

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NOS.32313, 32324, 32341, 32356, 32369,  
32379, 32386, 32461, 34494, 34870, 35128, 35197, 35300,  
35547, 40446, 40472, 41186 And 41196 OF 2016**

**Date: 22.03.2019**

Writ Petition No.32313 of 2016:

Between:

M/s. Suryalata Spinning Mills Limited,  
(Service Connection bearing No.MBN-678)  
Urukondapet Village, Midjil Mandal,  
Mahaboobnagar District, rep.by its Joint  
Managing Director, Mahendra Kumar Agarwal.

.....Petitioner

And

Telangana State Electricity Regulatory Commission,  
rep., by its Secretary, Singareni Bhavan,  
Red Hills, Hyderabad, Telangana State & others.

.....Respondents

The Court made the following:

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NOS.32313, 32324, 32341, 32356, 32369, 32379, 32386, 32461, 34494, 34870, 35128, 35197, 35300, 35547, 40446, 40472, 41186 And 41196 OF 2016**

**COMMON ORDER:**

Heard learned counsel for petitioners, Sri Duba Nagarjun Babu, learned Standing counsel for Telangana Electricity Regulatory Commission Sri J.Ashwin Kumar, and learned Standing counsel for the Southern Power Distribution Company Sri R.Vinod Reddy.

2. Petitioners are high tension electricity power consumers, drawing power from generation company/s accessing the transmission and distribution network of Southern Power Distribution Company of Telangana Limited. They are aggrieved by the decision of Southern Power Distribution Company Limited in levying cross-subsidy surcharge on the petitioners from 01.04.2016 to 30.06.2016 i.e., for a period of three months.

3.1. Learned counsel for petitioners would submit that petitioners have power purchase agreements to purchase electricity and the electricity purchased by them is being transmitted and distributed through network created by respondent-company. As part of the reforms introduced by the Act, an independent Commission is established in every State who shall have the responsibility to determine the tariff/surcharge chargeable by the generation, transmission and distribution companies. For the purpose of charges leviable by distribution companies, they have to apply to the State Electricity Regulatory Commission for determination of tariff. The Commission notifies the requisition

made by the distribution companies, calls for objections/ suggestions from the stake holders, holds public hearing and then determines the tariff and other charges leviable for the period specified in its orders. The orders passed by the Regulatory Commission can be varied during subsistence of such order. Until and unless orders are passed by the State Electricity Regulatory Commission, the distribution company is not authorized to levy any tax including cross-subsidy surcharge. Further, Wheeling of electricity has to be assured and there can be no restriction imposed on provision of access to wheeling of electricity by the distribution companies. The decision to levy cross-subsidy surcharge without orders from the Electricity Regulatory Commission amounts to imposing restriction on access to its network.

3.2. According to learned counsel for petitioners, earlier Tariff orders and cross-subsidy orders were covering the period from 01.05.2015 to 30.04.2016. On 23.06.2016, the Telangana State Electricity Regulatory Commission passed orders in O.P.Nos.6 and 7 of 2016 filed respectively by two distribution companies to notify various amounts chargeable by the distribution companies covering the period from 01.07.2016. Even though order extending the Tariff already fixed for the period from 01.05.2015 to 30.04.2016 for further period was issued on 29.03.2016, on same terms as applied in the earlier tariff order, this order does not cover the cross-subsidy surcharge and without orders from the Electricity Regulatory Commission, cross-subsidy surcharge cannot be collected.

3.3. According to learned counsel, determination of tariff is independent from levying of cross-subsidy surcharge. The Electricity Regulatory Commission passes separate orders, one dealing with determination of tariff and the other dealing with collection of cross-subsidy surcharge. Order extending tariff that can be collected by the distribution companies beyond 31.03.2016 did not cover the cross-subsidy surcharge.

3.4. According to learned counsel, Section 62 deals with determination of tariff, whereas Section 42 deals with determination of cross-subsidy surcharge and wheeling charges. The order passed on 29.03.2016 was under Section 62 and is only a tariff order but not on cross-subsidy surcharge. As no orders were passed by the Electricity Regulatory Commission authorizing the distribution company to levy cross-subsidy surcharge, the distribution company cannot collect cross-subsidy surcharge. He further points out that in the application filed before the Electricity Regulatory Commission, the distribution companies sought for orders for collection of various charges including cross-subsidy surcharge. But the orders passed by the Electricity Regulatory Commission cover only the tariff aspect and no decision was made by the Commission on the prayer to levy cross-subsidy surcharge. It would therefore, amount to rejection of request by the distribution companies to levy cross-subsidy surcharge. He would submit that levy of cross-subsidy surcharge is a tax and no tax can be levied without authorization. In support of his contention, learned counsel placed reliance on ***Nagrik Upbhokta M. Manch Vs Union of India and others***<sup>1</sup>.

