

Chemplast Sanmar Limited & Ors vs Tamil Nadu Electricity Regulatory ... on 27 May, 2026

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

IA NO.448 of 2026 IN DFR No.114 OF 2026
IA NO.472 of 2026 IN DFR No.121 OF 2026
IA NO.477 of 2026 IN DFR No.122 OF 2026
IA NO.482 of 2026 IN DFR No.123 OF 2026
IA NO.487 of 2026 IN DFR No.124 OF 2026
IA NO.542 of 2026 IN DFR No.139 OF 2026
IA NO.438 of 2026 IN DFR No.112 OF 2026

Dated: 27.05.2026

Present: Hon'ble Ms. Seema Gupta, Officiating Chairperson
Hon'ble Mr. Virender Bhat, Judicial Member

In the matter of:

IA No.448 of 2026 IN DFR No.114 of 2026

1. Chemplast Sanmar Limited
Through its Authorized Signatory Mr. T.C.A. Varadharajan
Having Registered Office at
No. 9, Cathedral Road, Chennai - 600 086
Email: csl@sanmargroup.com
 2. Chemplast Cuddalore Vinlys Limited
Through its Authorized Signatory Mr. T.C.A. Varadharajan
Having Registered Office at
No. 9, Cathedral Road, Chennai - 600 086
Email: csl@sanmargroup.com
 3. Sanmar Matrix Metals Limited
Through its Authorized Signatory Mr. T.C.A. Varadharajan
Having Registered Office at
No. 9, Cathedral Road, Chennai - 600 086
Email: csl@sanmargroup.com
- ... Appellant(s)

IA Nos.448,472,477,482,487,542 & 438 of 2026
In DFR Nos.114,121,122,123,124,139 &112 of 2026

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Versus

1. Tamil Nadu Electricity Regulatory Commission
Through its Secretary

4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai - 600 032
Email: tnerc@nic.in

2. Tamil Nadu Power Distribution Corporation Limited
Formerly c/o Tamil Nadu Generation and Distribution Corporation
Through its Chairman cum Managing Director
144, Anna Salai, Chennai - 600 002
Email: cpro@tnebnnet.org
3. Tamil Nadu Transmission Corporation Limited
Through its Managing Director
144, Anna Salai, Chennai - 600 002
Email: mdtantransco@tnebnnet.org ... Respondent (s)

Counsel on record for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri
Aishwarya Subramani
Harsha V Rao
for App. 1, 2 & 3
Counsel on record for the Respondent(s) : Anusha Nagarajan
for Res. 2

IA No.472 of 2026 IN DFR No.121 of 2026

Tamil Nadu Spinning Mills Association
Through its Chief Advisor cum CEO
No.2, Karur Road, Modern Nagar,
Dindigul - 624 001, Tamil Nadu
Email: cheifadvisor@tasma.in

... Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission
Through its Secretary

IA Nos.448,472,477,482,487,542 & 438 of 2026

In DFR Nos.114,121,122,123,124,139 &112 of 2026

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4th Floor, SIDCO Corporate Office Building
Guindy, Chennai - 600 032
Email: tnerc@nic.in

2. Tamil Nadu Power Distribution Corporation Limited
Formerly known as Tamil Nadu Generation and Distribution
Corporation Limited
Through its Chairman cum Managing Director
10th Floor, 144, Anna Salai, Chennai - 600 002
Email: chairman@tnebnnet.org ... Respondent (s)

Counsel on record for the Appellant(s) : Darpan K. M.
Prashant Upadhyay
Easha Chandhok
Mahima Sadawat
Rajt Jonathan Shaw
Amrita Sharma
for App. 1

Counsel on record for the Respondent(s) : Anusha Nagarajan
for Res. 2

IA No.477 of 2026 IN DFR No.122 of 2026

Tamil Nadu Spinning Mills Association
Through its Chief Advisor cum CEO
No.2, Karur Road, Modern Nagar,
Dindigul - 624 001, Tamil Nadu
Email: cheifadvisor@tasma.in

... Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission
Through its Secretary
4th Floor, SIDCO Corporate Office Building
Guindy, Chennai - 600 032
Email: tnerc@nic.in
2. Tamil Nadu Power Distribution Corporation Limited

IA Nos.448,472,477,482,487,542 & 438 of 2026

In DFR Nos.114,121,122,123,124,139 &112 of 2026

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Formerly known as Tamil Nadu Generation and Distribution
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for Res. 2

IA No.482 of 2026 IN DFR No.123 of 2026

Tamil Nadu Spinning Mills Association
Through its Chief Advisor cum CEO
No.2, Karur Road, Modern Nagar,
Dindigul - 624 001, Tamil Nadu
Email: cheifadvisor@tasma.in

... Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission
Through its Secretary
4th Floor, SIDCO Corporate Office Building
Guindy, Chennai - 600 032
Email: tnerc@nic.in
2. Tamil Nadu Power Distribution Corporation Limited
Formerly known as Tamil Nadu Generation and Distribution
Corporation Limited
Through its Chairman cum Managing Director
10th Floor, 144, Anna Salai, Chennai - 600 002
Email: chairman@tnebnnet.org ... Respondent (s)

IA Nos.448,472,477,482,487,542 & 438 of 2026
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Prashant Upadhyay
Easha Chandhok
Mahima Sadawat
Rajt Jonathan Shaw
Amrita Sharma
for App. 1

