

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.merc.gov.in

Case No. 187 of 2020

Petition filed by M/s Sant Gyaneshwar Steels Pvt. Ltd. & Ors (13) seeking relaxation from the applicable wheeling charges, levied by Maharashtra State Electricity Distribution Co.Ltd. as per the Commission's Multi-Year Tariff Order dated 30 March 2020 in Case No. 322 of 2019.

M/s Sant Gyaneshwar Steels Pvt. Ltd & (13) Ors Petitioner

Maharashtra State Electricity Distribution Co. Ltd. Respondent

Coram
Sanjay Kumar, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member

Appearance:

For the Petitioners : Shri. Anil D'Souza (Adv)
For the Respondent : Shri. Abhishek Khare (Adv)

ORDER

Date: 19 April, 2021

1. M/s Sant Gyaneshwar Steels Private Limited & 13 others have filed this Petition being Case No.187 of 2020 on 18 September 2020 against Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) under Section 86 and Section 94 of the Electricity Act, 2003 (EA-2003) to be read with the Maharashtra Electricity Commission (Conduct of Business) Regulations, 2004 seeking relaxation in wheeling charges in terms of Multi Year Tariff (MYT) Order dated 30 March 2020 in Case No. 322 of 2019 . The Petitioners pray for relaxation in payment of the wheeling charges for two years i.e. FY 2020-21 and FY 2021-22, which are made applicable as per the MYT Order in Case No.322 of 2019.

2. Main prayers of the Petitioners are as follows:

“

a) To accept and admit the Petition through email and grant urgent hearing and issue necessary directions relaxing the Wheeling Charges for the HT Consumers for the Tariff Period 2020-21 and 2021-22..”

3. Petitioners in their Petition has stated as follows:

3.1. The Petitioners are High Tension (H.T) consumers of MSEDCL engaged in the iron & steel industry and are classified as continuous supply industry by Directorate of Industries, Government of Maharashtra. For the Petitioners, the cost of electricity accounts for nearly 60% of the entire cost of production.

3.2. The MYT Order provides several provisions pertaining to the wheeling charges which are applicable to the consumers of MSEDCL. The following is the relevant extract of the same:

“2.4.10 The Commission is aware of the fact that all the EHV/HT levels (i.e. EHV, 11 kV, 22 kV and 33 kV) are not available in all the areas of MSEDCL. This fact necessitates the consumers to avail power on the voltage level other than those specified in the SoP Regulations. Considering the cost implication and also practical difficulties (RoW, Forest clearances etc.) it cannot be expected from any Distribution licensee to mandatorily have all the voltage levels and release loads strictly as per SoP Regulations and for this reason the SoP has a clause of technical feasibility. On the other side, the Commission feels that the individual consumer should not suffer by paying higher wheeling charges on account of this infrastructure limitation wherein the load is required to be availed at lower voltage due to non availability of the requisite voltage level. Thus, the Commission rules that in such cases only (non availability of EHV or requisite voltage level), the wheeling charges to the consumer shall be applicable as per the Billing Demand recorded. To avoid misuse of this concession, the applicability shall be subject to MSEDCL internally certifying the non availability of the requisite voltage level and further that the billing demand shall be as per the requisite voltage level is met by the consumer for at least 9 months in a financial year.”

3.3. Subsequently, the Commission issued a Clarificatory Order on 30 April, 2020 in Case No. 322 of 2019, wherein it has been clarified that in case actual billing is less than a year, consumer needs to maintain billing demand as per requisite voltage level for 75% of bills

actually raised during the financial year to get benefit of lower wheeling charges of higher voltage level in case of non-availability of requisite voltage level in that area.

- 3.4. The applicable wheeling charges as per i MYT Order are as shown in following table:

Sr. No.	FY	Wheeling Charges for High Tension in (Rs/Unit)
1	2020-21	0.57
2	2021-22	0.56
3	2022-23	0.55
4	2023-24	0.54
5	2024-25	0.53

Presently MSEDCL is billing the Petitioners with wheeling charge at the rate of Rs. 0.57/kVAh.

