

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.496/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 for quashing the illegal claim of Rs. 48 crores raised by the Respondent TANGEDCO vide its letter(s) dated 31.7.2024 and 30.9.2024 towards the alleged Liquidated Damages in terms of Article 4.8.1 and 4.8.2 of the PPA dated 23.8.2013 read with the Addendum dated 10.12.2013 and the immediate threat of unilateral deduction of the said amount from the monthly invoice raised by the Petitioner, being barred by limitation.

Petitioner : BALCO

Respondent : TANGEDCO and 2 others

Date of Hearing : **8.5.2025**

Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member

Parties Present : Shri S. Ganesh, Senior Advocate, BALCO
Shri Hemant Singh, Advocate, BALCO
Shri Chetan Garg, Advocate, BALCO
Ms. Alchi Thapliyal, Advocate, BALCO
Ms. Supriya Rastogi, Advocate, BALCO
Shri Pawan Singh, Advocate, BALCO
Shri Jay Lal, Advocate, BALCO
Shri Arun, Advocate, BALCO
Shri Gyanendra, Advocate, BALCO
Ms. Lavanya Panwar, Advocate, BALCO
Ms. Anusha Nagarajan, Advocate, TANGEDCO
Shri Rahul Ranjan, Advocate, TANGEDCO

Record of Proceedings

During the hearing, the learned Senior counsel for the Petitioner referred to the various clauses of the PPA and made detailed oral submissions, mainly stating that the deduction of LD amounting to Rs 48 crores, from the bills of the Petitioner (though time barred) impacts the tariff of the Petitioner and therefore, the dispute, which relates to tariff, may be adjudicated by the Commission. Placing reliance on the APTEL judgment dated 28.8.2024 in Appeal No. 309/2019, the learned Senior counsel submitted that since the deduction of LD has a bearing on the tariff, the same may be adjudicated by this Commission.

2. In response, the learned counsel for the Respondent, TANGEDCO, made detailed oral submissions pointing out that the deduction of LD from the bills of the Petitioner, does not impact/change the tariff of the Petitioner. Accordingly, the learned



counsel, referring to the APTEL judgment dated 28.8.2024, submitted that the dispute, which does not relate to tariff, may be referred to arbitration.

3. At the request of the parties, the Commission permitted the filing of the written submissions (along with the judgments relied upon) on or before **5.6.2025**, after serving a copy to other. Subject to this, and based on the consent of the parties, order is reserved on the question of 'arbitrability' of the matter (whether the matter relates to tariff or non-tariff).

4. However, the interim order granted vide ROP of the hearing dated 10.12.2024, directing the Respondent, TANGEDCO, not to take any coercive action against the Petitioner, in respect of the bills raised, shall stand extended till a final decision on the question of 'arbitrability' of the matter.

By order of the Commission

Sd/-

(B. Sreekumar)
Joint Chief (Law)