Counsel on record for the Respondent(s) : Anusha Nagarajan
for Res. 2

IA No.487 of 2026 IN DFR No.124 of 2026

Tamil Nadu Spinning Mills Association
Through its Chief Advisor cum CEO
No.2, Karur Road, Modern Nagar,
Dindigul - 624 001, Tamil Nadu
Email: cheifadvisor@tasma.in

... Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission

Through its Secretary
4th Floor, SIDCO Corporate Office Building
Guindy, Chennai - 600 032
Email: tnerc@nic.in

2. Tamil Nadu Power Distribution Corporation Limited
Formerly known as Tamil Nadu Generation and Distribution Corporation Limited
Through its Chairman cum Managing Director
10th Floor, 144, Anna Salai, Chennai - 600 002
Email: chairman@tnebnnet.org ... Respondent (s)

Counsel on record for the Appellant(s) : Darpan K. M.
Prashant Upadhyay
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Mahima Sadawat
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for App. 1

Counsel on record for the Respondent(s) : Anusha Nagarajan
for Res. 2

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IA No.542 of 2026 IN DFR No.139 of 2026

1. Madras Steel Re-Rollers Association
Through its Authorized Signatory Shiny T.C.
Having Registered Office at
2nd Floor Chokhani Towers,
26/6 Whites Road,
Royapettah Chennai - 600014
Email: ceo.msra@gmail.com
2. Tulsyan NEC Limited
Through its Authorized Signatory Sanjay Agarwalla
Having Registered Office at
V Floor, 147 Greams Road
Chennai - 600 006
Email: eswar@tulsyanec.in ; raj@tulsyanec.in
3. Chitrakoot Steel and Power Pvt. Ltd.
Through its Authorized Signatory Sanjay Agarwalla
Having Registered Office at
Apex Plaza, 3, Nungambakkam High Road
Chennai - 600 034
Email: eswar@tulsyanec.in ; raj@tulsyanec.in
4. Arun Vyapar Udyog Limited
Through its Authorized Signatory K. Venkatraman

Having Registered Office at
5th Floor, Chokani Towers,
29/6 Whites Road, Royapettah,
Chennai - 600 014
Email: avyapar@gmail.com

5. Arun Smelters Pvt. Ltd.
Through its Authorized Signatory K. Venkatraman
Having Registered Office at
5th Floor, Chokani Towers,
29/6 Whites Road, Royapettah,
Chennai - 600 014
Email: avyapar@gmail.com

6. Janakiram Steel and Power Pvt. Ltd.

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Through its Authorized Signatory M Shanmugam
Having Registered Office at
16/155, "AA" Block, 3rd Avenue,
Anna Nagar, Chennai - 600040
Email: commercial@jrmetalchennai.com;
manijrmatal@gmail.com

7. JR Metal Chennai Ltd.
Through its Authorized Signatory M Shanmugam
Having Registered Office at
16/155, "AA" Block, 3rd Avenue,
Anna Nagar, Chennai - 600040
Email: commercial@jrmetalchennai.com;
manijrmatal@gmail.com

8. Jeppiaar Furnace and Steels Pvt. Ltd.
Through its Authorized Signatory Mr. S. Habibur Rahman
Having Registered Office at
M/s. Jeppiaar Furnace and Steels Pvt. Ltd.
158, Kunnavakkam Village, Panruti Post,
Kancheepuram, District - 631 604, Tamil Nadu
Email: jeppiaarsteelsac@gmail.com

9. GBR Metals Pvt. Ltd.
Through its Authorized Signatory Venkatesh Rathi
Having Registered Office at
GBR Metals Pvt Ltd, 4, Ramanan Road,
Chennai - 600079
Email: p.ramesh@gbrmetals.com
Venkatesh.rathi@gbrmetals.com

10. Meenakshi Udyog India Pvt. Ltd.
Through its Authorized Signatory Meenakshi Udyog
Having Registered Office at
Meenakshi Udyog (India) Pvt. Ltd.

No.3, 2nd Floor, Alsa Mall,
Montieth Road, Egmore,
Chennai - 600008
Email: udyog@meenakshigroup.in
Jayeshagarwall@gmail.com

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11. Mil Steel and Power Pvt. Ltd. (Previously known as Kanishk Ferrous & Energy Ltd)
Through its Authorized Signatory Mr. Ashutosh Goenka
Having Registered Office at
No. 29/16, 4th Floor Whites Road,
Royapettah, Chennai - 600014
Email: opsl@rediffmail.com
12. Sakthi Steel Industries Ltd.
Through its Authorized Signatory V. Vaigunthan
Having Registered Office at
M/s. Sakthi Steel Industries Ltd.
No.18, loganathan Nagar, 2nd Street Choolaimadu,
Chennai - 600094
Email: shyamrohith.adv@gmail.com
vaigunthanssi@gmail.com
13. Kaaveri Steels (I) Pvt. Ltd.
Through its Authorized Signatory B. Jamaludeen
Having Registered Office at
7/1 & 4/3, Komal Road, Maruthur Village,
Therizhandur, Kuttalam,
Mayiladuthurai - 609808
Email: cfo@kaaveristeels.com
smstechnical@kaaveristeels.com
14. SL Lumax Ltd.
Through its Authorized Signatory Dongha Kim
Having Registered Office at
G-15, SIPCOT Industrial Park, Irungattukottai,
Sriperumbudur, Kancheepuram - 602117
Email: santhanakrishnan@slworld.com
15. Arise Industries and Agency Pvt. Ltd.
Through its Authorized Signatory Deepak Kothari
Having Registered Office at
SF. No. 22/1A, Musiri Thurayur Main Road,
Jambunathpuram (PO), Musiri (TK)
Trichy - 621 205
Email: dsk@arisesteels.com;
electricalarise@gmail.com; noble.ravi2@gmail.com