- 3.5. As per previous Tariff Orders, the Petitioners had been charged at Rs. 0.08/kVAh as wheeling charges. The increase in the wheeling charges from Rs. 0.08/kVAh to Rs. 0.57/kVAh is around 7 times (700%) increase over the previous year. This exponential increase in Tariff is Tariff shock to the Petitioners and is not in consonance with the provisions of the EA-2003 and the Tariff Philosophy. The Petitioners therefore pray that the levy of wheeling charges be increased in phased manner and not all of sudden.
- 3.6. Any charges to be levied on electricity consumption are generally introduced with the twin objects of rationalization of power usage and optimum utilization of power. This high Wheeling Charges thus would be counterproductive to certain incentives introduced/granted by the Commission, aiming to increase electricity consumption.
- 3.7. Levy of wheeling charges to 33 kV, 22 kV and 11 kV voltage levels in uniform manner contravenes the provisions of Sections 61 and 62 of the EA-2003 and particularly Section 61(g) of EA,2003. This kind of dispensation was not there in the Mid Term Review (MTR) Order in Case No.195 of 2017 dated 12 September 2018.
- 3.8. Para 2.4.9 of the MYT Order records that the further breakup of Wheeling Charges within HT level is not undertaken due to “practical difficulty”. Such practical difficulty of MSEDCL should not be a cause for additional burden to the 33 kV HT Consumers.
- 3.9. Para 8.29.11 of the MYT Order records that the Wheeling Charges have been calculated by the MSEDCL by dividing the wheeling charges for each category by the assumed load

factor of 66% and 720 hours. The load factor is assumed to be 66%. Calculations of the wheeling charges based on such assumed load factor is not a prudent manner of calculation especially when it causes a huge financial impact on the consumers.

- 3.10. Para 8.29.13 of the MYT Order further records separate wheeling losses for 33 kV, 22 kV and 11 kV. Thus, MSEDCL has been able to identify the wheeling losses separately for all the three categories of HT consumers. These wheeling losses do vary substantially in percentage terms. In these circumstances levy of uniform wheeling charges to all HT consumers irrespective of their voltage level is discriminatory.
- 3.11. Para 8.29.16 of the MYT Order clearly records that there is a failure on the part of the MSEDCL to provide the voltage-wise GFA details. This has compelled the Commission to estimate voltage wise GFA ratio considering assumptions on various parameters.
- 3.12. Para 8.29.18 of the MYT Order records that consideration of the past period gaps (from FY 2017-18 to FY 2019-20) in recovery of wire ARR through Wheeling Charges to an extent of Rs 3528 Crore in the ensuing years. These act unduly harsh to the existing HT consumers since several HT consumers of the previous years may not be HT consumers any longer.
- 3.13. The Pandemic on account of Covid 19 and the consequent actions by the Government and other regulators, private organizations such as the Petitioners have had an unforeseen and extremely adverse impact. Entire iron & steel and allied industries have been affected.
- 3.14. The consumers of MSEDCL based in Marathwada, Vidarbha and Wada (Palghar District) are benefitted with huge subsidy from the Government of Maharashtra. In few cases these subsidies go even to the extent of Rs. 2.05/ unit. However, the Petitioners herein are based in Nasik, Pune and Kolhapur Districts and are not benefitted by any such subsidy. It is very difficult to compete with others who have advantage of Rs. 2.05/unit. Wheeling charges to the tune of Rs.0.57/ Unit is now the new burden.
- 3.15. Considering the above facts and circumstances and especially the fact that the Petitioner's 60% cost of the production is electricity cost, it is prayed for the relaxation in levy of the wheeling charges for the Tariff year 2020-21 and 2021-22.

