



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.19437 OF 2025

**O2 Renewable Energy VII Private
Limited,**

having its registered office at 2nd Floor,
Square One Mall, Saket Business District,
Court Chowk, Pushp Vihar,
New Delhi – 110 017

..Petitioner

Versus

**1. Maharashtra Electricity Regulatory
Commission,**

a Commission constituted under Section 82 of the
Electricity Act, 2003 having its office at World
Trade Centre, Centre No. 1, 13th Floor, Cuffe Parade,
Colaba, Mumbai, Maharashtra – 400 005.

**2. Maharashtra State Electricity
Distribution Company Limited,**

a Company registered under the Companies Act,
1956 having its registered office at Plot No. G-9
Prakashgad, Bandra (East), Mumbai – 400 051.

..Respondents

**WITH
WRIT PETITION (L) NO.19450 OF 2025**

**1. National Solar Energy Federation
of India**

Through its authorised signatory, Ms. Bijal Nileysh,
being an trust registered under the Indian Trusts
Act, 1882, having its registered office at 135-137,
1st Floor, Rectangle-1, D-4 Saket District Centre,
New Delhi -110017

..Petitioner No.1

2. Sunsore Solar Park MH One Pvt Ltd

Through its authorised signatory, Mr. Tushar
Nagare, being a company registered under the
provisions of the Companies Act, 2013, having

its registered office at 1101A-1107, 11th Floor,
BPTP Park Centra, Jalvayu Vihar, Sector 30,
Gurgaon, Haryana- 122001.

..Petitioner No.2

3. Sorion Solar Private Ltd.

Through its authorised signatory, Mr. Pheroze Chichgar, being a company registered under the provisions of the Companies Act, 2013 having its registered office at 105, 1st Flr, E Wing, Corporate Avenue, A K Link Rd., Chakala, Andheri E, Airport (Mumbai), Mumbai, Maharashtra, India, 400099.

..Petitioner No.3

**4. EG Solar Resco Private Limited
- Karanja**

Through its authorised signatory, Mr. Partap Grewal, being a company registered under the provisions of the Companies Act, 2013 having its registered office at 4th Floor, Nexity T30, Plot No-9, 10, 10A, 10B, 8B2, SY. No. 83/1, Hyderabad Knowledge City Layout, Raidurgam, Gachibowli, K.V. Rangareddy, Seri Lingampally, Telangana, India, 500032.

..Petitioner No.4

**5. EG Bright Energy Private Limited
- Umri**

Through its authorised signatory, Mr. Partap Grewal, being a company registered under the provisions of the Companies Act, 2013 having its registered office at 4th Floor, Nexity T30, Plot No-9, 10, 10A, 10B, 8B2, SY. No. 83/1, Hyderabad Knowledge City Layout, Raidurgam, Gachibowli, K.V. Rangareddy, Seri Lingampally, Telangana, India, 500032.

..Petitioner No.5

6. M/s Solenco Solar Park MH-V Pvt Ltd

Through its authorised signatory, Mr. Harshad Kshetija, being a company registered under the provisions of the Companies Act, 2013 having its registered office at A-219, 2nd Floor, Kanakia Zillion LBS Marg Kurla West, Mumbai City, Mumbai, Maharashtra, India, 400070.

..Petitioner No.6

**7. M/s Solarcraft Power India 27
Private Limited**

Through its authorised signatory, Mr. Harshad Kshetija, being a company registered under the provisions of the Companies Act, 2013 having its registered office at 1st Floor, Tower C, Building No.10, DLF Cyber City, Phase-II, Gurugram, Haryana- 122002 India.

..Petitioner No. 7

**8. M/s Energevo Saurya MH Three
Pvt Ltd**

Through its authorised signatory, Mr. Harshad Kshetija, being a company registered under the provisions of the Companies Act, 2013 having its registered office at MMF 47-1/1, Mukti Nagar, Waman Tukaram Patil Marg, Mumbai, Maharashtra, 400071 India.

..Petitioner No.8

**9. M/s Solarcraft Power India 28
Private Limited**

Through its authorised signatory, Mr. Harshad Kshetija, being a company registered under the provisions of the Companies Act, 2013 having its registered office at 1st Floor, Tower C, Building No. 10, DLF Cyber City, Phase-II, Gurugram, Haryana – 122002 India.

..Petitioner No.9

10. Renew Surya Tejas Pvt. Ltd.

Through its authorised signatory, Mr. Shashi Goyal, being a company registered under the provisions of the Companies Act, 2013 having its registered office at 138, Ansal Chambers-II, Bhikaji Cama Place, New Delhi – 110066.

..Petitioner No.10

11. JSW Neo Energy Ltd.

Through its authorised signatory, Mr. Abhishek Chaturvedi, being a company registered under the provisions of the Companies Act, 2013 having its registered office at JSW Centre, Banda Krula Complex, Bandra (East) Mumbai – 400051

..Petitioner No.11

Versus

1. Maharashtra Electricity Regulatory Commission,

a State Electricity Regulatory Commission established under the provisions of the Electricity Act, 2003 having its office at World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai-400005, represented by its Secretary

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

a Company registered under the provisions of the Companies Act, 2013, having its registered office at 5th Floor, Prakashgad, Plot No.G-9, Bandra (East), Mumbai – 400051, represented through its Chairman and Managing Director.

..Respondent No.2

**WITH
WRIT PETITION (L) NO.19529 OF 2025**

1. Distributed Solar Power Association

Through its authorised signatory, Ms. Samriddhi Vatsa, being a society registered under the Societies Registration Act, 1860, having its registered office at A-57, DDA Sheds, Okhla Industrial, Phase-II, New Delhi- 110020

..Petitioner No.1

2. AMPIN Energy C&I Fifteen Pvt. Ltd.

Through its authorised signatory, Mr. Apar Chitransh, being a company registered under the provisions of the Companies Act, 2013, having its registered office at 309, 3rd Floor, Rectangle One, Behind Sheraton Hotel, Saket, New Delhi- 110017.

..Petitioner No.2

3. Radiance MH Sunrise Nine Private Limited

Through its authorised signatory, Mr. Nitin Bhatia, being a company registered under the provisions of the Companies Act, 2013, having its registered office at 611, Synergy Court, Off.

Ramchandra Lane Kanchpada, Malad West,
Mumbai, Maharashtra, India - 400064

..Petitioner No.3

4. Fourth Partner Energy

Through its authorised signatory, Mr. Jay Kumar Waghela, being a company registered under the provisions of the Companies Act, 2013, having its registered office at A-501, Indiana Business Centre, 209, Makwana Road, Marol, Andheri East, Mumbai, Maharashtra – 400 059.

..Petitioner No.4

Versus

1. Maharashtra Electricity Regulatory Commission,

a State Electricity Regulatory Commission established under the provisions of the Electricity Act, 2003 having its office at World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai-400005, represented by its Secretary

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

a Company registered under the provisions of the Companies Act, 2013, having its registered office at 5th Floor, Prakashgad, Plot No.G-9, Bandra (East), Mumbai – 400051, represented through its Chairman and Managing Director.

..Respondent No.2

**WITH
WRIT PETITION (L) NO. 19640 OF 2025**

1. Sunsare Solarpark OD Two Private Limited

a Company registered under the provisions of the Companies Act, 2013 having its registered office at 1101A-1107, 11th Floor, BPTP Park Centra, Jalvayu Vihar, Sector 30, Gurgaon, Haryana- 122001

..Petitioner

Versus

1. Maharashtra Electricity Regulatory

Commission,

a State Electricity Regulatory Commission
established under the provisions of the
Electricity Act, 2003 having its office at World
Trade Centre, Centre No.1, 13th Floor, Cuffe Parade,
Mumbai-400005, represented by its Secretary

..Respondent No.1

**2. Maharashtra State Electricity
Distribution Company Limited,**

a Company registered under the provisions of
the Companies Act, 2013, having its registered
office at 5th Floor, Prakashgad, Plot No.G-9,
Bandra (East), Mumbai – 400051, represented
through its Chairman and Managing Director.