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16. Kanishk Steel Industries Private Limited
Through its Authorized Signatory Ashok Bohra
Having Registered Office at
Old No. 4, New No. 7, Thiru Vi Ka,
3rd Street, Royapettah High Road,
Mylapore, Chennai - 600 004
Email: opsl@rediffmail.com;
kanishkgpd@gmail.com
17. Kanishk Metals Recycling Private Limited
Through its Authorized Signatory Ashok Bohra
Having Registered Office at
Old No. 4, New No. 7, Thiru Vi Ka,
3rd Street, Royapettah High Road,
Mylapore, Chennai - 600 004
Email: opsl@rediffmail.com;
kanishkgpd@gmail.com
18. Vaibhav Merchantile Limited
Through its Authorized Signatory Dinesh Gour P
Having Registered Office at
B-50/E, SIPCOT
Industrial Complex, Gummidipoondi,
Thiruvallur Dist. - 601 201
Email: vaibhavacts@gmail.com
Vmlpurchase1416@gmail.com
19. K.L. Concast Private Limited
Through its Authorized Signatory P. Yugandhar
Having Registered Office at
No. 147/1, Periyaobulapuram Village,
Madharapakkam Road, Gummidipoondi - 601201,
Thiruvallur Dist, Tamilnadu - 601201
Email: sales@klsons.com
20. RBA Exports
Through its Authorized Signatory
S. Balasubramanian, General Manager
Having Registered Office at
Plot No. 56-61, EPIP, SIPCOT,
Gummidipooni - 601 201
Email: gm.rbae@rbagarwalla.com

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21. Noble Tech Industries Private Limited
Through its Authorized Signatory
Ravish Kumar, Assistant Manager - Litigation,
Having Registered Office at:
1102, Sankalp Iconic Tower,
Opp. Vikramnagar, Bopal Ambli Road, Bodakdev,

Ahmedabad City, Ahmedabad, 380054, Gujarat.
Corporate Address - 6th Floor, Tower A, Global
Business Park, Sector 26, Gurugram,
Haryana 122002
Email: ravish.kumar1@ofbusiness.in ... Appellant(s)

Versus

1. Tamil Nadu Electricity Regulatory Commission
Through its Secretary
4th Floor, SIDCO Corporate Office Building
Thiru-vi-ka Industrial Estate,
Guindy, Chennai - 600 032
Email: tnerc@nic.in
2. Tamil Nadu Power Distribution Corporation Limited
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Email: cpro@tnebnnet.org
3. Tamil Nadu Power Transmission Corporation Limited
Through its Managing Director
144, Anna Salai, Chennai - 600 002
Email: mdtantransco@tnebnnet.org ... Respondent (s)

Counsel on record for the Appellant(s) : Anand K. Ganesan
for App. 1 to 21
Counsel on record for the Respondent(s) : Anusha Nagarajan
for Res. 2

IA Nos.448,472,477,482,487,542 & 438 of 2026

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The India Cements Limited
Through its Authorized Signatory, Mr. S. Vijayaraghavan
Coromandel Towers, 93,
Santhome High Road, Karpagam Avenue,
R.A. Puram, Chennai - 600028
Email: vijayarhagavan.s@adityabirla.com ... Appellant

Versus

1. Tamil Nadu Electricity Regulatory Commission
Through its Secretary, Dr. C. Veermani

4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai - 600 032
Email: tnerc@nic.in

2. Tamil Nadu Power Distribution Corporation Limited
(Formerly known as Tamil Nadu Generation and Distribution Corporation Limited)
Through its Chairman cum Managing Director,
Dr. J. Radhakrishnan
144, Anna Salai, Chennai - 600 002
Email: cpro@tnebnet.org ... Respondent (s)

Counsel on record for the Appellant(s) : Dushyant Manocha
Mrinalini Mishra
Priyanka Prasanth
Kashish Chhabra
Srijesh Kumar Singh
Mukul Arya
Sabeeh Akhter
Anannya Ghosh
Doel Bose for App. 1

Counsel on record for the Respondent(s) : Anusha Nagarajan for Res. 2

IA Nos. 448, 472, 477, 482, 487, 542 & 438 of 2026
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ORDER

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PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. These applications under consideration in this order have been filed by the appellants along with the appeals seeking condonation of delay in filing the appeals.

2. The challenge in these appeals is to the 04 tariff orders passed by the 1st respondent Tamil Nadu Electricity Regulatory Commission (herein after referred to as the Commission) i.e. 2012 Retail Tariff Order, 2012 Transmission Tariff Order, 2013 Retail Tariff Order and 2017 Retail Tariff Order. The appellants are High Tension Open Access Captive Power Generators/consumers of the 2nd respondent Tamil Nadu Power Distribution Corporation Limited (in short TNPDCCL formerly known as Tamil Nadu Generation and Distribution Corporation Limited). The details of the appellants, orders of the Commission assailed therein and the extent of delay in filing the appeals are given in the following table: -

S. DFR Parties IA No. for Impugned Orders Date of Total No No. Condonation of Impugned Delay (in Delay days)

1. 112/ India Cements IA.438/2026 Retail Tariff Order 30.3.2012 5054 & Ors.