4. MSEDCL in its reply dated 12 November 2020 submitted as below:

Maintainability of the Petition:

- 4.1. The present Petition is not maintainable as per regulatory requirement stipulated in the Regulation 39 (a) and Regulation 39 (b) of the MERC (Conduct of Business) Regulations, 2004. Petitioners have not placed on record any legal basis warranting change in the approved MYT Order. Fresh adjudication of MYT Order, which has been issued after following the due public consultation process, is not permissible under the law through such Miscellaneous Petition.
- 4.2. The Petitioners such as M/s.Sant Gyaneshwar Steel Pvt. Ltd., Indrayani Feffocast Pvt. Ltd., Ambika Waste Management Pvt Ltd., Sohn Steel Private Limited, Bhagwati Ferro Metal Pvt Ltd., Bhagwati Steel Cast Ltd., MITC Rolling Mills Pvt. Ltd. Bhuleshwar Steel and Alloy Pvt. Ltd. and Meenakshi Ferro Ingots Pvt. Ltd. had submitted their objections during the Public Consultation Process of the MYT tariff determination proceedings. In the paragraph 2.4.1 onwards of the MYT Order, the Commission has recorded the objections of the various bodies and Individuals on wheeling charges including that of the Petitioner Sohn Steel Pvt. Ltd.
- 4.3. If the Petitioners are at all aggrieved by the MYT Order, then the present Petition is not the appropriate legal remedy. The Petitioners should have adopted appropriate remedy whether it be an Appeal under Section 111 of the EA,2003 or Review under Regulation 85 of the MERC (Conduct of Business) Regulations 2004 or any other valid and legal remedy. The present Petition for relaxation of the Commission's MYT Order in its current form is clearly not maintainable.

Wheeling Charges as per MYT Tariff Regulations, 2019

- 4.4. The Draft MYT Regulations 2019 were published for the public consultation process seeking comments from the public. As per the Regulation 72.2 of the Draft MYT Regulations 2019, the wheeling charges were proposed to be determined separately for LT voltage, HT voltage, and EHT voltage, as applicable. The Commission in its Explanatory Memorandum for Draft MERC (Multi Year Tariff) Regulations, 2019 had also clearly provided the rationale for proposing the wheeling charges for EHT, HT and LT level.
- 4.5. After following the due public consultation process, while finalizing the MYT Regulations 2019, the Commission in its Statement of Reasons for MYT Regulations, 2019 has clearly provided that it intended to determine separate wheeling charges for EHT, HT and LT voltages, uniformly for all the Distribution Licensees, and accordingly specified the same in the final notified MYT Regulations, in order to ensure consistent approach in determination of wheeling charges.

- 4.6. The principle of wheeling charges for EHT, HT and LT voltages has been adopted by the Commission in its MYT Regulations 2019 after giving sufficient reasons and such reasoned decision cannot be modified through a miscellaneous Petition.

Steep increase in wheeling charges and Practical Difficulties

- 4.7. In the MYT Order, the Commission has clearly mentioned that all voltage levels within HT (11 kV, 22 kV and 33 kV) are not available uniformly across the State. Therefore, even though consumer is eligible for getting supply at specified voltage level, due to historical construction practices, such voltage level may not be available in its area. Further, while determining charges, the Commission has ensured that there is no abrupt increase in variable charges (Energy Charge + Wheeling Charges). Hence, there is no adverse implication of having HT wheeling Charge.

Assumed Load Factor

- 4.8. The load factor is assumed as per the approved methodology followed by the Commission in the past Tariff Orders.

Wheeling Losses

- 4.9. MSEDCL has proposed the same Wheeling Losses which were already approved by the Commission in its previous Tariff Orders for the purpose of commercial settlement. However, irrespective of MSEDCL submission, the Commission approved Wheeling Loss of 7.5% at HT and 12% at LT level only.

Voltage wise GFA

- 4.10. MSEDCL in its MYT Petition had considered GFA segregation into HT and LT as adopted by the Commission in the MTR Order dated 12 September, 2018. The GFA proportion for 33 kV, 22 kV and 11 kV voltage levels have been added to arrive at the proportion of GFA for HT Level. The Commission in its Order has devised ratios for allocation of GFA considering influencing parameters such as HT/LT circuit km, substation capacity (HT/LT), Number of DTCs/DT capacity, voltage wise sales at HT/LT, energy units handled at HT/LT etc. The Commission in case of other Distribution Licensees namely BEST and AEML-D has followed the ratios approved in their respective MTR Orders.