..Respondent No.2

**WITH
WRIT PETITION (L) NO. 20635 OF 2025**

**1. Alloy Steel Producers Association of
India**

3rd Floor, Bajaj Bhavan, Nariman Point, Mumbai-
400021

..Petitioner No.1

2. Sunflag Iron & Steel Co. Limited

33/1, Mount Road, Sadar Badar, Nagpur,
Maharashtra – 440001

..Petitioner No.2

**3. Sanyo Special Steel Manufacturing
India Private Limited**

Jagdish Nagar, Khopoli Taluka, Khalapur, Dist.
- Raigad Maharashtra – 410216

..Petitioner No.3

**4. Saarloha Advanced Materials Private
Limited
(Formerly Kalyani Carpenter Special
Steel Limited)**

72-76 Mundhwa, Pune, Maharashtra – 411036

..Petitioner No.4

**5. Kirloskar Ferrous Industries Limited
(Formerly Ismt Limited)**

One Avante, Level 5, Karve Road, Kothrud, Pune,
Pune City, Maharashtra – 411038

..Petitioner No.5

6. Mukand Limited

Bajaj Bhavanjamnalal Bajaj Marg 226, Nariman Point, Mumbai – 400021

..Petitioner No.6

Versus

1. Maharashtra Electricity Regulatory Commission,

World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai-400005

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

Plot No.G – 9, Prakashgad - 5th Floor, Station Road, Bandra (East), Mumbai - 400051

..Respondent No.2

WITH

WRIT PETITION (L) NO. 20790 OF 2025

Green Energy Association

Sargam, 143, Taqdir Terrace, New Shirodkar High School, Dr. E. Borjes Road Mumbai-400021

..Petitioner

Versus

1. Maharashtra Electricity Regulatory Commission,

World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai-400005

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

Plot No.G – 9, Prakashgad - 5th Floor, Station Road, Bandra (East), Mumbai - 400051

..Respondent No.2

WITH

WRIT PETITION (L) NO. 20792 OF 2025

Borosil Scientific Limited

1101, Crescenzo, G Block, Opp. MCA Club
Bandra Kurla Complex, Bandra East
Mumbai, Maharashtra 400051

..Petitioner

Versus

1. Maharashtra Electricity Regulatory Commission,

World Trade Centre, Centre No.1, 13th Floor,
Cuffe Parade, Mumbai-400005

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

Plot No.G – 9, Prakashgad - 5th Floor, Station
Road, Bandra (East), Mumbai - 400051

..Respondent No.2

**WITH
WRIT PETITION (L) NO. 20945 OF 2025**

1. CtrlS Datacentres Limited,

Through its authorised signatory, Ms. Esha
Chakravarty, being a company registered under
the provisions of the Companies Act, 1956,
having its registered office at 7th Floor, Pioneer
Tower, Inorbit Mall Road, HITEC City,
Hyderabad, Telangana – 500081

..Petitioner

Versus

1. Maharashtra Electricity Regulatory Commission,

a State Electricity Regulatory Commission
established under the provisions of the
Electricity Act, 2003 having its office at World
Trade Centre, Centre No.1, 13th Floor, Cuffe Parade,
Mumbai-400005, represented by its Secretary

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

a Company registered under the provisions of
the Companies Act, 2013, having its registered
office at 5th Floor, Prakashgad, Plot No.G-9,

Bandra (East), Mumbai – 400051, represented
through its Chairman and Managing Director.

..Respondent No.2

**WITH
WRIT PETITION (L) NO. 21021 OF 2025**

1. UltraTech Cement Limited,
company incorporated under the Companies
Act, 1956 and having registered office at B Wing,
Ahura Centre, 2nd Floor, Mahakali Caves Road,
Andheri (E), Mumbai – 400 093 through its
authorised representative Mr. Anand Prakash
Bindal

2. Mr. Nikhil Mittal,
Age about 48, a shareholder of the Petitioner No.1
(UltraTech Cement Ltd.), residing at F 103, Vasant
Smruti CHSL, 90 Feet Road, Thakur Complex,
Kandivali East, Mumbai – 400 101

..Petitioners

Versus

**1. Maharashtra Electricity Regulatory
Commission**

Through its Chairperson, World Trade Centre,
Centre No.1, 13th Floor, Cuffe Parade, Colaba,
Mumbai – 400 005

**2. Maharashtra State Electricity
Distribution Company Limited,**
through its Chairman and Managing Director
having office at: Prakashgad, Plot No. G-9,
Anant Kanekar Marg, Bandra East, Mumbai -
400 051

..Respondents

**WITH
WRIT PETITION (L) NO. 21151 OF 2025**

**NTT Global Data Centers and Cloud
Infrastructure India Private Limited**
A Company, incorporated under the provisions

of the Companies Act, 1956, holding CIN:
U72900MH2005PTC153896 and having its
registered office Lighthall 'C' Wing, Hiranandani
Business Park, Saki Vihar Road, Chandivali,
Andheri East, Mumbai, Maharashtra 400072

**NTT Global Data Centers NAV2 Private
Limited**

A Company, incorporated under the provisions
of Companies Act, 2013, holding CIN:
U72900MH2021PTC355020 and having its
registered office at Lighthall 'C' Wing, Hiranandani
Business Park, Saki Vihar Road, Chandivali,
Andheri East, Mumbai, Maharashtra 400072

..Petitioners

Versus

**1. Maharashtra Electricity Regulatory
Commission,**

a State Electricity Regulatory Commission
established under the provisions of the
Electricity Act, 2003 having its office at World
Trade Centre, Centre No.1, 13th Floor, Cuffe Parade,
Mumbai-400005, represented by its Secretary.

**2. Maharashtra State Electricity
Distribution Company Limited,**

a Company registered under the provisions of
the Companies Act, 2013, having its registered
office at 5th Floor, Prakashgad, Plot No.G-9,
Bandra (East), Mumbai – 400051, represented
through its Chairman and Managing Director.

..Respondents

**WITH
WRIT PETITION (L) NO. 21326 OF 2025**

**1. Vidarbha Industries Association
(VIA)**

Through its authorised signatory
Mr. Rajendrakumar B. Goenka, having its
registered office at 1st Floor, Udyog Bhavan, Civil
Lines, Nagpur, Maharashtra 440001

..Petitioner No.1

- 2. Aly India Renewable Energy Association (AIREA)**
having its registered office at JK Pavilion,
90 Ambazari layout, Nagpur – 440010 ..Petitioner No.2
- 3. MIDC Industrial Association (MIA)**
having its registered office at MIA House, P-8,
MIDC Area, Chandrapur – 442406 (M.S) ..Petitioner No.3
- 4. Kalmeshwar Industrial (MIDC) Association**
having its registered office at KIA-House, Plot
No. P-6, CFC Area, MIDC, Kalmeshwar – 441501,
Dist. Nagpur ..Petitioner No.4
- 5. Vidarbha Cotton Association**
having its registered office at Flat No. A2,
Ramdaspath Nirmal Ganga Apartments, Dhantoli,
Nagpur, Maharashtra, India, 440012 ..Petitioner No.5
- 6. Vidarbha Computer & Media Dealer's Welfare Association**
having its registered office at 603, Surya Kiran,
Commercial Complex, 1, Central Bazaar Road,
Bajaj Nagar, Nagpur – 440010 ..Petitioner No.6
- 7. Madhya Bharat Oil Mill Association (MBOMA)**
having its registered office at 101, Hans Villa,
JB Thakkar Marg, Giripeth, Nagpur-440010 ..Petitioner No.7
- 8. Federation of Industries Association, Vidarbha (FIAV)**
having its registered office at 162, Vivekanand
Nagar, Beside Saibaba Mandir, Wardha Road,
Nagpur – 440015 ..Petitioner No.8
- 9. Laghu Udyog Bharati**
having its registered office at Anantrao Bhide
Parisar, 184, Shivaji Nagar, Nagpur 440010 ..Petitioner No.9
- 10. Wardha District Industrial**

Association

having its registered office at B-23, MIDC
Industrial Area, Wardha, Maharashtra 431603

..Petitioner No.10

Versus

**1. Maharashtra Electricity Regulatory
Commission,**

a State Electricity Regulatory Commission
established under the provisions of the
Electricity Act, 2003 having its office at World
Trade Centre, Centre No.1, 13th Floor, Cuffe Parade,
Mumbai-400005, represented by its Secretary

..Respondent No.1

**2. Maharashtra State Electricity
Distribution Company Limited,**

a Company registered under the provisions of
the Companies Act, 2013, having its registered
office at 5th Floor, Prakashgad, Plot No.G-9,
Bandra (East), Mumbai – 400051, represented
through its Chairman and Managing Director.

..Respondent No.2

**WITH
WRIT PETITION (L) NO. 21714 OF 2025**

**1. Ampyr Renewable Energy Resources
Twelve A Pvt. Ltd.**

through its Authorised Signatory, having its
registered office at: Assetz House, No.30, 3rd
Floor, Crescent Road, Vidhana Soudha,
Bangalore, Bangalore North, Karnataka - 56001

..Petitioner No.1

2. Mr. Parvesh Kumar Kheterpal,
Age- 47, Authorised Signatory, Ampyr Renewable
Energy Resources Twelve A Pvt. Ltd. being
the Authorised Signatory of Petitioner No.1
Having address at Plot No.42, AIPL Legacy
Building, Okhla Industrial Estate, Phase-3,
New Delhi- 110020

..Petitioner No.2

Versus

1. Maharashtra Electricity Regulatory Commission,

a State Electricity Regulatory Commission established under the provisions of the Electricity Act, 2003 having its office at World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai-400005

..Respondent No.1

2. Maharashtra State Electricity Distribution Company Limited,

a company registered under the provisions of the Companies Act, 2013, having its registered office at 5th Floor, Prakashgad, Plot No.G-9, Bandra (East), Mumbai – 400051, represented by its Chairman and Managing Director

..Respondent No.2

Mr. Zal Andhyarujina – Sr. Advocate, a/w Adv. Shruti Sardesai, Adv. Shrey Shah, Adv. Shreya Mukherjee, Adv. Sai Archit M. i/b Hudda and Associates, for the Petitioner in WPL/19437/2025.