T r a n s m i s s i o n T a r i f f 3 0 . 3 . 2 0 1 2 5 0 5 4

IA Nos.448,472,477,482,487,542 & 438 of 2026 Retail Tariff Order- 20.6.2013 4607 TP No.1/2017 11.8.2017 3094

2. 114/ Chemplast IA.448/2026 Retail Tariff Order 30.3.2012 5055 Ors. v. TNERC Transmission Tariff 30.3.2012 5055 Retail Tariff Order 20.6.2013 4608 TP No.1/2017 11.8.2017 3095

3. 121/ Tamil Nadu IA.472/2026 TP No.1/2013 20.6.2013 4610 2026 Spinning Mills Ass. v. TNERC & Anr.

4. 122/ Tamil Nadu IA.477/2026 TP No.1/2017 11.8.2017 3097 2026 Spinning Mills Ass. v. TNERC & Anr.

5. 123/ Tamil Nadu IA.482/2026 Tariff Order 30.3.2012 5057 2026 Spinning Mills No.1/2012 Ass. v. TNERC & Anr.

6. 124/ Tamil Nadu IA.487/2026 Tariff Order 30.3.2012 5057 2026 Spinning Mills No.1/2012 Ass. v. TNERC

7. 139/ Madras Steel IA.542/2026 Retail Tariff Order 30.3.2012 5100 Ass. & Ors. v. Transmission Tariff 30.3.2012 5100 Retail Tariff Order 20.6.2013 4623 TP No.1/2017 11.8.2017 3110

3. Brief conspectus of the facts leading to the filing of these appeals, relevant for the disposal of these applications, is that concept of Deemed Demand Charges was evolved by the Commission in Tamil Nadu Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005 and was reiterated in the Tariff Order No.2 of 2006 issued by the Commission on 1 5 . 0 5 . 2 0 0 6 . T h u s , t h e

IA Nos.448,472,477,482,487,542 & 438 of 2026 said Order No.2 of 2006 provided the benefit of Deemed Demand Charges (in short "DDC") to the High-Tension Captive Consumers of non-renewable energy using open access facility.

4. Subsequently, the Commission passed 2012 Retail Tariff Order, 2012 Transmission Tariff Order and 2013 Retail Tariff Order in the years 2012-13 which do not contain anything specifically with regards to the continuation of "Deemed Demand Charges" to High Tension Open Access Captive Power Generators/Consumers. A circular dated 29.07.2013 came to be issued by the Chief Financial Controller/Revenue, TANGEDCO to all the Superintending Engineers of the Distribution Circles, the subject of which is "Tariff Order No.1 of 2013 dt. 20.06.2013

- Grid Availability Charges - Deemed demand - reg.". After extracting paragraph nos.5.66, 5.67 and 5.68 of the 2013 Tariff Order, the circular mentions as under: -

".....

4. Further, in the order No.2 dated 15.05.2006, various charges applicable to all OA customers covered under TNERC's Intra State Open Access Regulation 2005 has been issued. The charges included "Deemed Demand" charges also. In the latest
T a r i f f

IA Nos.448,472,477,482,487,542 & 438 of 2026 Order No.1 dated 20.06.2013, similar charges except "Deemed Demand" has been ordered.

5. From the above, it could be clearly observed that the concept of 'Deemed Demand' has not been envisaged in the Tariff Order dated 20.06.2013 in T.P. No.1 of 2013. Hence, the applicable demand charges for Open Access consumers shall be collected without applying "Deemed Demand"

concept.

6. Therefore, all the superintending Engineers are requested to take necessary action accordingly."

5. It is evident that the circular was issued on the understanding that the concept of Deemed Demand Charges envisaged in the Order No.2 of 2006 was replaced by the concept of Billable Demand in 2013 Retail Tariff Order and thus, made it clear that the applicable demand charges for open access consumers shall be calculated without applying "Deemed Demand" concept.

6. It appears that, according to the appellants, there was nothing in the 2012 Retail Tariff Order / Transmission Tariff Order as well as 2013 Retail

IA Nos.448,472,477,482,487,542 & 438 of 2026 Tariff Order to suggest that Deemed Demand concept has been withdrawn. The appellants have been of the understanding that the benefit of Deemed Demand Charges to HT Open Access Captive Power Generators/Consumers granted vide order no.2 of 2006 was never withdrawn under any of the subsequent tariff orders and such benefit could be withdrawn only upon following procedure contemplated for change in tariff policy and not by an administrative communication like the above referred circular dated 29.07.2013. Accordingly, the appellants approached the Hon'ble Madras High Court by way of various writ petitions seeking issuance of a Writ of Certiorari/Mandamus thereby quashing the said circular dated 29.07.2013. In some of the writ petitions, further relief was sought to forebear the TANGEDCO from demanding or levying demand charges without applying "Deemed Demand" concept as envisaged in Tariff Order No.2 of 2006 dated 15.05.2006 as well as for quashing of the levy of demand charges and for refund of the demand charges paid pursuant to bills raised by TANGEDCO in terms of the said circular dated 29.07.2013.

7. The writ petitions were allowed by the Single Bench of the High Court vide common order dated 14.09.2018 thereby quashing the impugned circular dated 29.07.2013.