Past Gap

- 4.11. The Commission in the Order dated 23 December, 2014 in Case No. 86 of 2014 has clearly ruled that a Distribution Licensee's business is considered to be operating on a 'going concern basis', which is one of the basic accounting presumptions. On this basis, it is a settled principle that all existing consumers, including those who were added to the pool of consumers subsequent to the period when the cause of action arose, are liable to pay the relevant charges for all the legitimate past recoveries of Distribution Licensees.

Pandemic and Reliefs provided to Industrial Consumers

- 4.12. The Commission has already provided measures beneficial to consumers in view of prevailing situation through MYT Order as well as various practice directions.

Relaxation in Wheeling Charges for non-SOP Voltages

- 4.13. For claiming relaxation in terms of the Commission's directives at 2.4.10 of the MYT Order, it is expected that if the consumers are recording billing demand at EHV level, they should approach MSETCL for appropriate voltage level and follow due procedure as may be prescribed by MSETCL. Merely, maintaining the billing demand as per requisite voltage level for 75% of bills actually raised during the financial year should not be treated as basis for allowing the wheeling charges for such voltage level automatically. Network till the voltage level of 33 kV belongs to the Distribution Licensee and hence it is the duty of Distribution Licensee to lay down and maintain such network. However, any network above 33 kV is not in the scope of the Distribution licensee and Distribution Licensee is not obligated to lay down such network on its own cost. The scope of laying EHV network is within the ambit of MSETCL. In case MSETCL is unable to make such supply available, then only the relaxation in wheeling charges provided by the Commission needs to be implemented after certification from MSEDCL field officers.

Subsidy and Cross Subsidy

- 4.14. The matter of subsidy provided to various Industrial Consumers in different Regions of Maharashtra is beyond the purview of present proceedings.
- 4.15. The EA-2003 empowers the Commission to reduce the cross subsidy. The Commission through tariff rationalisation has always tried to reduce the cross-subsidy burden on various categories of consumers. The Commission in the MYT Order dated 30 March, 2020 has reduced the cross subsidy to the extent possible. e.g. For HT Industries the cross subsidy is reduced from existing 20% to 14% in FY 24-25.

Tariff Rationalization

- 4.16. The Commission while approving the Wheeling Charges for HT Consumers, has ensured that present variable charges (Wheeling + Energy Charges) do not increase substantially so that there is no adverse implication. In addition to this, the Commission has also introduced Bulk Supply Discount at rate from 1% to 2% on energy charge including FAC (with reverse telescopic features for all HT-Industrial consumers with consumption in excess of 1 lakh units per month). To further encourage industrial consumption and sourcing of power from MSEDCL, a concept of incremental consumption Rebate of Rs 0.75/kVAh has also been introduced, which will help the consumer to further reduce their effective tariff. All other incentives including load factor Discount and the Night usage rebate in Time of the Day (ToD) mechanism are retained. Thus, the Commission has taken due care to ensure Tariff rationalisation for industrial consumers in the State.

Relaxation in Wheeling Charges for 2 years

- 4.17. The Tariff has been decided after considering the expected increase in sales including resultant power purchase and increase in costs of operations including O&M expenses and capex related expenses. Thus, MSEDCL's Tariff is reflective of increased cost of operations as per the expected increase in operations as well as inflation over the period. While deciding the Tariff, the Commission has balanced the aggregate revenue requirement and revenue from revised Tariff .
- 4.18. Now, if such prayer without any legal support is allowed, same will result in modification / changes in the MYT structure approved by the Commission for the 4th Control Period. It would also amount to creation of class within class of consumers more than the tariff categories and such modification / changes in the MYT structure would obviously affect the different class of consumers as the burden will get passed on to them increasing their Tariff.
- 4.19. Due to relaxation of wheeling charges, there would be lower recovery of revenue requirement which would result into Tariff increase to consumers at large in truing up exercise, despite not being at any fault. Therefore, such request should not be accepted as the same is neither legally tenable nor it is justifiable.
5. At the E-hearing held on 26 March 2021, both parties reiterated their submission made in Petition/Reply.

