



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER,
TWO THOUSAND AND TWENTY TWO

:Present:

Justice C.V. Nagarjuna Reddy, Chairman

Sri P. Rajagopal Reddy, Member

Sri Thakur Rama Singh, Member

OP No.35 of 2022

Between:

M/s. Tirumala Cotton And Agro Products Private Limited, Having its registered office at Thimmapuram, Nadendla Mandal, Palnadu District, Andhra Pradesh - 522 233, Represented by its Director/Authorised Signatory-Mr.Peravali Koti Rao.

..... Petitioner

AND

1. Andhra Pradesh Power Coordination Committee, Vidyut Soudha, Gunadala, Eluru Road, Vijayawada, A.P.-520004, represented by its Chief General Manager.
2. Southern Power Distribution Company of A.P. Limited, Having its registered office at 19-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati, Balaji District, Andhra Pradesh - 517503. Represented by its Managing Director.
3. Transmission Corporation of Andhra Pradesh Limited, Having its registered office at Vidyut Soudha, Gunadala, Eluru Road, Vijayawada, Andhra Pradesh - 520004, Represented by its Chairman & Managing Director.
4. Andhra Pradesh State Load Dispatch Centre, Through Transmission Corporation of A.P. Limited, Vidyut Soudha, Gunadala, Eluru Road, Vijayawada, Andhra Pradesh-520004, represented by its Chief Engineer, SLDC, Vijayawada.

....Respondents

This Petition has come up for final hearing before us today in the presence of Sri K. Gopal Choudary, counsel representing Sri Telaprolu Sricharan, learned counsel for the petitioner and Sri P. Shiva Rao, learned counsel for the power utilities, upon carefully considering the material available on record and upon hearing the arguments of the learned counsel for both parties, the Commission passed the following:

ORDER

This petition is filed for a direction to the Respondents to pay a sum of Rs.76,30,134-37/- (Rupees Seventy Six lakhs, Thirty Thousand, One hundred and Thirty Four and Paise Thirty Seven only) due to the Petitioner in respect of the sale of the un-utilized Banked Units or to permit the Petitioner to utilise the un-utilized Banked Energy.

Counter affidavit is filed on behalf of the respondents, wherein, while admitting the petitioner's entitlement to receive the aforementioned sum from respondent No.2, it is, however, pleaded that the petitioner is liable to pay a sum of Rs.1,23,57,090/- to respondent No.3; and that the respondents have exercised the right of equitable lien as against the liability of respondent No.2 towards the petitioner.

After hearing the learned counsel for both the parties, we are of the opinion that the stand taken by the respondents cannot be sustained for two reasons - viz., First, that the alleged liability of Rs.1,23,57,090/- is an uncrystallised debt alleged, which is subject matter of O.P.No.33 of 2022 before this Commission. Hence, the question of the respondents exercising the lien would not arise. Secondly, while respondent No.2 is liable to pay the claimed sum in the present OP, they cannot withhold the said sum towards the purported lien against the sums allegedly recoverable from the petitioner by respondent No.3, as both are independent entities in law. Therefore, in the face of the admitted liability of respondent No.2, it has no option but to discharge the said liability to the petitioner, subject, however, to the right of respondent No.3 to recover the dues allegedly owed to it by the petitioner.

Therefore, the first part of the prayer in the O.P., relating to payment of amount is allowed as prayed for.

Sd/-
Thakur Rama Singh
Member

Sd/
Justice C.V. Nagarjuna Reddy
Chairman

Sd/
P. Rajagopal Reddy
Member