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8. The said judgment of the learned single judge of the High Court was assailed by the 2nd respondent herein before the Division Bench of the High Court by way of writ appeal no.947/2019 and batch. The Division Bench allowed the writ appeals vide common judgment dated 12.12.2025 thereby setting aside the common order dated 14.09.2018 of the learned single judge. Consequently, the writ petitions filed by the appellants herein stood dismissed.

9. The Division Bench of the High Court, in the said judgment dated 12.12.2025, rejected the contention of the appellants that Tariff Order No.2 of 2006 is still in force and the tariff fixed under 2013 Tariff Order is not applicable to them. It held that the Tariff Order No.2 of 2006 had been explicitly superseded by the 2012 Tariff Order which came into effect from 01.04.2012 and remained in force for more than a year by which time Tariff Order of 2013 came to be passed by the Commission thereby rationalizing new tariff for High Tension Supply Consumers with "Billable Charges" in place of "Deemed Demand Charges". It was further held that impugned circular dated 29.07.2013 is the instruction of Finance Controller to the Regional Superintendents to follow the Tariff Order of 2013, and therefore, without challenging the Tariff Order of 2013 before the appellate authority, writ petitions filed under Article 226 of the Constitution only questioning

IA Nos.448,472,477,482,487,542 & 438 of 2026 the consequential letter addressed to the subordinates is not maintainable.

10. Against the said common judgment of the Division Bench of the High Court dated 12.12.2025, the appellants herein approached Hon'ble Supreme Court by way of Special Leave Petitions which were dismissed vide order dated 09.03.2026. Paragraphs 4 & 5 of the said order of the Hon'ble Supreme Court are material and are extracted hereinbelow: -

"4. After some arguments, learned counsel for the petitioners pray to withdraw these petitions with liberty to challenge the Tariff Order before the appropriate forum by filing appeal(s).

5. In such circumstances, we deem it appropriate to dismiss these petitions as withdrawn with liberty as prayed for. All contentions including one regarding maintainability of the appeal(s) are kept open to be raised before the appropriate forum."

11. It is in these circumstances that the appellants approached this Tribunal by way of the captioned appeals.

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12. We have heard Mr. P. Chidambaram, learned senior counsel and Mr. B.P. Patil, learned senior counsel appearing on behalf of the appellants as well as Dr. Abhishek Manu Singhvi, learned senior counsel and Mr. P. Wilson, learned senior counsel on behalf of the 2nd respondent TNPDC on the aspect of delay in filing these appeals.

13. The plea of condonation of delay in filing the appeals is primarily premised on Section 14 of the Limitation Act, 1963. It was vehemently argued by learned senior counsels appearing for the appellants that the case of the appellants is covered under section 14(1) of the Limitation Act as they had no occasion to challenge the tariff orders until the judgment dated 12.12.2025 was delivered by the Division Bench of the Hon'ble High Court in writ appeals. It is argued that in the absence of specific withdrawal of "Deemed Demand Charges", the appellants bonafidely challenged the circular dated 29.07.2013 before the High Court by way of the writ petitions. It is, further, argued that since similar matter with regards to "Deemed Demand Charges" was being prosecuted in good faith in these writ petitions, the period up to 12.12.2025 i.e. the date of judgment delivered by the Division Bench of the High Court ought to be excluded. It is the submission of the learned senior counsels that prior to the Division Bench judgment, there were no pleadings and no judicial/quasi-judicial order to the effect that 2013 Retail Tariff Order, by introduction of "Billable

IA Nos.448,472,477,482,487,542 & 438 of 2026 Demand" and "rationalization" of HT Sub-Categories, had withdrawn the "Deemed Demand Charges" and the Division Bench judgment being the first and only instrument that identified the implied withdrawal of "Deemed Demand Charges" vide 2013 Retail Tariff Order, the cause of action for the appellants to challenge the said Tariff Orders crystallized only on 12.12.2025. It is argued that till 12.12.2025, the position was that none of the Tariff Orders had withdrawn "Deemed Demand Charges" and the demand of 2nd respondent for such charges was unlawful, and therefore, there was no occasion for the appellants to challenge any Tariff Order. It is submitted that in fact, no such challenge would have been possible at that time before this Tribunal in view of the position of law as it stood then that "Deemed Demand Charges" were still continuing and had not been expressly withdrawn.

14. The learned senior counsels also referred to the order dated 09.03.2026 of the Hon'ble Supreme Court in the Special Leave Petitions filed by the appellants whereby liberty was given to the appellants to challenge the Tariff Orders before appropriate forum by filing appeals. It is submitted that the Supreme Court granted such liberty to the appellants being aware about the Tariff Orders passed between the years 2012 and 2017. The submission is that the Supreme Court could not have directed the appellants to challenge the Tariff Orders in the appropriate forum in

IA Nos.448,472,477,482,487,542 & 438 of 2026 case the Tariff Orders were unchallengeable. It is submitted that the expression "all contentions including one regarding maintainability of the appeals are kept open to be raised before the appropriate forum" used in the order by the Hon'ble Supreme Court cannot be treated as an adverse signal but only a direction to this Tribunal to decide the question and not to use it as a threshold barrier to the admission of the appeals. It is submitted

that rejection of the appeals on the aspect of limitation would render the liberty granted by the Supreme Court as nugatory.

15. Thus, it is the submission of the learned senior counsels that the appellants have made out sufficient grounds for condonation of delay in filing the appeals and therefore, the applications deserve to be allowed.

