

No. N/8/12

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION  
BANGALORE**

**Dated : 17<sup>th</sup> May, 2012**

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| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri Vishvanath Hiremath    | Member   |
| 3. Sri K. Srinivasa Rao       | Member   |

**RP No.2/2012**

**BETWEEN**

Sree Rayalaseema Alkalies &  
Allied Chemicals Limited  
Registered Office  
Gondiparla  
KURNOOL – 518 004  
ANDHRA PRADESH  
*[Represented by M/s. Shridhar Prabhu  
Associates, Advocates]*

... **Review Petitioner**

**AND**

1. Karnataka Power Transmission Corporation Ltd.  
Cauveri Bhavan, Kermpe Gowda Road  
BNAGALORE – 560 009
2. Power Company of Karnataka Ltd.  
KPTCL Building, Cauveri Bhavan  
BANGALORE – 560 009
3. Bangalore Electricity Supply Company Ltd.  
K.R. Circle,  
BANGALORE – 560 001
4. Mangalore Electricity Supply Company Ltd.  
5<sup>th</sup> Floor, Paradigm Plaza, A.B. Shetty Circle  
MANGALORE – 575 001

... **Respondents**

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1. In this Review Petition, the Petitioner has sought for a review of the Commission's Order dated 24.11.2011 passed in OP No.24/2011.
2. We have considered the submissions made by Shri Shridhar Prabhu, the Counsel appearing for the Review Petitioner, the contentions raised in the Review Petition and the documents submitted along with the Review Petition.
3. It is well-settled law that the Review Jurisdiction of the Courts is very limited and the Review Petition cannot be used for re-arguing a case.
4. It is contended by the Review Petitioner that the Respondents, in their Books of Accounts, have not shown the amount now claimed from the Review Petitioner, and therefore, they cannot raise the claims against the Review Petitioner. It is further urged on behalf of the Review Petitioner that the Respondents, in another case of Tata Power Purchase Agreement (PPA), have adopted a different yardstick while calculating the income tax, and therefore, the Review Petitioner cannot be treated differently and claims cannot be made.
5. As observed by us above, the Commission has been conferred with the powers of review on par with a Civil Court under the Code of Civil Procedure. The Civil Court, under Order 47 Rule 1 of the Code of Civil Procedure, can review its Judgment, in case a person, considering himself aggrieved, brings out that there is a new and important matter or evidence, which inspite of exercising due diligence, was not within his knowledge or could not be produced at the time when the Decree/ Order was passed or there is some mistake or error apparent on the face of the record.

6. In the instant case, we do not notice any new or important matter, or evidence, which the Review Petitioner could not produce, inspite of exercise of due diligence, at the time when its original Petition was considered, nor is there any error apparent on the face of the record. Also there is no other sufficient reason made out to review the Order. What is urged by the Review Petitioner is that, being not a party to the Tariff Petition, it was not aware that the ESCOMs have not shown any dues in their Tariff applications. Further, it is submitted that ESCOMs have interpreted a similar PPA of Tata Power in a different way, thereby they have discriminated against the Review Petitioner. These grounds, in our view, do not satisfy the requirements contemplated under Order 47 Rule 1 of the Code of Civil Procedure for review of an Order. The Tariff / ARR Applications filed by the ESCOMs were published before the public hearing and were also available on the Websites of BESCO / ESCOM. Interpretation of a contract by the Respondents in another case cannot have a bearing on the interpretation to be given by this Commission, as the Commission has to go by the terms of the contract and settled principles. Therefore, in our considered opinion, the Review Petition cannot be entertained.

Accordingly, we reject the Review Petition on the ground of maintainability, without going further into the merits of the Review Petition.

Sd/-	Sd/-	Sd/-
(M.R.SREENIVASA MURTHY)	(VISHVANATH HIREMATH)	(K.SRINIVASA RAO)
CHAIRMAN	MEMBER	MEMBER