Dr. Birendra Saraf, Advocate General, a/w Adv. Ratnakar Singh, for Respondent No.1 in WPL/19437/2025.

Adv. J.P. Sen – Sr. Advocate, Mr. Sajan Poovayya – Sr. Advocate, Adv. Raksha Agarwal, a/w Adv. Vishal Binod, Adv. Sagnik Maitra i/b Cyril Amarchand Mangaldas, for Respondent No.2 in WPL/19437/2025.

Mr. Janak Dwarkadas – Sr. Advocate, a/w Ms. Deepa Chawan – Sr. Advocate, Adv. Vishrov Mukherjee, Adv. Pratyush Singh, Adv. Hridhay Khurana, Adv. Damodar Solanki, Adv. Arnav Bhansali and Adv. Garima i/b Trilegal, for the Petitioners in WPL/19450/2025.

Mr. Zubin Behramkamdin – Sr. Advocate, a/w Adv. Ratnakar Singh, for Respondent No.1 in WPL/19450/2025.

Mr. Sajan Poovayya – Sr. Advocate, a/w Adv. Raksha Agarwal, Adv. Vishal Binod, Adv. Sagnik Maitra i/b Cyril Amarchand Mangaldas, for Respondent No.2 in WPL/19450/2025.

Adv. Priya Dhankhar, a/w Adv. Siddharth Nigotia, Adv. Ashirwad Sapre, for the Applicant in IAL/22460/2025.

Adv. Vishrov Mukherjee, a/w Adv. Pratyush Singh, Adv. Hridhay Khurana, Adv. Damodar Solanki, Adv. Arnav Bhansali, Adv. Garima i/b Trilegal, for the Petitioners in WPL/19529/2025, WPL/20945/2025.

Mr. Ashish Kamat – Sr. Advocate, a/w Adv. Vividh Tandon, Adv. Mazag Andrabi i/b Adv. Mehul Thakkar, for the Petitioner in WPL/19640/2025.

Mr. Darius Khambata – Sr. Advocate, a/w Adv. Dipali Sheth, Adv. Shubham Mehta, Adv. Sonesh Jain, Adv. Mohil Mudaliar, Adv. Ashwini Rajan i/b Eternity Legal, for the Petitioners in WPL/20635/2025.

Mr. Darius Khambata – Sr. Advocate, a/w Adv. Karan Rukhana, Adv. Mustafa Motiwala, Adv. Aniketh Nair, Adv. Aditya Singh, Adv. Nikhil Shirsekar, Adv. Aditi Singh i/b Link Legal, for the Petitioners in WPL/21151/2025.

Adv. Dipali Sheth, a/w Adv. Shubham Mehta, Adv. Sonesh Jain, Adv. Mohil Mudaliar, Adv. Ashwini Rajan i/b Eternity Legal, for the Petitioner in WPL/20790/2025, WPL/20792/2025.

Mr. Pradeep Sancheti – Sr. Advocate, a/w Adv. Abhishek Munot, Adv. Kunal Kaul and Adv. Purvi Shrivastava i/b J. Sagar Associates, for the Petitioners in WPL/21021/2025.

Ms. Deepa Chawan – Sr. Advocate, Adv. Ruchi Patil i/b Adv. Vinay Kumar, for the Petitioner in WPL/21326/2025.

Mr. Aspi Chinoy – Sr. Advocate a/w Mr. Sajan Poovayya – Sr. Advocate, Adv. Raksha Agarwal, Adv. Anjan Dasgupta, Adv. Rimali Batra, Adv. Abhishekh Lalwani and Adv. Sayalee Dolas i/b DSK Legal, for Respondent No.2 in WPL/21326/2025.

Adv. Sakya Singh Chaudhari, a/w Adv. Avijeet Lala and Adv. Astha Sharma i/b Adv. Sangeeth Narayanan, for the Petitioners in WPL/21714/2025.

Adv. Ratnakar Singh, for Respondent No.1 in
WPL/19529/2025, WPL/19640/2025, WPL/20635/2025,
WPL/20790/2025, WPL/20792/2025, WPL/20945/2025,
WPL/21021/2025, WPL/21151/2025, WPL/21326/2025,
WPL/21714/2025.

Mr. Sajan Poovayya – Sr. Advocate, a/w Adv. Raksha Agarwal, Adv. Anjan Dasgupta, Adv. Rimalli Batra, Adv. Abhishekh Lalwani, Adv. Sayalee Dolas i/b DSK Legal, for Respondent No.2 in WPL/19529/2025, WPL/19640/2025, WPL/20635/2025, WPL/20790/2025, WPL/20792/2025, WPL/20945/2025, WPL/21021/2025, WPL/21151/2025, WPL/21714/2025.

Adv. Ashish Singh i/b Adv. Vishal Hegde, for the Intervenor in IAL/22613/2025 and IAL/22570/2025.

CORAM : B. P. COLABAWALLA &

FIRDOSH P. POONIWALLA, JJ.

RESERVED ON : 6th August, 2025

PRONOUNCED ON : 3rd November, 2025

JUDGMENT: [B. P. COLABAWALLA, J.]

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. All the above Writ Petitions take exception to the impugned review order dated 25th June 2025 passed by the 1st Respondent – *Maharashtra Electricity Regulatory Commission* (hereinafter referred to as “**MERC**”) in a Review Petition filed by the 2nd Respondent – *Maharashtra State Electricity Distribution Company Limited* (hereinafter

referred to as “**MSEDCL**”). By the impugned review order, the original Multi Year Tariff Order (for short the “**MYT Order**”) dated 28th March 2025 was substantially modified. In most Petitions, namely, Writ Petition (L) No. 19450 of 2025; Writ Petition (L) No. 19640 of 2025; Writ Petition (L) No. 20790 of 2025; Writ Petition (L) No. 21714 of 2025; Writ Petition (L) No. 20635 of 2025; Writ Petition (L) No. 19529 of 2025; Writ Petition (L) No. 20945 of 2025; and Writ Petition (L) No. 20792 of 2025, paragraphs 35.9 to 35.16 of the impugned review order are challenged. In other words, in these Petitions, the Petitioners have challenged the directions given in the aforesaid paragraphs of the impugned review order as they are vitally affected by these directions.

3. In some of the above Petitions, namely, Writ Petition (L) No. 20790 of 2025 and Writ Petition (L) No. 20792 of 2025, in addition to paragraphs 35.9 to 35.16, paragraphs 38.9 to 38.12 of the impugned review order are also challenged. Again, in some Writ Petitions, the Constitutional validity of Regulation 115 of the *Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2024* is also challenged for *inter alia* being contrary to the Electricity Act, 2003 and the relevant provisions of the *Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016* (as amended). As far as Writ Petition (L) No. 21326 of 2025; Writ Petition (L) No. 21021 of 2025 and

Writ Petition (L) No. 19437 of 2025 are concerned, they do not restrict their challenge only to certain paragraphs of the impugned review order but challenge the same in its entirety.

4. The common thread in all the above Petitions is that the impugned review order is passed in breach of the principles of natural justice as well as the mandatory provisions of the *Maharashtra Electricity Regulatory Commission (Transactions of Business and Fees and Charges) Regulations, 2022* (for short the “**TOB Regulations, 2022**”).

5. At the very outset, we must state that none of the Petitioners before us have pressed the challenge to the Constitutional validity of Regulation 115, and therefore, we are not entering upon this issue and leave it open to be decided in an appropriate case.

6. To put succinctly, according to all the Petitioners, since the impugned review order substantially modifies the MYT Order dated 28th March 2025, having far reaching consequences, all the stakeholders ought to have been heard, or at the very least, consulted, before passing the impugned review order. This has admittedly not been done, which makes the impugned review order vulnerable to challenge. This is, in a nutshell,

the ground on which the impugned review order is challenged in all the above Writ Petitions.

FACTS:

7. Before we embark upon the inquiry as to whether there has been a breach of any mandatory provision/s or a breach of the principles of natural justice, it would be apposite to set out some brief facts. On 10th June 2003, the Electricity Act, 2003 was enacted to consolidate the laws governing the power sector in India and to *inter alia* set up Regulatory Commissions and the Appellate Tribunal. The basic purpose and objective of this Act was (a) to take measures conducive for development of the electricity industry; (b) to promote competition; (c) to protect the interests of consumers; (d) to rationalize electricity tariffs; and (e) to promote efficient and environmentally friendly policies. MERC is the State Commission as envisaged under Section 82 of the Electricity Act, 2003.

8. On 17th October 2022, MERC, under Section 181 of the Electricity Act, 2003, notified the *TOB Regulations 2022*. Regulation 28 of the *TOB Regulations 2022*, deals with review of decisions, directions and orders. Clause (f) of Regulation 28 *inter alia* stipulates that when the commission is of the opinion that a review application should be granted, it

shall grant the same. However, there is a caveat, namely, that no review application would be granted without previous notice to the opposite side or party to enable them to appear and be heard in support of the decision or order, the review of which is applied for. Regulation 39 saves the inherent power of MERC and Regulation 40 gives a general power (to MERC) to amend/rectify any proceeding or order passed by it.