16. On behalf of the 2nd respondent, it is submitted by the learned senior counsels that bare perusal of 2012 Tariff Orders as well as 2013 Retail Tariff Order makes it clear that the comments of the stakeholders on continuation of Deemed Demand benefit were noted but deliberately and consciously not accepted by the Commission which is clearly indicative of the fact that "Deemed Demand Charges" concept was discontinued. It is further pointed out that any confusion in this regard was cleared in the 2017 Tariff Order in which it was specifically stated that

IA Nos.448,472,477,482,487,542 & 438 of 2026 "Deemed Demand Charges" have been withdrawn by 2012 Transmission Tariff Order itself.

17. The learned senior counsels would further argue that the appellants have failed to make out any case under Section 14 of the Limitation Act. It is submitted that in writ proceedings before the High Court, appellants had challenged the circular dated 29.07.2013, whereas in the instant appeals, they have assailed the Tariff Orders and therefore, the matter in issue in the two proceedings cannot be said to be identical. It is argued that under Section 14(2) of the Limitation Act, the relief sought in the previous proceedings must be similar as the relief sought in the subsequent proceedings which is filed beyond the period of limitation. It is also argued that in order to be entitled to the benefit under Section 14, it is to be shown that the court in which the previous proceedings were being prosecuted was unable to entertain the proceedings due to defect in jurisdiction, which is not the case herein as both the Single Bench as well as the Division Bench of the High Court decided the issue raised by the appellants on merits.

18. As regards to the liberty granted to the appellants by the Hon'ble Supreme Court to approach this Tribunal, it is submitted by the learned senior counsels that the objections on the ground of l i m i t a t i o n a r e a l s o

IA Nos.448,472,477,482,487,542 & 438 of 2026 part of objection to the maintainability of the appeals, and therefore, it cannot be said that the limitation aspect has not been left open by Hon'ble Supreme Court.

Our Analysis:

19. The contentions of the parties on these applications and the rival submissions made by the learned senior counsels for the parties revolve around the interpretation of Section 14 of the Limitation Act which is extracted hereinbelow: -

"14. Exclusion of time of proceeding bona fide in court without jurisdiction.--(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

IA Nos.448,472,477,482,487,542 & 438 of 2026 (2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

E x p l a n a t i o n . - - F o r t h e p u r p o s e s o f t h i s s e c t i o n , - -

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(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."

20. Perusal of this legal provision would reveal that it allows a litigant to exclude the time spent pursuing previous legal proceedings bonafidely before a court that lacked jurisdiction. What this Section ensures is that bonafide and genuine litigants are not penalized for technical errors or incorrect choice of forum, provided that the previous proceedings were prosecuted with due diligence. To claim the benefit on Section 14, the affected party must specify to the court that following essential conditions exist: -

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- (a) The previous proceedings were against the same defendants/parties and related to the same cause of action or relief;
- (b) The applicant was actively pursuing the previous case with reasonable care and due diligence;
- (c) The previous case was filed and pursued under the genuine and honest belief that the court had the jurisdiction to entertain and decide it; and
- (d) The previous court was unable to entertain the suit due to lack of jurisdiction or other cause of like nature.

21. On this aspect, we find the following observations of the Supreme Court in Union of India and Ors v. West Coast Paper Mills Ltd. and Anr. (2004) 3 SCC 458 very pertinent and are extracted hereinbelow: -

"14. In the submission of Mr Malhotra, placing reliance on CST v. Parson Tools and Plants to attract the applicability of Section 14 of the Limitation Act, the following requirements must be specified: (SCC p. 25, para 6)

IA Nos.448,472,477,482,487,542 & 438 of 2026 "6. (1) both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;

- (2) the prior proceedings had been prosecuted with due diligence and a in good faith;
- (3) the failure of the prior proceedings was due to a defect of jurisdiction or other cause of a like nature;
- (4) both the proceedings are proceedings in a court."

In the submission of the learned Senior Counsel, filing of civil writ petition claiming money relief cannot be said to be a proceeding instituted in good faith and secondly, dismissal of writ petition on the ground that it was not an appropriate remedy for seeking money relief cannot be said to be "defect of jurisdiction or other cause of a like nature" within the meaning of Section 14 of the Limitation Act. It is true that the writ petition was not dismissed by the High Court on the ground of defect of jurisdiction. However, Section 14 of the Limitation Act is

IA Nos.448,472,477,482,487,542 & 438 of 2026 wide in its application, inasmuch as it is not confined in its applicability only to cases of defect of jurisdiction but it is applicable also to cases where the prior proceedings have failed on account of other causes of like nature. The expression "other cause of like nature"

came up for the consideration of this Court in Roshanlal Kuthalia v. R.B. Mohan Singh Oberoi and it was held that Section 14 of the Limitation Act is wide enough to

cover such cases where the defects are not merely jurisdictional strictly so called but others more or less neighbours to such deficiencies. Any circumstance, legal or factual, which inhibits entertainment or consideration by the court of the dispute on the merits comes within the scope of the section and a liberal touch must inform the interpretation of the Limitation Act which deprives the remedy of one who has a right."

22. In a subsequent case titled Consolidated Engg. Enterprises v. Principal Secretary, Irrigation Department (2008) 7 SCC 169, the Supreme Court extensively discussed and summarized the applicability of Section 14 and it was held: -

IA Nos.448,472,477,482,487,542 & 438 of 2026 "21. Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction.

