTEL which constitutes the basis for determination of the quantum of the liability.

“53. The question of dues of amount payable by APTRANSCO would become due only when it was determined by this Tribunal which was confirmed by the Hon'ble Apex Court by its judgment dated 12-07-2013. In

terms of Section 34, if we look at the judgment dated 04.02.2013, the Tribunal did not refer to payment of interest prior to 04.02.2013. It only referred to payment of interest on the difference amount as indicated in the Judgment. Therefore, in terms of Section 34 of the Code of Civil Procedure, the interest ought to be paid is only from 04.02.2013 when the amount got quantified or determined as price per unit for power supplied during the above stated period was determined. Since the transaction between the parties is a commercial transaction, the said simple interest of 10% has to be paid till payments are made.”

3. Consequent to the order of the Hon'ble APTEL, both the petitioner and the respondent DISCOM have filed their respective calculations. On considering the rival contentions and the respective calculations filed by the parties, the only point that arises for consideration is:  
What is the amount that the petitioner is entitled to recover from the respondent?
4. The legal principle pertaining to calculation of repayment of debt is well settled. In Venkatadri Appa Row and others vs. Parthasarathi Appa Row (LR 17 IA 150) the judicial committee of the privy council observed that, upon taking an account of principal and interest due, the ordinary rule with regard to payments by the debtor unappropriated either to principal or interest is that they are first to

be applied to the discharge of interest. Lord Buckmaster delivering the judgement of the board observed:

*"There is a debt due that carries interest. There are moneys that are received without a definite appropriation on the one side or on the other, and the rule which is well established in ordinary cases is that in those circumstances the money is first applied in payment of interest and then when that is satisfied in payment of the capital. That rule is referred to by Rigby, L.J., in the case of Parr's Banking Co. vs. Yates, (1898 (2) QB 460) in these words:*

*"The defendant's counsel relied on the old rule that does, no doubt, apply to many cases, namely, that where both principal and interest are due, the sums paid on account must be applied first to interest. That rule, where it is applicable, is only common justice. To apply the sums paid to principal where interest has accrued upon the debt, and is not paid, would be depriving the creditor of the benefit to which he is entitled under his contract.' Learned counsel for the appellant contended that in Venkatadri Appa Row's case (supra) there was no specific appropriation by the debtor, whereas in the present case there is specific direction by the debtor. But the normal rule is that in the case of a debt due with interest any payment made by the debtor is in the first instance to be applied towards satisfaction of interest and thereafter to the principal. It was for the mortgagors to plead and prove an agreement that the amounts which were deposited in Court by the mortgagors were accepted by the mortgagees subject to a condition imposed by the mortgagors."*

5. The above principle has been followed by the Hon'ble Supreme Court in several judgements including in Industrial Credit & Development

Syndicate Now Called I.C.D.S. Ltd. vs. Smithaben H. Patel (Smt.) and others ((1999) 1 SCR 555] and Gurpreet Singh Vs Union of India (UOI) ((2006) 8 SCC 457).

6. As per the APTEL's order dt: 12-03-2020 interest on differential tariff is to be calculated only w.e.f 4-Feb-2013. Since there is no difference between the parties about the quantum of principal amount due as Rs. 7,37,05,265/- (as determined by the order dt: 03-11-2017 of this Commission), the interest liability is required to be determined taking into account interim payments to the tune of Rs. 5,07,30,737/- on different dates and a deposit of Rs. 12,40,23,076/- on 07-Dec-2017 by applying the above settled principle regarding adjustment of amounts paid towards interest liability first. While the petitioner has filed its calculation as per which it has claimed Rs. 4,79,74,528/- as principal and interest upto 31-03-2020, the respondent DISCOM has filed its own calculation which varies with that of the petitioner. The Commission therefore needs to resolve this dispute.
7. As against the principal amount of Rs. 7,37,05,265/- due as on 04-Feb-2013, the respondent DISCOM made intermittent payments of Rs. 5,07,30,737/- on the following dates, direct to the petitioner.

23-02-2017: Rs. 2,99,99,160/-

17-03-2017: Rs. 63,35,520/-

24-11-2017: Rs. 1,43,96,057/-

In addition to the above payment, the respondent DISCOM has deposited a sum of Rs 12,40,23,076/- on 07-12-2017. The first

payment of Rs. 2,99,99,160/- was made by the respondent on 23-Feb-2017. The interest accrued up to that date on the principal was Rs. 2,98,85,970/-. Therefore, a sum of Rs. 1,13,190/- (Rs. 2,99,99,160 - Rs. 2,98,85,970) needs to be deducted from the outstanding principal amount. Consequently, the principal sum due from 23-Feb-2017 was Rs. 7,35,92,075/-. On 17-Mar-2017, a sum of Rs. 63,35,520/- was paid by the respondent. As on that date, a sum of Rs. 4,43,569/- was the interest accrued. On adjusting the part repayment amount towards the interest component, the remainder sum of Rs. 58,91,951/- shall be deducted from the principal amount and thereby the outstanding principal amount as on 17-Mar-2017 stood at Rs. 6,77,00,124/-. As on 24-Nov-2017 when next payment of Rs. 1,43,76,057/- was made, an interest of Rs. 46,74,091/- has accrued and after the adjustment, the principal sum stood reduced to Rs. 5,79,78,158/- as on 24-Nov-2017. The respondent DISCOM made a deposit of Rs. 12,40,23,076/- on 07-Dec-2017 before this Commission in pursuance of the directions of the Hon'ble APTEL. On 19-Dec-2018, the Commission released a payment of Rs. 4,00,00,000/- to the petitioner on the directions of the Hon'ble APTEL. The interest accrued on the outstanding principal as on this date was Rs. 61,94,926/-. After adjustment, the principal sum stood reduced to Rs. 2,41,73,084/-. This amount not having been paid to the petitioner shall carry interest at 10% p.a till the date of payment which is calculated upto 25-Sep-2020 by which date the amount is

expected to be released in favour of the petitioner. So calculated the total amount receivable by the petitioner comes to Rs. 2,84,51,389/- (Rs. 2,41,73,084 + Rs. 42,78,305/-). This needs to be paid from the deposit of Rs. 8,40,23,076/- which is in deposit with this Commission. The balance amount lying with the Commission hich comes to Rs. 5,55,71,687/- along with the interest accrued thereon, is liable to be refunded to the respondent DISCOM. Ordered accordingly. It is however made clear that this order shall be subject to any order that may be passed by the Hon'ble Apex Court in the SLP filed by the petitioner and stated to be pending.

Sd/-

**Thakur Rama Singh**  
Member

Sd/-

**Justice C.V. Nagarjuna Reddy**  
Chairman

Sd/-

**P. Rajagopal Reddy**  
Member