9. After framing the *TOB Regulations 2022*, on 19th August 2024, MERC notified the *Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2024* (for short the “**MYT Regulations, 2024**”). These Regulations *inter alia* govern the determination of tariff of the distribution licensees in the State of Maharashtra, including MSEDCL (Respondent No.2). These Regulations, in fact, lay down the procedure to be followed for the determination of tariffs, fees and charges for Transmission, Distribution Wires Business, Retail Supply Business, MSLDC and STU. To put it in a nutshell, the *MYT Regulations, 2024*, and more particularly Regulation 14, contemplate a public notice to be issued outlining the proposed tariffs and such other matters as may be stipulated by MERC, and invite suggestions and objections from the public. In other words, Regulation 14 contemplates a consultative process with all the stakeholders before passing a MYT Order.

10. On 30th November 2024, MSEDCL, as per the *MYT Regulations, 2024*, filed Tariff Petition No. 217 of 2024 [revised on 21st January 2025] (for short the “**MYT Petition**”) before MERC seeking approval of its Multi Year Tariff and Aggregate Revenue Requirement (“**ARR**”) for Financial Year 2025-26 to Financial Year 2029–30. On 22nd January 2025, MERC admitted the MYT Petition and *inter alia* directed MSEDCL to issue a public notice inviting suggestions and objections from all stakeholders. Accordingly, on 24th January 2025, MSEDCL issued public notices inviting suggestions and objections on the MYT petition. Pursuant to the aforesaid, the authorized representatives of the Petitioners submitted their objections/submissions on various issues such as fuel adjustment charges, power procurement plan and cost, Time of Day tariff, issues relating to open access, etc. Pursuant to the public notices, MERC conducted public hearings between 25th February 2025 and 4th March 2025 at various locations in the State. During these hearings, several public representatives, consumer representatives, and other stakeholders were heard. After these hearings, on 28th March 2025, as per the *MYT Regulations, 2024*, the MYT order dated 28th March 2025 was passed by MERC.

11. Being dissatisfied with the MYT order dated 28th March 2025, MSEDCL, on 1st April 2025, filed Interlocutory Application No. 42 of 2025,

in Tariff Petition No. 217 of 2024, requesting MERC to stay the implementation and enforcement of the said MYT order. The stay was applied for by citing, *inter alia*, protection of consumers and stakeholders. It was further stated that a detailed Review Petition would be filed by MSEDCL by the end of April 2025.

12. On the very next day [i.e. on 2nd April 2025], MERC passed an order [in Interlocutory Application No.42 of 2025], staying the implementation of the MYT order until a Review Petition was formally submitted by MSEDCL. This order was passed without hearing any of the stakeholders. Be that as it may, some of the Petitioners got wind of this stay order and approached MERC to vacate the stay granted on 2nd April 2025, but without any success. In any event, on 20th April 2025, MSEDCL filed a Review Petition, bearing Case No.75 of 2025, seeking review of the MYT order dated 28th March 2025. Though some of the Petitioners sought to intervene in the Review proceedings and asked for a copy of those proceedings [filed by MSEDCL], so that they could effectively make their submissions on the review sought by MSEDCL, the same was never provided to any of the Petitioners. On 6th May 2025 and 9th May 2025, MERC conducted e-hearings in the Review Petition filed by MSEDCL. It is undisputed before us that none of the Petitioners or any other stakeholders were ever heard by MERC during the e-hearing conducted on 6th May 2025

and 9th May 2025, or any time thereafter. The only party heard was MSEDCL, and subsequently, MERC passed the impugned review order on 25th June 2025. Being aggrieved by this impugned review order, all the above Writ Petitions are filed.

13. As mentioned earlier, the common thread in all these Petitions is that the impugned review order is basically passed behind the back of the Petitioners and other stakeholders, and without giving any of them an opportunity of being heard. This, according to the Petitioners, is in breach of mandatory provisions of the *TOB Regulations 2022*, as well as in breach of the principles of natural justice. It is further the submission of the Petitioners that if this be the case, the impugned review order must be set aside, and the Petitioners and all other stakeholders, after being furnished with a copy of the Review Petition, ought to be given an opportunity to present their submissions/objections to the review sought by MSEDCL.

SUBMISSIONS OF THE PETITIONERS:

14. In this factual backdrop, the learned senior counsel appearing on behalf of the Petitioners, in unison, submitted that before any tariff determination takes place, there is a statutory mandate on MERC to hear suggestions and objections from the public. They submitted that Section

64(3) of the Electricity Act, 2003, *inter alia* stipulates that tariff shall be determined after consideration of suggestions and objections from the public. The Petitioners submitted that though it is a settled position of law that price fixation does not normally attract principles of natural justice, the same would not apply where such a right is conferred by the statute. In other words, it was submitted that Parliament had deemed it fit and proper to clearly define the role of consumers and all other stakeholders in the tariff determination process. The public hearing given to the consumers and stakeholders by MERC, whilst deciding the MYT tariff, goes a long way in ensuring transparency and openness. Further, Section 86(3) of the Electricity Act, 2003, mandates that MERC shall ensure transparency while exercising its powers and discharging its functions. On a conjoint reading of the provisions of Section 64(3) and Section 86(3), it becomes clear that MERC has been mandated under the statutory provisions to duly take into consideration the suggestions and objections of the public before passing an MYT order. According to the Petitioners, this mandate is also clear from Regulation 14 of the *MYT Regulations 2024*. According to the Petitioners, Regulation 14 itself contemplates that the party filing the Tariff Petition shall provide, as a part thereof, details of computation of the ARR and expected revenue from tariff and charges, and furnish such further information or particulars or documents as MERC may reasonably require for assessing such calculations. A party approaching MERC for the

determination of tariff is also to submit a duly completed draft public notice for MERC's approval as per the stipulated mandate for publication as and when intimated by MERC. Once the public notice is approved by MERC, such party has to publish the said public notice in at least two English and two Marathi language daily newspapers widely circulated in the area to which the Petition pertains, outlining the proposed tariff. After this, the said party is obligated to make available a hard copy and a soft copy of the complete Petition to any person, at such location and at such rates as may be stipulated by MERC. Further, the party filing the Tariff Petition is also obligated to provide on its internet website in a text-searchable format, or in a downloadable spreadsheet format, the said Petition showing detailed computations, etc. Only after all this, MERC hears the suggestions and objections of the stakeholders and passes the MYT order.

15. It is the Petitioners' case [and not disputed by MERC or MSEDCL] that when the MYT order dated 28th March 2025 was passed, this entire process was followed by MERC. However, the same procedure was not followed when MERC, at the instance of MSEDCL, reviewed the MYT order and especially when the review order substantially modifies the MYT order, prejudicing not only the consumers but also other stakeholders such as the solar and wind generating companies. To substantiate this

argument, the Petitioners relied upon Regulation 28(f) of the *TOB Regulations 2022*, which stipulates that before any review is allowed by MERC, the opposite side or party must be heard. It was also the argument of the Petitioners that even assuming, for the sake of argument, that strictly speaking Regulation 28(f) would not apply, even then, under Regulation 40(b) of the *TOB Regulations 2022*, it was mandatory for MERC to hear the Petitioners as they were affected parties. If the MERC has not followed the aforesaid procedure, the impugned review order is vitiated and must be set aside.

16. In support of the above-stated propositions, the Petitioners relied upon the following judgments:-

- (1) *Nawabkhan Abbaskhan Vs. The State of Gujarat [(1974) 2 SCC 121]***
- (2) *Gujarat Urja Vikas Nigam Limited Vs. Solar Semiconductor Power Company (India) Private Limited & Anr [(2017) 16 SCC 498]***
- (3) *Krishnadatt Awasthy Vs. State of Madhya Pradesh and Others [2024 SCC OnLine SC 493]***
- (4) *State of Uttar Pradesh Vs. Sudhir Kumar Singh and Ors. [(2021) 19 Supreme Court Cases 706]***
- (5) *State Bank of Patiala and Ors. Vs. S.K. Sharma [(1996) 3 SCC 364]***
- (6) *State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow Vs. Ram Prakash Singh [2025 SCC OnLine SC 891]***

**(7) *PTC India Ltd. Vs. Central Electricity Reg. Comm.*
[(2010) 4 SCC 603]**

SUBMISSIONS OF THE RESPONDENTS:

17. On the other hand, the learned Senior Counsel appearing on behalf of MERC and MSEDCL submitted that determination/fixation of tariff by the Regulator (MERC) under the Electricity Act, 2003, is an exercise of legislative power (subordinate legislation), and a regulatory function/exercise. MERC, under Section 86(1), has diverse functions, some of which are regulatory and others adjudicatory. The real adjudicatory function is only provided in Section 86(1)(f) under which MERC has the power of adjudicating disputes between the licensees and generating companies. Once this is the case, while enacting legislation/subordinate legislation or even a regulatory function, no question arises of giving a hearing, or compliance with the principles of natural justice. Though the Act and Regulations provide for considering the suggestions or objections received from the public before issuing a MYT order, they do not contemplate a public/personal hearing. The consultative process of inviting and considering objections and suggestions is not read into the section by any implication of the principles of natural justice/judicial interpretation, but is provided for by the statute and by the statutory regulations.