On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

- (1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;
- (2) The prior proceeding had been prosecuted with due diligence and in good faith;
- (3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;
- (4) The earlier proceeding and the latter proceeding must relate to the same matter in issue; and (5) Both the proceedings are in a court."

23. When we analyze the case of the appellants herein in the light of the legal principles enunciated by the Hon'ble Supreme Court in the above referred judgments, we feel of the considered opinion that the appellants are disentitled to claim benefit of Section 14 of the Limitation Act. The

IA Nos.448,472,477,482,487,542 & 438 of 2026 reasons for reaching such a conclusion are not far to seek, which we explain hereinbelow.

24. In 2006 Tariff Orders, the Commission had carved out a separate head of "Grid Availability Charges" under which the concept "Deemed Demand Charges" was introduced. However, in the subsequent Tariff Orders passed in the year 2012, there was no section on "Grid Availability Charges" under which head the concept of "Deemed Demand Charges"

had been evolved in 2006 Tariff Order. The comments of stakeholders for continuation of "Deemed Demand " were noted but no provision in the same was made in the Tariff Order. The Tariff Orders specified that demand charges were

payable on the basis of Billing Demand i.e. the demand recorded in the particular month or 90% of sanctioned demand. These facts clearly indicate that the concept of "Deemed Demand Charges" was discontinued in 2012 Tariff Order. Similarly, during the hearings before passing of 2013 Tariff Orders also, the stakeholders had specifically requested for continuation of "Deemed Demand" concept which was not accepted by the Commission. Therefore, in the tariff schedule of the said order Billing Demand was provided on the basis of which "Demand Charges" were payable by open
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IA Nos.448,472,477,482,487,542 & 438 of 2026 the demand recorded in a particular month or 90% of the sanctioned demand.

25. Further, bare perusal of the circular dated 29.07.2013 issued by Chief Financial Controller/Revenue of the 2nd respondent would reveal that it is founded upon the Commission's retail Tariff Orders 2013 dated 20.06.2013 and merely clarifies that the concept of "Deemed Demand Charges" is not envisaged in the said order. It is not an independent circular whereby the concept of "Deemed Demand Charges" was withdrawn by the 2nd respondent but only a clarificatory circular in order to clear any confusion in the minds of the stakeholders with regards to "Deemed Demand Charges". Therefore, we are unable to discern the wisdom of the appellants to assail this circular dated 29.07.2013 in the Hon'ble High Court by way of writ petitions instead of impugning the 2013 Tariff Orders before the appropriate forum i.e. this Tribunal, on the basis of which the said circular had been issued. In view of such conduct of the appellants, we are constrained to note that they have shown total lack of bonafide and due diligence in assailing the circular dated 29.07.2013 before the High Court by way of the writ petitions.

26. Section 14(1) of the Limitation Act lays emphasis on due diligence and good faith. When a party
a p p e a r s t o h a v e d e l i b e r a t e l y c h o s e n a

IA Nos.448,472,477,482,487,542 & 438 of 2026 wrong forum instead of approaching the right forum at the first possible opportunity, the party cannot be understood to have acted in good faith and with due diligence.

27. Under Section 2(h) of the Limitation Act, nothing shall be deemed to be done in good faith which is not done with due care and attention. The facts narrated hereinabove do not in any manner indicate good faith on the part of the appellants in approaching the High Court by way of the writ petitions.

28. Then comes the 2017 Retail Tariff Order which contained clause 2.11.14 as under: -

"2.11.14 IT is clarified that the Commission took a conscious and reasoned decision to withdraw the Deemed Demand benefit, vide its Transmission Tariff Order No.2 of 2012 dated March 30, 2012 as there are no appeals on this Order on this issue. The consumers can always reduce their Contract Demand. The Commission does not find any justification for revisiting this issue."

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29. Evidently, therefore, any confusion in the minds of the appellants with regards to the discontinuation or otherwise of "Deemed Demand Charges" was cleared in the said Tariff Orders of 2017. The 2017 Tariff Orders did not leave any room for ambiguity, whatsoever, in this regard and indicated in clear terms that the concept of "Deemed Demand Charges" stood withdrawn vide Transmission Tariff Orders 2012 dated 30.03.2012. The appellants ought to have withdrawn the writ petitions at that very juncture from the High Court and ought to have approached this Tribunal by way of appeals assailing the Tariff Orders of 2012, 2013 and 2017. That having not been done, it is difficult to say that the appellants were acting in good faith and with due diligence. It is true, as contended on behalf of the appellants that 2017 Tariff Orders does not decide the issue of "Deemed Demand Charges" and only states that the Commission, vide Tariff Orders No.2 of 2012 (Transmission Order) has withdrawn the "Deemed Demand Charges" concept. However, this was enough for the appellants to accept the position that the "Deemed Demand Charges" have been withdrawn vide 2012 Tariff Orders and to commence the appropriate legal proceedings in this regard in the appropriate forum. However, instead of doing so, the appellants continued with the writ petitions in the High Court probably for the reason that an interim order had been passed in their favour in the writ petitions.

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30. Considering these overall facts and circumstances, we are unable to countenance the submissions on behalf of the appellants that the cause of action for them to assail the Tariff Orders crystalized on 12.12.2025 only when the writ appeals were allowed by the Division Bench of the High Court. It is fallacious on the part of the appellants to state that the Division Bench judgment is the first and only instrument that identifies the withdrawal of "Deemed Demand" benefit by way of Tariff Orders of 2012 and 2013.

31. It has been argued on behalf of the appellants that to deny admission of the appeals on the ground of limitation would render the liberty granted by the Hon'ble Supreme Court in order dated 09.03.2026 nugatory as such liberty was granted being aware about the Tariff Orders passed by the Commission from the year 2012-2017. We do not feel impressed by these arguments and have been noted only to be rejected. We have already extracted the said order dated 09.03.2026 passed by the Hon'ble Supreme Court in Special Leave Petition of the appellants in paragraph no.8 hereinabove. Liberty has been given to the appellants to challenge the Tariff Orders before the appropriate forum i.e. this Tribunal by filing appeals while leaving all contentions including one regarding maintainability of the appeals open to be raised before this Tribunal. There can be no gainsaying that the aspect of maintainability includes

IA Nos.448,472,477,482,487,542 & 438 of 2026 inherent statutory bar to the legal proceedings which would, in turn, include bar under the Limitation Act, 1963. On this aspect, we find it profitable to refer to the following observations of the High Court of Bombay in Deepak Manaklal Katariay v. Ashok Motilal Katariya and Others, writ petition No.2315 of 2015 decided on 29.11.2024:

"13. Maintainability pertains to whether a legal proceeding is competent to be entertained, factoring in procedural and substantive requirements. Maintainability relates to whether the suit is procedurally valid and not inherently barred. A case dismissed for lack of maintainability does not necessarily negate the existence of Jurisdiction, as it may only reflect procedural infirmities. Unlike jurisdiction, maintainability addresses preliminary objections arising from procedural non-compliance or statutory bars rather than the inherent authority of the court. Examples of factors affecting maintainability include:

(i) Bar under Statutes: Prohibitions on the initiation of proceedings due to legislative provisions (e.g., res judicata under Section 11 of CPC).

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(ii) Limitation Period: Filing of proceedings after the prescribed period under the Limitation Act, 1963.

(iii) Locus Standi: The legal standing of the petitioner to institute proceedings.

14. Jurisdiction derives its authority from statutes conferring power on the court. Maintainability arises from procedural and statutory compliance requirements for initiating proceedings. Lack of jurisdiction results in the nullity of proceedings, as the court inherently lacks authority to adjudicate. Non-compliance with maintainability bars leads to dismissal without deciding the merits of the case but does not affect the court's inherent power.

15. Thus, while jurisdiction focuses on the court's authority, maintainability examines the legal validity of the proceedings."

32. In the case titled Arifa and Others v. Abhiman Apartment Co Operative Housing Society Limited and Others (2025) 10 SCC 700, the issue before the Hon'ble Supreme Court was whether the liberty granted to file a fresh suit by the Hon'ble Supreme Court would enable the party

IA Nos.448,472,477,482,487,542 & 438 of 2026 to revive a cause of action and save limitation and it was observed as under: -

"11. We perfectly agree with the findings in the impugned judgment regarding limitation and res judicata and cannot but observe that the liberty granted by the High Court in the second appeal was akin to flogging a dead horse; which cannot give a fresh lease of life to either the cause of action; to save limitation or the grounds on which the declaration and consequential relief has been prayed for in the present suit; which grounds were already adjudicated in the earlier suit and found against the

plaintiff by three courts."

33. Therefore, it would be preposterous to say that the liberty granted by the Supreme Court to the appellant to approach this Tribunal entitles them to steer clear of the bar of limitation and would prevent this Tribunal in entertaining and deciding the objections of limitation raised by the respondent No.2. Once the Supreme Court kept open the issue of maintainability to be raised before this Tribunal, it is implicit therein that this Tribunal has to consider all the objections to the maintainability of the appeals including the bar of limitation.

IA Nos.448,472,477,482,487,542 & 438 of 2026 Conclusion: -

34. Having regard to the above narrated facts and circumstances in which these appeals came to be filed by the appellants, we are of the opinion that the appellants are not entitled to benefit under Section 14 of the Limitation Act, 1963 as they have not been acting in good faith and with due diligence throughout. The situation appearing in this case demonstrates absence of good faith and diligence of great magnitude on the part of the appellants and therefore, law should not come to the rescue of such a litigant. The appellants have exhibited total lack of diligence in pursuing the reliefs sought for in these appeals. Firstly, in the year 2013, they chose to impugn the circular dated 29.07.2013 by way of writ petition in the Hon'ble High Court which had been issued on the basis of 2012 Tariff Order, instead of assailing the said Tariff Order before this Tribunal. Then again, they exhibited utmost lack of diligence and bonafide in the year 2017 after the 2017 Tariff Order was passed which clarified that "Deemed Demand Charges" concept has been done away with vide 2012 Tariff Order but still they chose not to assail the Tariff Orders before this Tribunal and continued with the writ petitions before the Hon'ble High Court. The delay in filing these appeals is enormous which has remained to be explained satisfactorily by the appellants and thus cannot be condoned.

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35. Hence, the applications are found to be devoid of any force and are accordingly dismissed.

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36. In view of the dismissal of the applications for condonation of delay, these appeals are found to be barred by limitation and are dismissed as such. All other applications filed along with the appeals also stand disposed of.

Pronounced in the open court on this the 27th day of May, 2026.

(Virender Bhat)
Judicial Member

(Seema Gupta)
Officiating Chairperson

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