Commission's Analysis and Rulings

6. Petitioners are consumers of MSEDCL and connected at 33 kV level. Petitioners through present Petition have requested for relaxation in payment of wheeling charges on the ground that MYT Order has caused exponential increase in wheeling charges for 33 kV consumers. Petitioners have also contested and objected to various assumptions taken by the Commission in MYT Order.
7. While opposing such contentions, MSEDCL has pointed out that some of the Petitioners had already represented their concerns during public consultation process on MYT Petition and now after issuance of reasoned Order, if any of them is having any objection, then Appeal under Section 111 of EA-2003 or Review Petition is the possible legal remedy. Petition in present form is not maintainable under the Law. Further, MSEDCL has justified commission's computation of wheeling charges in MYT Order.
8. After going through submissions made in the Petition, the Commission is of the opinion that the present Petition has elements of review, clarification and at some point, it is challenging decision of the Commission which is possible only under Appeal jurisdiction. As present petition is neither a review petition nor an appeal, the Commission cannot deal with such prayers in a structured manner. However, in order to address the underlying concerns raised in the present Petition, which are primarily of clarificatory nature, the Commission frames following issues for its consideration:

Issue I: Exponential increase in wheeling charges to the tune of 700%;

Issue II: Uniform Wheeling Charges to 33 kV, 22 kV and 11 kV voltage levels contravenes Provisions of Section 61 (g) of EA,-2003;

Issue III: Assumption of load factor and absence of voltage wise GFA;

Issue IV: Recovery of past period gaps that has led to higher wheeling charges;

Issue V: Relaxation in Wheeling Charges.

9. Issue I:- Exponential increase in Wheeling Charges to the tune of 700%:

- 9.1 The Petitioners have contended that Wheeling Charges have been increased exponentially from Rs. 0.08/kVAh to Rs. 0.57/kVAh which is around 7 times (700%) increase over those of the previous year.
- 9.2 In this regard, the Commission would like to mention that Tariff determination is not a mechanical process, and the Commission has to necessarily match the revenue to be earned through levy of approved tariff to meet Annual Revenue Requirement (ARR) of

Distribution Licensee. Further, Tariff levied to the consumers is being divided into various sub-heads such as Fixed/Demand Charge, Energy Charge, Wheeling Charge, Fuel Adjustment Charge, Time of Day Charge, Incentives, penalties etc. Such splitting of consumer tariff into various sub-heads is done not only to comply with various provisions of the Tariff Policy such as two-part tariff structure, time of use tariff etc. but also to balance interest of Distribution Licensees and consumers. Separate sub-head of wheeling charges has been introduced with the intention of separate accounting of Wires and Supply business of Distribution Licensee which is in fact a preparatory activity for enabling conducive environment for allowing multiple supply Licensees to compete with each other in common area whereby consumer could get benefits of such competition. Consumer's electricity bill consists of all tariff components and rate of each such component is fixed so that collectively it would recover the approved ARR for Distribution Licensee. If rate for any one or more component is varied/changed then in order to ensure full recovery of ARR by Distribution Licensee, rate of other components of tariff are also required to be balanced out judiciously. This tariff balancing is required to be done without causing any tariff shock to any category of consumer, to the extent possible.

- 9.3 The Commission painfully notes the conduct of the petitioners wherein they have chosen selective projection of increase in wheeling charges without considering the corresponding decrease in the Energy charges. Although the electricity bill mentions various components of tariff, consumer has to pay sum total of all charges on the basis of which the average billing rate is decided for a category of consumer. Petitioners have projected that in MYT Order their Wheeling Charges have been increased by 700%, but have conveniently ignored significant reduction in energy charges in the same order. The Commission in MYT Order has ensured that although wheeling charges have been increased for certain category, there is reduction in total variable charges (Wheeling + Energy Charges). Details of the same of Industrial Consumer connected on 33 kV is mentioned in table below:

Category	Prior to MYT Order		Post MYT Order					% Revision in Variable Charges
	Demand Charges (Rs/kVA)	Charge (EC+FAC+WC) (Rs/Unit)	Demand Charges (Rs/kVA)	Energy Charge (Rs/Unit)	Wheeling Charge (Rs/Unit)	FAC (Rs/Unit)	Variable Charge (Rs/Unit)	
	A	b	c	d	e	f	g = d+e+f	h
HT I (A) HT-Industry	391	8.52	411	7.02	0.57	-	7.59	-10.92%

- 9.4 Above table clearly indicates that total variable charges, which include wheeling charges, have been reduced by 11%. Therefore, it is not appropriate to refer increase in wheeling charges in isolation by ignoring simultaneous reduction in other variable charges. As per

the dispensation given in the MYT Order, it is evident that there is a reduction of the Average billing Rate for the petitioner and his category of consumers.

- 9.5 Thus, claim of adverse impact due to increase in wheeling charges is a selective statement which does not consider the overall reduction in tariff. Therefore, such selective representation of facts by the petitioners is without any merit.

10. Issue II:- Uniform Wheeling Charges to 33 kV, 22 kV and 11 kV voltage levels contravenes Provisions of Section 61 (g) of EA-2003

- 10.1. The Petitioners have contended that levy of wheeling charges to 33 kV, 22 kV and 11 kV voltage levels in uniform manner contravenes the provisions of Sections 61 and 62 of the EA-2003 and particularly Section 61(g). Such dispensation was not there in the Mid Term Review Order dated 12 September 2018 in Case No.195 of 2017.

- 10.2. MSEDCL has asserted in response that while formulating MYT Regulations 2019, the Commission in its Statement of Reasons for MYT Regulations, 2019 has clearly provided that it intended to determine separate Wheeling Charges for EHT, HT and LT voltages, uniformly for all the Distribution Licensees, and accordingly specified the same in the MYT Regulations, 2019 in order to ensure consistent approach in determination of wheeling charges. The principle of Wheeling Charges for EHT, HT and LT voltages has been adopted by the Commission in its MYT Regulations 2019 after giving sufficient reasons and such reasoned decision cannot be modified through a Miscellaneous Petition.

- 10.3. The Commission notes that in order to bring consistency in approach followed for determination of wheeling charges, the Commission in its MYT Regulations 2019 provided for determination of separate Wheeling Charges for EHV, HT and LT and not on individual voltage level i.e. 11 kV, 22 kV and 33 kV etc. The Commission in its MYT Order noted following:

“

2.4.8 The Commission in its Explanatory Memorandum to the draft MYT Regulations, 2019 has stated following rationale for determining Wheeling Charges for EHT, HT and LT level:

“The Commission in MYT Order and Mid Term Review Order of the past Control Period has determined the voltage-wise wheeling charges for Distribution Licensees in the State. However, it has been observed that wheeling charges have been determined for different voltage levels for different DISCOMs. For MSEDCL, wheeling charges are determined separately for 33 kV, 22 kV, 11 kV and LT level. In case of Distribution Licensees in Mumbai area, viz. AEML-D, TPC-D and BEST, the wheeling charges are determined

*separately for HT and LT level. Moreover, for MBPPL, the combined wheeling charges for HT and LT level have been determined. **The Commission is of view that the methodology for determination of wheeling charges should be uniform across the State.** Also, it has been observed that some Distribution Licensees are also maintaining the assets at EHT level. Hence, separate Wheeling Charges is also required to be determined for EHT level. In view of this, the Commission proposes to determine the separate Wheeling Charges for EHT, HT and LT level.”*

*2.4.9 MYT Regulations 2019 have been notified after process of previous publication as contemplated under the Electricity Act, 2003. Said Regulations include provision of determining separate Wheeling Charges for EHV, HT and LT level i.e. the Commission would be determined three different wheeling charges corresponding to their voltage level to reflect voltage wise cost of supply. Having further breakup of Wheeling Charges within HT level has practical difficulty. All voltage levels within HT (11 kV, 22 kV and 33 kV) are not available uniformly across the State. Therefore, even though consumer is eligible for getting supply at specified voltage level, due to historical construction practices, such voltage may not be available in its area. **This was creating discrimination amongst consumer and hence, the Commission has decided to have HT wheeling Charges. However, while determining charges, the Commission ensures that present variable charges (Wheeling + Energy Charges) does not increase to any of consumer. Hence, there is no adverse financial implication of having HT wheeling Charge.**” (emphasis added)*

The dispensation provided by the Commission is in accordance with the provisions of MYT Regulations, 2019 and does not warrant any modification.