18. It was submitted by MERC and MSEDCL that the power and/or jurisdiction of MERC to frame tariffs and/or carry out any revision thereof is not in dispute. In fact, it is well settled that MERC has the exclusive jurisdiction to frame not only the tariffs, but also any amendment, alterations, and omissions in regard thereto. While exercising its powers of review, so far as alterations or amendments of a tariff are concerned, MERC, *stricto sensu*, does not exercise powers akin to Section 114 or Order 47 of the Code of Civil Procedure, 1908. MERC, in fact, has a plenary power and its inherent jurisdiction is saved. Having regard to the diverse nature of jurisdiction, it may, for one purpose, entertain an application so as to correct its own mistake, but in relation to another, its jurisdiction may be limited. The entire concept of regulatory jurisdiction itself contemplates a revisit of the tariff. When one looks at the review order from this angle, Regulation 28 of the *TOB Regulations 2022* is wholly inapplicable to applications seeking a review of a tariff order. Regulation 28, namely the power of MERC to review its order, would only apply when MERC exercises its adjudicatory powers and not its regulatory functions. According to MERC and MSEDCL, no provisions of the Act or Regulations provide for an application to review/revise/correct a MYT order. The applications for review/revision/correction of a MYT order can be considered by MERC under its inherent powers as a Regulator. This

power can be exercised not only on an application filed by the distribution/generating companies, but also by MERC on its own motion. Once this is the case, where there is a revision/review of a MYT order to correct errors, or even substantial errors, it does not *ipso facto* and/or necessarily require MERC to follow a new consultative process as contemplated under section 64(3) or Regulation 14 of the *MYT Regulations 2024*. MERC may, in the facts and circumstances of a particular application seeking review of the MYT order, especially if it has far-reaching consequences, direct that notice of the application be given to the public at large and a consultative process be followed, but this is at the discretion of MERC, and it is not mandatory. This would depend on the facts and circumstances of each case and having regard to the nature of the application for revision/correction/review. In other words, any challenge to MERC's decision to revise/correct/review a tariff order/decision would necessarily have to be a fact-specific matter, and it is only after taking those facts into consideration, that MERC can, if it so desires, direct that a public notice be published and a public consultation be held. Once this is the case, then the present Writ Petitions ought not to be entertained because clearly the petitioners have an alternate remedy to challenge the impugned review order before the Appellate Authority (APTEL) under Section 111 of the Electricity Act, 2003.

19. To take this argument further, MERC and MSEDCL submitted that the Electricity Act, 2003, is a complete code that deals with all issues relating to electricity. In other words, all issues dealing with electricity have to be considered by the authorities constituted thereunder, namely, the State Electricity Commission, and the Appellate Tribunal constituted under the Act. These authorities consist of experts having vast experience in the field of electricity and have ample powers to decide on matters with regard to electricity. Accordingly, matters relating to the interpretation of the Electricity Act, 2003 and the Regulations framed thereunder, and whether they have been complied with, should be left to the specialized bodies, and this Court should not exercise its jurisdiction under Article 226 of the Constitution of India, in respect of such matters.

20. In support of the aforesaid contentions, MERC as well as MSEDCL relied upon the following decisions:-

- (1) *U.P.Power Corporation Ltd Vs. National Thermal Power Corp. Ltd.& Ors [(2009) 6 SCC 235]***
- (2) *State of Gujarat Vs. Utility Users Welfare Association [(2018) 6 SCC 21]***
- (3) *Tata Motors Vs. MERC [2014 SCC OnLine APTEL 164]***
- (4) *Jaipur Vidyut Vitran Nigam Ltd. Vs. MB Power (M.P.) Ltd. [(2024) 8 SCC 513 : 2024 SCC OnLine SC 26]***

(5) *The State Of Himachal Pradesh Vs. JSW Hydro Energy Limited [2025 SCC OnLine SC 1460]*

ANALYSIS AND CONCLUSION:

21. We have heard learned counsel for the parties at length. We have also perused the papers and proceedings in the above Writ Petitions. Though lengthy arguments have been canvassed before us, the core issue involved in all these Petitions is whether the impugned review order dated 25th June 2025 passed by MERC needs to be set aside for not following the mandatory procedure of giving a hearing, before passing the impugned review order.

22. As mentioned earlier, MERC passed its MYT order dated 28th March 2025 in case No. 217 of 2024 in a Petition filed by MSEDCL. This MYT order was for the control period Financial Year 2025-2026 to 2029-2030. Amongst other things, this MYT order dated 28th March 2025 held that the revision of Time-of-Day slots (“**TOD**” slots) and the TOD tariff presents an opportunity to align the regulatory policies and treatment thereof in line with the broader perspective of the energy transition agenda. This order *inter alia* implemented two conditions for banking of renewable energy. Firstly, the energy banked during peak hours (17:00 hrs

to 24:00 hrs) could be adjusted against consumption in peak hours as well as any other hours. In other words, it could be adjusted against consumption for 24 hours. Secondly, the energy banked during non-peak hours could be adjusted against the consumption of any other hours, other than in peak hours. In other words, energy banked during non-peak hours could be adjusted against consumption during any time of the day, other than the peak hours, namely, for 17 hours in a day. This entire process is now sought to be changed in the impugned review order. In the impugned review order, the Commission now directs that the energy banked during normal TOD slots (00:00 hrs - 06:00 hrs and 06:00 hrs - 09:00 hrs) may be drawn in the same TOD slots and also during solar hours (09:00 hrs to 17:00 hrs). However, the energy banked during solar hours and normal hours cannot be drawn during peak hours. It further stipulates that energy banked during solar hours (09:00 hrs to 17:00 hrs) may be drawn in the same TOD slot. In other words, now, a solar generating company banking its energy during solar hours (and it can only bank it during solar hours), can be drawn by its customer/s only during the solar hours. This customer is not permitted to draw the banked solar energy at any time, other than 09:00 hrs to 17:00 hours. In other words, from allowing the customers of solar companies to utilise the banked energy for 17 hours in a day, they were now restricted to utilise it only for 8 hours in a day. One can hardly

dispute that this is a significant change from the original MYT order and affects all solar generating companies and their customers.

23. Another instance is that the original MYT order had a tariff categorization for hotels. The MYT order dated 28th March 2025 categorized hotels and lodging facilities as HT-I (i.e. HT-Industrial) as per the tariff determination by MERC in its original MYT order dated 28th March 2025. The tariff rate HT-I category was also fixed at different rates for Financial Year 2025-2026 to Financial Year 2029-2030. This tariff categorization was made by MERC after hearing suggestions and objections of the stakeholders, and *inter alia* considering the Tourism Policy of Maharashtra, 2024. However, in the *ex-parte* impugned review order, the categorization of the hotels and lodging facilities was changed from HT-I to HT-II (i.e. HT-Commercial Category). In other words, hotels and lodging facilities, under the impugned review order, were now to pay a much higher tariff than what was determined in the original MYT order dated 28th March 2025. This again was done without hearing anyone, other than MSEDCL.

24. Yet another example is the exponential increase in the Capital Expenditure (CAPEX) / Annual Aggregate Review Requirement (ARR) and consequential impact on the tariff paid by the consumers due to the *ex-*

parte impugned review order dated 25th June 2025. MERC, in its original MYT order, had initially approved a total capitalization of Rs. 31,749.83 Crores for the Financial Year 2022-2023 to Financial Year 2029-2030. However, the *ex-parte* impugned review order approved additional capitalization of Rs. 55,624.50 Crores as requested by MSEDCL, bringing the revised total approved capitalization to Rs. 87,374.33 Crores for the said period. Due to this *ex-parte* increase in the CAPEX, the tariff of consumers/public stands increased. This is apart from the fact that the increased CAPEX could have an impact on the other components of the ARR for determining the tariff, which has to be addressed by the tariff fixed for the consumers. In fact, in the *ex-parte* impugned review order, MERC has also correspondingly revised other components of ARR, such as return on equity, depreciation, interest on loan, interest on working capital, and O&M expenses on account of revised GFA. There are also other instances set out by the Petitioners as to how the *ex-parte* impugned review order would affect the consumers.

25. The question, therefore, is when such modifications/ amendments are made, is it necessary for MERC to hear the affected parties. One must at the very outset note that the impugned review order by no stretch of the imagination could be termed as one which was passed for correcting any clerical or arithmetical mistake, and neither was there

any accidental slip or omission in the MYT order, which was sought to be corrected by virtue of the impugned review order. The original MYT order dated 28th March 2025 runs into approximately 95 pages and the impugned review order along with its annexures runs into about 86 pages. Hence it is clear that the impugned review order is not passed to correct any clerical or arithmetical mistake, and neither to correct any accidental slip or omission in the MYT order.

26. Having said this, we will now examine whether the different Regulations enacted under the Electricity Act, 2003 mandate MERC to give a hearing before passing a review order of the nature as in the present case. For our purposes, what is relevant are the *MYT Regulations, 2024* and the *TOB Regulations, 2022*. They have been enacted exercising powers under various Sections of the Electricity Act, 2003, as more particularly set out in the said Regulations. The *MYT Regulations, 2024*, in Part B, set out the procedure for the determination of tariff. Regulation 12 stipulates that the Petition for determination of tariff shall be filed in such form and in such manner as specified in the *MYT Regulations, 2024* and would be accompanied by applicable fees. The proceedings for the determination of tariff would be undertaken by MERC in accordance with the *TOB Regulations, 2022*, as mandated from time to time. Power has also been given to MERC to either *Suo Motu*, or on Petition filed by the generating

companies or ESSD or licensee or MSLDC, or STU, to determine its tariff or fees and charges, including the terms and conditions thereof. For the sake of convenience, Regulation 12 of the *MYT Regulations, 2024* is reproduced hereunder:-

“12 Filing of Petition for determination of Tariff

- 12.1 A Petition for determination of Tariff shall be filed in such form and in such manner as specified in these Regulations and be accompanied by applicable fees.*
- 12.2 The proceedings for determination of Tariff shall be undertaken by the Commission in accordance with the Transaction of Business Regulations as amended time to time.*
- 12.3 Notwithstanding anything contained in these Regulations, the Commission shall have the authority, either suo motu or on a Petition filed by the Generating Company or ESSD or Licensee or MSLDC or STU, to determine its Tariff or Fees and Charges, including terms and conditions thereof.”*

27. The other Regulation, which is relevant, is Regulation 14 of the *MYT Regulation, 2024*. Regulation 14 basically sets out the procedure that is to be followed whilst determining the Tariff and Fees and Charges for Transmission, Distribution Wires Business, Retail Supply Business, MSLDC and STU. Regulation 14 of the *MYT Regulation, 2024* reads thus:-

“14 Determination of Tariff and Fees and Charges for Transmission, Distribution Wires Business, Retail Supply Business, MSLDC and STU

14.1 *The Commission shall determine the Aggregate Revenue Requirement and Tariff for Transmission Licensees, Distribution Wires Business, Retail Supply Business, Fees and Charges for MSLDC and STU, upon consideration of a Petition filed by the Licensee or MSLDC or STU, as the case may be, in accordance with the procedure contained in this Regulation.*

14.2 *The Commission shall determine the Tariff for the Licensee or Fees and Charges for the MSLDC or STU for;*

- (a) Transmission of electricity. in accordance with the terms and conditions contained in Part G of these Regulations;*
- (b) Distribution Wires Business, in accordance with the terms and conditions contained in Part H of these Regulations;*
- (c) Retail Supply Business, in accordance with the terms and conditions contained in Part I of these Regulations; and*
- (d) MSLDC, in accordance with the terms and conditions contained in Part J of these Regulations.*
- (e) STU, in accordance with the terms and conditions contained in Part K of these Regulations.*
- (f) ESS, in accordance with the terms and conditions contained in Part L of these Regulations.*

14.3 *The Petitioner shall provide, as part of its Petition and in such form as may be stipulated by the Commission, details of computation of the Aggregate Revenue Requirement and expected revenue from Tariff and charges, and thereafter shall furnish such further information or particulars or documents as the Commission or its Secretary or any officer designated for the purpose by the Commission may reasonably require assessing such calculation:*

Provided that the Petition shall be accompanied, where relevant, by a detailed Tariff revision proposal showing category-wise Tariffs and how such revision would meet the gap, if any, in Aggregate Revenue Requirement for each year of the Control Period:

Provided further that the Commission may stipulate different formats for details to be submitted by the Petitioner as it may reasonably require for assessing the Aggregate Revenue Requirement and for determining the Tariff:

Provided also that the Commission may conduct a Technical Validation Session prior to admission of the Petition.

14.4 Petitioner shall submit a duly completed draft Public Notice for the Commission's approval as per the stipulated template, for publication as and when intimated by the Commission.

14.5 Upon receipt of a complete Petition accompanied by the requisite information, particulars and documents in compliance with the requirements specified in this Regulation, the Petition shall be admitted, and the Commission or its Secretary or designated Officer shall intimate to the Petitioner that it is ready for publication.

14.6 The Petitioner shall, within three days of an intimation given to it in accordance with Regulation 14.4, publish a Public Notice in at least two English and two Marathi language daily newspapers widely circulated in the area to which the Petition pertains, outlining the proposed Tariff, and such other matters as may be stipulated by the Commission, and inviting suggestions and objections from the public:

Provided that the Petitioner shall make available a hard copy and soft copy of the complete Petition to any person, at such locations and at such rates as may be stipulated by the Commission:

Provided further that the Petitioner shall also provide on its internet website, in text-searchable format or in downloadable spreadsheet format and showing detailed computations, the Petition filed before the Commission along with all regulatory filings, information, particulars and documents in the manner stipulated by the Commission:

Provided also that the web link to the information mentioned in the second proviso to this Regulation shall be easily accessible, archived for downloading and be prominently displayed on the Petitioner's internet website:

Provided also that Distribution Licensee shall intimate its consumer about filing of such Tariff Petition, period of public consultation,

date of Public Hearing etc. through appropriate message printed on electricity bill and or message sent through SMS gateway or email.

Provided also that the Petitioner may be exempted by the Commission from providing any such information, particulars or documents as are confidential in nature.

Explanation - For the purpose of this Regulation, the term "downloadable spreadsheet format" shall mean one (or multiple, linked) spreadsheet software files containing all assumptions, formulae, calculations, software macros and outputs forming the basis of the Petition.

14.7 The Petitioner shall furnish to the Commission all such books and records (or certified true copies thereof), including the Accounting Statements, operational and cost data, as may be required by it for determination of Tariff.

14.8 The Commission may, if it considers necessary, make or cause to be made available to any person such information as has been provided by the Petitioner to it, including abstracts of books and records (or certified true copies thereof) on such terms and conditions as may be specified in Regulations of the Commission governing its Transaction of Business.

14.9 The Commission may direct the Generating Company, ESSD or Transmission Licensee or Distribution Licensee or MSLDC or STU to submit such performance-related data as it may stipulate, with the Petitions to be filed under these Regulations.

14.10 The procedural aspects pertaining to the Petition contained in this Regulation shall apply only to such an extent as may be required by the Commission having regard to the circumstances of an individual case, to -

- (a) Petition filed by a Transmission Licensee under Section 36 of the Act;*
- (b) Petition filed by a Generating Company, Energy Storage System Developer or Licensee under Section 64 of the Act;*
- (c) Petition filed by the MSLDC under Section 32 of the Act.*

(d) *Petition filed by the STU under Section 39 of the Act.*”

(emphasis supplied)

28. As can be seen from these Regulations, a detailed procedure is set out which has to be mandatorily followed before the MYT order is passed by MERC. One of the requirements is that before passing any MYT order, MERC shall ensure that the party (who has approached MERC for the determination of a Multi-Year Tariff), shall publish a public notice in at least two English and two Marathi daily newspapers, widely circulated in the area to which the Petition pertains, outlining the proposed tariff and such other matters as may be stipulated by MERC, for inviting suggestions and objections from the public. Regulation 14 also contemplates that hard and soft copies of the complete Petition shall be made available to any person and at such rates as may be stipulated by MERC. In other words, before a MYT order is passed, all stakeholders are invited for their suggestions and objections. Admittedly, this was adhered to by MERC as well as MSEDCL at the time of passing the original MYT order dated 28th March 2025.

29. The question for determination before us is whether MERC, whilst passing its impugned review order, ought to have followed the same process. To determine this question, it would be appropriate to analyze and

peruse the *TOB Regulations, 2022*. Regulation 2 of these Regulations is the definitions clause and defines the word “*Adjudication*” to mean the process of arriving at decisions on Petitions submitted to the Commission [Regulation 2(a)(ii)]. The word “*Petition*” means and includes all petitions, applications, appeals, replies, rejoinders, supplemental pleadings, other papers and documents [Regulation 2(a)(xvi)]. The word “*proceedings*” means and includes proceedings of all nature that the Commission may conduct in the discharge of its functions under the Electricity Act, 2003 [Regulation 2(a)(xvii)]. Regulation 9 talks about proceedings before MERC and stipulates that all proceedings before MERC shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code, and MERC shall be deemed to be a Civil Court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure, 1973. Regulation 10 talks about consumer associations and other persons and stipulates that MERC may permit any person, including any registered association or other bodies corporate, or any group of consumers, to participate in any proceedings before the Commission.

30. Regulation 14 of the *TOB Regulations, 2022* talks about initiation of proceedings and *inter alia* stipulates that MERC may initiate any proceedings *Suo Motu* (but not a review proceeding), or on a Petition filed by any affected or interested person. Regulation 14 further stipulates

that the Commission may give such orders or directions as may be necessary, including *inter alia* for service of notice to affected parties. The Commission may, if it considers appropriate, issue orders for publication of the Petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct. Regulation 14 of the *TOB Regulations, 2022*, reads thus:-

“14. Initiation of Proceedings:

- (a) The Commission may initiate any proceedings suo- motu (but not a review proceeding), or on a Petition filed by any affected or interested person.*
- (b) The notice of the initiation of the proceedings may be issued by the Commission, and the Commission may give such orders and directions as may be deemed necessary, including, inter alia, for service of notices to the affected parties, the filing of reply and rejoinder in opposition or in support of the Petition in such form as it may direct. The Commission may, if it considers appropriate, issue orders for publication of the Petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct.*
- (c) While issuing the notice of inquiry or at any time thereafter, the Commission may, at its discretion designate an Advocate or Officer of the Commission or any other person whom the Commission considers appropriate to -
 - (i) present the case of a party which cannot afford to engage its representative, or*
 - (ii) act as amicus curiae to assist the Commission in its proceedings.”**

(emphasis supplied)

31. Regulation 28 of the *TOB Regulations, 2022* is the power of review (which is also inherent in MERC under Section 94 of the Electricity Act, 2003). Regulation 28 reads thus:-

“28. Review of decisions, directions, and orders:

- (a) *Any person aggrieved by a **direction, decision or order of the Commission**, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, **may apply for a review of such order, within Forty-Five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.***
- (b) *An application for such review shall be filed in the same manner as a Petition under these Regulations.*
- (c) *Review application shall be decided, as far as practicable, by the same constitution of the Commission which passed the original order.*
- (d) *The Commission shall for the purposes of any proceedings for review of its decisions, directions and orders be vested with the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.*
- (e) *When it appears to the Commission that there is no sufficient ground for review, the Commission may after giving such person an opportunity of being heard in the matter, reject such review application.*
- (f) *When the Commission is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to*

*appear and to be heard in support of the decision or order,
the review of which is applied for.”*

(emphasis supplied)

32. What this Regulation stipulates is that any person aggrieved by a direction, decision or order of the Commission from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon discovery of any new or important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed, or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order. What is important to note in Regulation 28 is clause (f) which clearly stipulates that when the Commission is of the opinion that the review application should be granted, it shall grant the same. However, there is a caveat. It clearly states that no review application would be granted without previous notice to the opposite side or party to enable him to appear and be heard in support of the decision or order, the review of which is applied for. Though the words used in Regulation 28(f) are opposite side or party, really speaking, what Regulation 28 contemplates is that if the review order is going to affect any party, notice ought to be issued to such party before the same is granted. We are also unable to

accept the submission of Mr. Chinoy that use of the words “opposite side or party” shows that clause (f) of Regulation 28 shall apply only when MERC is performing adjudicatory functions. As held by us hereinafter, if the provisions of Regulation 28, 39 and 40, alongwith with Section 86(3) of the Electricity Act, 2003, are read together and holistically, then we cannot agree with Mr. Chinoy’s interpretation of Regulation 28(f) of the *TOB Regulations, 2022*.

33. Thereafter comes the inherent and general powers of the Commission, which can be found in Regulations 39 and 40 of the *TOB Regulations, 2022*. Regulations 39 and 40 read thus:-

“39. *Saving of inherent power of the Commission:*

- (a) *Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.*
- (b) *Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations including summary procedures, if the Commission, in view of the special circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.*
- (c) *Nothing in these Regulations shall bar the Commission to deal with any matter or exercise any power under the Act for which no regulations have been framed, and the Commission*

may deal with such matters, powers and functions in a manner it thinks fit.

40. General power to amend/rectify:

- (a) *The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, either of its own motion or on the application of any of the parties, **rectify or amend any clerical or arithmetical mistake** in any order passed by the Commission **or errors arising therein from any accidental slip or omission.***
- (b) *The Commission may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding and all necessary amendments, rectifications shall be made for the purpose of determining the real question or issue arising in the proceedings:*

Provided that if the Commission desires to make amendments or rectifications in order to determine the real question or issue arising the Commission shall provide an opportunity to the parties affected by such amendment or rectification touching the real question or issue to make representations and submissions with respect to the proposed amendment or rectification.”

(emphasis supplied)

34. As can be seen from Regulation 39, the Commission has the inherent power to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Commission. It also has the power to adopt a procedure which is at variance with any of the provisions of these Regulations, including summary procedures, if the Commission, in view of the special circumstance of a matter or class of matters, and for reasons to be recorded in writing, deems it necessary or

expedient to do so. Regulation 39 further states that MERC can deal with any matter or exercise any power under the Electricity Act, 2003, for which no regulations have been framed, and MERC may deal with such matters, powers and functions in a manner it thinks fit.

35. Regulation 40(a) gives power to MERC to rectify or amend any clerical or arithmetical mistake in any order passed by it, or errors arising therein from any accidental slip or omission. Regulation 40(b) allows MERC to amend any defect or error in any proceeding, and all necessary amendments and rectifications could be made for the purpose of determining the real question or issue arising in the proceedings. However, what is important is the proviso to Regulation 40(b), which clearly stipulates that if MERC desires to make any amendments or rectifications in order to determine the real question or issue arising, it shall provide an opportunity to the parties affected to make representations and submissions with respect to the proposed amendments or rectifications.

36. When one reads these Regulations together and holistically, namely, Regulation 28, Regulation 39 and Regulation 40, it is clear that if any review/amendment is to be made to a MYT order, notice to the affected parties has to be issued allowing them to make their submissions and/or representations to the proposed amendments/rectifications. This

procedure ensures transparency and fair play and falls into line with Section 86(3) of the Electricity Act, 2003 which stipulates that the State Commission shall ensure transparency while exercising its powers and discharging its functions. Admittedly, this procedure has not been followed by MERC, and as mentioned earlier, it is the case of MERC as well as MSEDCL that no notice whatsoever is required to be issued before reviewing a MYT order, and the same can even be done *suo motu* by MERC. We are unable to agree with the aforesaid submissions. When the Electricity Act, 2003 and the Regulations (the *MYT Regulations, 2024* and/or the *TOB Regulations, 2022*) provide for certain matters, there is no question of the Commission invoking any inherent power to deviate therefrom. The inherent powers cannot be invoked to bypass the Act or Regulations. This is more so in the present case when Regulation 14 of the *TOB Regulations, 2022* clearly stipulate that MERC can initiate any proceedings *suo motu*, but not review proceedings. Even assuming for the sake of argument that MERC in the present case could do so, it could only be in special circumstances as stipulated in Regulation 39, and no such special circumstance has been pointed out to us from the impugned review order.

37. Whilst on this subject, it would be apposite to refer to the decision of the Hon'ble Supreme Court in the case of ***Gujarat Urja Vikas Nigam Limited Vs. Solar Semiconductor Power Co. Pvt.***

Ltd. and Anr. [(2017) 16 SCC 498]. The Hon'ble Supreme Court was *inter alia* examining the extent to which the Commission could exercise its inherent power under the *Gujarat Electricity Regulatory Commission (Conduct of Business) Regulations, 2004*. The Hon'ble Supreme Court came to the conclusion that under Regulations 80 to 82 [the concerned Regulations, and which are *pari materia* to Regulation 39 of the *TOB Regulations, 2022*], the Commission had powers to deal with any matter or exercise any power under the Act or the rules, for which no Regulations were framed. In other words, where something was expressly provided in the Act, the Commission had to deal with it only in accordance with the manner prescribed in the Act. In case of a specific subject, or exercise of power by the Commission on a specific issue that was provided under the Act, or the Rules, or the Regulations, the same had to be exercised by the Commission only taking recourse to that power and in no other manner. What the Supreme Court noted in its judgment, and what is important for our purpose, is that the interest of the consumers, as an objective, can be clearly ascertained from the Electricity Act, 2003. The preamble of the Act mentions protecting the interests of the consumers and requires that the interests of the consumers be safeguarded when determining the tariff. It noted that under Section 64, read with Section 62, determination of tariff is to be made only after considering all suggestions and objections received from the public. Hence, the generic tariff once determined under the

statute, with notice to the public, can be amended only by following the same procedure. The relevant portion of this decision reads thus:-

“34. Regulations 80 to 82 are instances of such powers specified by the Commission. Regulation 80 has provided for the inherent power of the Commission to the extent of making such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Commission. It has to be borne in mind that such inherent powers are to be exercised notwithstanding only the restrictions on the Commission under the Conduct of Business Regulations, meaning thereby that there cannot be any restrictions in the Conduct of Business Regulations on exercise of inherent powers by the Commission. But the specified inherent powers are not as pervasive a power as available to a court under Section 151 of the Code of Civil Procedure, 1908:

“151. Saving of inherent powers of court.—Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the court.”

However, the Commission is enjoined with powers to issue appropriate orders in the interest of justice and for preventing abuse of process of the Commission, to the extent not otherwise provided for under the Act or Rules. In other words, the inherent power of the Commission is available to it for exercise only in those areas where the Act or Rules are silent.

35. Under Regulation 81, the Commission is competent to adopt a procedure which is at variance with any of the other provisions of the Regulations in case the Commission is of the view that such an exercise is warranted in view of the special circumstances and such special circumstances are to be recorded in writing. However, it is specifically provided under Section 181 that there cannot be a Regulation which is not in conformity with the provisions of the Act or the Rules.

36. Under Regulation 82, the Commission has powers to deal with any matter or exercise any power under the Act for which no Regulations are framed meaning thereby where something is expressly provided in the Act, the Commission has to deal with it only in accordance with the manner prescribed in the Act. The only leeway available to the Commission is only when the Regulations on proceedings are silent on a specific issue. In other words, in case a specific subject or exercise

of power by the Commission on a specific issue is otherwise provided under the Act or the Rules, the same has to be exercised by the Commission only taking recourse to that power and in no other manner. To illustrate further, there cannot be any exercise of the inherent power for dealing with any matter which is otherwise specifically provided under the Act. The exercise of power which has the effect of amending the PPA by varying the tariff can only be done as per statutory provisions and not under the inherent power referred to in Regulations 80 to 82. In other words, there cannot be any exercise of inherent power by the Commission on an issue which is otherwise dealt with or provided for in the Act or the Rules.

37. This Court should be specially careful in dealing with matters of exercise of inherent powers when the interest of consumers is at stake. The interest of consumers, as an objective, can be clearly ascertained from the Act. The Preamble of the Act mentions “protecting interest of consumers” and Section 61(d) requires that the interests of the consumers are to be safeguarded when the appropriate Commission specifies the terms and conditions for determination of tariff. Under Section 64 read with Section 62, determination of tariff is to be made only after considering all suggestions and objections received from the public. Hence, the generic tariff once determined under the statute with notice to the public can be amended only by following the same procedure. Therefore, the approach of this Court ought to be cautious and guarded when the decision has its bearing on the consumers.

38. Regulation 85 provides for extension of time. It may be seen that the same is available only in two specified situations — (i) for extension of time prescribed by the Regulations, and (ii) extension of time prescribed by the Commission in its order for doing any act. The control period is not something prescribed by the Commission under the Conduct of Business Regulations. The control period is also not an order by the Commission for doing any act. Commissioning of a project is the act to be performed in terms of the obligation under the PPA and that is between the producer and the purchaser viz. Respondent 1 and appellant. Hence, the Commission cannot extend the time stipulated under the PPA for doing any act contemplated under the agreement in exercise of its powers under Regulation 85. Therefore, there cannot be an extension of the control period under the inherent powers of the Commission.

39. The Commission being a creature of statute cannot assume to itself any powers which are not otherwise conferred on it. In other words, under the guise of exercising its inherent power, as we have already

noticed above, the Commission cannot take recourse to exercise of a power, procedure for which is otherwise specifically provided under the Act.

(emphasis supplied)

38. We are clearly of the view that the ratio of this decision would apply with full force to the facts of the present case. Here also, when the original MYT order was passed by MERC [on a Tariff Petition filed by MSEDCL], it followed the procedure as laid down in Regulation 14 of the *MYT Regulation, 2024* and invited all stakeholders to give their suggestions and objections. After taking into consideration their suggestions and objections, the MYT order dated 28th March 2025 was passed. It would therefore stand to reason that the same procedure be followed whilst reviewing the MYT order, or else it would lead to grave injustice and chaos. In other words, when the MYT order is passed after taking inputs of all the stakeholders, it would be absurd to suggest that those very stakeholders, whose objections and suggestions were invited and considered, are not to be heard when the same MYT order is sought to be amended/reviewed, and that too to their detriment. Those very stakeholders would certainly have something to say if the said MYT order is to be reviewed, and more so if it would affect their interests, as in the present case. This is also clear on a holistic reading of the *TOB Regulations, 2022*. Even if one were to assume that Regulation 28(f) of the *TOB Regulations, 2022* was not to apply, as contended by MERC and

MSEDCL (not that we accept the said submission), Regulation 40(b), read with its proviso, makes it extremely clear that before any amendment or rectification is to be done [other than the ones mentioned in Regulation 40(a)], notice has to be given to the affected parties. This would also fulfill the mandate of transparency contemplated under Section 86(3) of the Act.

39. We are, therefore, clearly of the opinion that the reason given by MERC for not allowing the stakeholders to participate in the review proceedings is wholly unsustainable. As mentioned earlier, the impugned review order is not one which seeks to correct any arithmetical or typographical mistake or any error that has crept in by virtue of any accidental slip or omission. The impugned review order has far-reaching implications on all stakeholders, including the consumers. Once this is the case, it would be ludicrous to suggest that the affected parties are not to be given an audience, when, at the stage of passing the original MYT order, MERC was mandated by law to hear all the stakeholders before passing it, and in fact did so. We are, therefore, clearly of the view that even if one was to assume that the function of MERC, whilst passing the MYT order, is a regulatory function and not an adjudicatory function [as contended by Mr. Chinoy and Dr. Saraf], would not in any way detract from the fact that notice ought to have been given to all the stakeholders before passing the impugned review order.

40. This is apart from the fact that the Hon'ble Supreme Court in the case of *Gujarat Urja Vikas Nigam Limited (supra)* [reproduced earlier], has categorically held that once determination of tariff is done after considering all suggestions and objections received from the public, the said tariff, once determined after notice to the public, can be amended only by following the same procedure.

41. Though a lot of judgments have been cited before us as to what effect breach of principles of natural justice would have on an order passed by MERC, in light of the findings given above, we need not burden this judgment by dealing with each and every one of those judgments. Suffice it to state that where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction *per se* may not lead to the invalidity of the orders passed, and prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest but also in the public interest [See *State of Uttar Pradesh Vs. Sudhir Kumar Singh and Ors. (supra)*, paragraph 42.2]. In the facts of the present case, not only are there mandatory provisions for giving notice to affected parties [Regulation 40(b) of the *TOB Regulations, 2022*], but in the facts of the present case, serious prejudice is certainly caused to a substantial portion of the

stakeholders, if the impugned review order is implemented without first hearing those stakeholders.

42. In view of the foregoing discussion, the impugned review order dated 25th June 2025 is hereby quashed and set aside. The matter is now remanded to MERC to decide the Review Petition filed by MSEDCL afresh after consulting all stakeholders and hearing and taking into consideration their objections, if any. Before MERC embarks upon this journey, it shall ensure that MSEDCL shall forward a copy of its Review Petition [alongwith its annexures, if any] to any stakeholder who seeks it. Additionally, MERC shall ensure that public notice is given by MSEDCL as contemplated under Regulation 14 of the *MYT Regulation, 2024*. We have passed these directions because in the facts of the present case, we find that the review sought by MSEDCL has far reaching consequences on the stakeholders, including the consumers. Once the aforesaid procedure is followed and MERC passes any order on the Review Petition filed by MSEDCL, the aggrieved party is free to challenge that order before APTEL under Section 111 of the Electricity Act, 2003. It is clarified that until MERC passes an order on the Review Petition, the parties shall be governed by the MYT order 28th March 2025.

43. Rule is made absolute in the aforesaid terms, and all the above Writ Petitions are also disposed of in terms thereof. However, there shall be no order as to costs.

44. In view of disposal of all the above Writ Petitions, nothing would survive in any Interim Applications pending therein, and the same are disposed of accordingly.

45. This judgment will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this judgment.

[FIRDOSH P. POONIWALLA, J.] [B. P. COLABAWALLA, J.]

46. After the judgment was pronounced, Mr. Sen, the learned Senior Counsel appearing for MSEDCL, as well as Mr. Singh, the learned Advocate appearing on behalf of MERC, prayed for a stay of the operation of this order for a period of 4 weeks in order to enable them to test this judgment before the Hon'ble Supreme Court.

47. On the other hand, Mr. Andhyarujina, the learned Senior Counsel appearing on behalf of O2 Renewable Energy VII Private Limited [Petitioner in Writ Petition (L) No. 19437 of 2025] and for National Solar Energy Federation of India [the Applicant in Interim Application (L) No. 26676 of 2025 in Writ Petition (L) No. 19450 of 2025], along with all other Counsel appearing for respective Petitioners, vehemently opposed the grant of any stay. It was their submission that no case for stay is made out, as all issues raised have been considered in the judgment passed by us today.

48. Having heard the learned Counsel for the parties, we are of the view that in order to enable the MERC and/or MSEDCL to test the correctness of this judgment before the Hon'ble Supreme Court, it would be in the fitness of things, if the operation of this order is stayed for a period of 4 weeks. It accordingly so ordered.

49. We, however, clarify that the interim order passed by this Court on 1st July 2025, read with the order dated 8th August 2025 and 26th August 2025, shall continue to operate.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]