11. Issue III: Assumption of load factor and absence of voltage wise GFA

11.1. The Petitioners have submitted that the wheeling charges have been calculated by considering assumed load factor of 66% and 720 hours. Petitioners argue that the calculations of the wheeling charges based on such assumed load factor is not a prudent manner of calculating the Wheeling Charges. Further, the MYT Order clearly records that there is a failure on the part of the MSEDCL to provide the voltage-wise GFA details. This has compelled the Commission to consider the estimate of the voltage wise GFA ratio. The above failures of the MSEDCL caused grave prejudices to the Petitioners.

11.2. In reply MSEDCL has stated that it has considered the load factor as per the approved methodology followed by the Commission in the past Tariff Orders. MSEDCL in its MYT Petition had considered GFA segregation into HT and LT as adopted by the

Commission in the MTR Order dated 12 September, 2018. The GFA for 33 kV, 22 kV and 11 kV voltage levels have been added to arrive at the proportion of GFA for HT Level.

- 11.3. Commission has gone into respective submissions and finds that historically the Commission has been using load factor of 66% based on engineering estimates. Further, the Commission in its MYT Order has devised ratios for allocation of GFA considering the influencing parameters such as HT/LT circuit km, substation capacity (HT/LT), Number of DTCs/DT capacity, voltage wise sales at HT/LT, energy units handled at HT/LT etc. The Commission has taken a considered decision in the MYT Order based on the available information. Therefore, the Commission is not inclined to accept the submission of Petitioners on the issue of revision in reconsideration in value of Load Factor or voltage wise GFA.

12. Issue IV: Recovery of past period gaps that led to higher wheeling charges

- 12.1. The Petitioners have contented that recovery of past gap on account of wheeling charges from the existing HT consumers is unduly harsh and operates in a discriminatory manner to the existing consumers.
- 12.2. MSEDCL has submitted that a Distribution Licensee's business is considered to be operating on a 'going concern basis', which is one of the basic accounting presumptions.
- 12.3. In this regard, the Commission notes that it is well settled principle that Distribution Licensee's business is considered to be operating on a 'going concern basis'. It means that any recovery or refund arisen out of truing-up of past years or due to Order of higher Courts is added to the current ARR as per the accounting principles. Such a liability is accordingly passed on to the current consumers of the Licensees. Such past gaps would not necessarily be always a recovery but may include refunds also. Hence, the contention of Petitioners is not correct and cannot be accepted.

13. Issue VI: Relaxation in Wheeling Charges:

- 13.1. The Petitioners have prayed for relaxation in wheeling charges based on above mentioned issues. Further, they have stated that the consumers of MSEDCL based in Marathwada, Vidarbha and Wada (Palghar District) are benefitted by huge subsidy from the Government of Maharashtra. However, the Petitioners herein are based in Nasik, Pune and Kolhapur Districts and are not benefitted by any such subsidy.

13.2. MSEDCL has submitted that the matter of subsidy to be provided to various industrial consumers in different Regions of Maharashtra is beyond the purview of present proceedings.

13.3. In this regard, the Commission opines that allocating subsidy for balancing the regional growth is exclusive prerogative of Government of Maharashtra and the Commission cannot look into such issues. Further, considering the fact that the tariffs have been decided for meeting the ARR as per the provisions of the MYT Regulations, 2019, the Commission rules that the petitioners' request is devoid of merits and cannot be considered. Hence prayer of the Petitioner cannot be sustained.

14. Hence the following Order:

ORDER

Case No 187 of 2020 is dismissed.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson