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<sup>1</sup> (2002) 5 Supreme Court Cases 466

4. According to Sri J.Ashwin Kumar, representing Telangana State Electricity Regulatory Commission, the decision dated 29.03.2016 is only an order extending the tariff order dated 27.03.2015 and it covers all aspects of collection of charges in any form by the distribution company and therefore, does not exclude cross-subsidy surcharge as sought to be contended by learned counsel for petitioners. He would further submit that tariff includes levying of surcharge. He would submit that Section 42 of the Act mandates payment of charges for having access to the distribution network and therefore, petitioners cannot say that they need not pay cross subsidy surcharge though, they utilized the network of respondent-company during the relevant period. He would submit that the exercise undertaken by the Commission was comprehensive and includes determining the tariff, wheeling charges and cross-subsidy surcharge leviable for the period covering from May, 2015 to March, 2016. Therefore, the order passed by the Commission on 29.03.2016 also extends to levying of surcharge.

5.1. Sri R.Vinod Reddy, learned Standing counsel for the distribution company would submit that the distribution company is required to establish an efficient transmission and distribution network and is required to maintain the same, so that there can be no interruption of power supply in any manner. Maintenance also involves up gradation of supply network, establishment of sub-stations, transmission towers etc. All this would require huge amount of money. The major source of income for distribution companies is collection of charges from the electricity consumed by the consumers. However, the State Government policies require supply of power free of cost/at subsidized rate to various

consumers, compared to tariff fixed by the Electricity Regulatory Commission. Therefore, Section 42 of the Act, envisages collection of cross-subsidy surcharge only to obviate the loss in revenue to distribution companies due to subsidies granted by the State Government.

5.2. He would submit that having regard to the delay in determining various charges for the subsequent period, the respondent-company requested the Regulatory Commission to extend orders dated 27.03.2015; the request was accepted, and Commission passed orders on 29.03.2016. These orders of the Electricity Regulatory Commission cover all the charges already determined for the previous period.

5.3. In support of his contention on the scope of collection of cross-subsidy surcharge, learned Standing counsel placed reliance on the decision of Hon'ble the Supreme Court in **Sesa Sterlite Limited Vs Orissa Electricity Regulatory Commission and Others**<sup>2</sup>.

6. In reply learned counsel for petitioners, would submit that the decision of the Electricity Regulatory Commission are quasi-judicial orders, but not administrative. A quasi-judicial order has to be specific and clear. It cannot be assumed something when the order does not deal with an aspect. As contended by him, the determination of cross-subsidy surcharge under Section 42 is independent of determination of tariff. As no decision was taken on extension of cross-subsidy surcharge, though specifically requested by the distribution companies, it is deemed that the request of the distribution companies was rejected and therefore,

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<sup>2</sup> (2014) 8 Supreme Court Cases 444

they are not entitled to collect cross-subsidy surcharge for three months period.

7. Alternatively, he would submit that the tariff order dated 27.03.2015 was challenged before this Court. This Court having noticed that tariff order determined was far in excess of tariff and charges suggested by the distribution companies, held that it is not open to the Electricity Regulatory Commission to levy higher tariff and charges and therefore, while holding the decision of Electricity Regulatory Commission to levy higher tariff as illegal, directed collection of tariff and other charges, as proposed by the distribution companies to the Regulatory Commission. He would therefore, submit that in the event of Court not accepting the contention of petitioners that the distribution companies cannot levy cross-subsidy surcharge for the period from 01.04.2016 to 30.06.2016, the cross-subsidy surcharge should be based on the proposals made by the distribution companies and not based on what was originally determined by the Electricity Regulatory Commission.

8. Electricity (Supply) Act, 1948 created a monopoly in the State-run Electricity Boards in generation, transmission and supply of electricity. Initially no generating plants were allowed in the private sector. However, by virtue of amendment brought out in the year 1991 to the above Act, facility was provided to private entrepreneurs, with prior consent from the State Electricity Board to establish new generation station or extend or make major replacement of existing generation station. This did not improve generation of electricity. In order to bring about reforms in the electric energy field and to involve more and more private persons

in the generation, transmission and distribution of electricity energy, in super session of Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948, the Electricity Act, 2003 (for short, Act, 2003) was enacted.

9. Even before the above Central enactment was brought in, in order to streamline the electricity generation, transmission and supply system in the state, the composite State of A.P., enacted A.P. Electricity Reforms Act, 1998 (for short the Act, 1998). The existing electricity board was unbundled, and, in its place, separate entities were established for generation, transmission and distribution of electric energy. In the combined State four distribution companies were formed. After the bi-furcation of erstwhile State of Andhra Pradesh and formation of State of Telangana, there are two distribution companies called the Southern Power Distribution Company of Telangana Limited and the Northern Power Distribution Company of Telangana Limited. It is the responsibility of the distribution companies to distribute electricity to the consumers within their area of operation. For the purpose of distribution, it must ensure the grid capacity and maintain distribution network.

10. As seen from statement of objects and reasons and the provisions of the Electricity Act, 2003, it is intended to encourage private sector participation in generation, transmission and distribution of electricity. Individuals are permitted to set up generating plants. It governs all aspects of electricity such as Generation, Transmission, Distribution, Trading and use of electricity, protecting the interest of consumers and supply of electricity to all areas. The Act enables the electricity generated by

the generating company to be transmitted and distributed to consumers by utilizing transmission and distribution network already established by the State distribution licensees. It is a comprehensive legislation in the field of electric energy. It broke the shackles of the State control in electricity generation/transmission/distribution.

11. Generation, Transmission and Distribution are three important components of electricity. Opening of power generation resulted in establishing several companies and generation of electricity has increased by many folds. Electricity generating company can be located wherever enough natural resources are available, such as water, coal, solar lighting, gas etc., but the actual consumer can be located elsewhere. It is appropriate to note at this stage, that the Electricity generation is confined to few areas in the country, Ex: abundance of coal is available in erstwhile Karimnagar, Warangal and Khammam Districts. Electricity is generated by utilizing the available coal and distributed to various parts of the country. Similarly, the terrain in the State of Himachal Pradesh enables generation of electricity from water. Several companies are established in that State for generation of electricity. The electricity generated by them must be distributed to consumers spread all over the country. However, establishing their own network of distribution may not be commercially viable for generating companies.

12. There comes the need to have efficient transmission and distribution network to effectively utilize power so generated. Efficient electric energy is required in all sectors of economy. Quality and uninterrupted power supply would stimulate over all

economic development of the country. Thus, establishment and maintenance of good distribution network is necessary for the generating companies to sustain. In other words, the sustenance of electricity sector depends on efficient distribution network.

13. The Distribution Company is required to establish, maintain and upgrade its distribution network efficiently in order to serve its consumers. It buys electricity from generating company and supplies to its consumers. It collects charges from consumers for the electricity consumed. The difference between the cost paid to generating company and charges collected from consumer is its income. As per the scheme of the Act open access to distribution network is allowed. Thus, distribution licensee also has the onerous task of making available its network to generating companies and their consumers. It should factor additional load on its network. Further, in assessing its economic resources it should factor subsidy component. The Act recognizes subsidy component of electricity tariff and seeks to compensate the distribution licensee.

14. Part-VI of the Act deals with distribution of electricity. Section 42 is included in this part. Sub-Section (1) imposes duty on the distribution licensee to develop and maintain an efficient coordinated and economical distribution system, in order to supply quality, uninterrupted electricity in accordance with the Provisions of the Act. The distribution system so established should be allowed to be accessed by the electricity generation companies.

15. The '*distribution system*' as defined in Section 2 (19) of the Act, means the system of wires and associated facilities between the delivery points on the transmission lines or the generating

station connection and the point of connection to the installation of the consumers. Distribution system includes electrical line sub-station and electrical point (Rule 4 of the Electricity Rules, 2005).

16. As defined in Section 2 (72) '*transmission lines*' mean all high-pressure cables and overhead lines transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works.

17. Thus, as per Section 42 (1) of the Act, it is the obligation of the distribution companies to establish and maintain distribution system which includes all the above and for all these it would incur lot of expenditure.

18. The scheme as envisaged in Section 42 of the Act, would make it clear that though the electricity generating company/power purchasing agreement holder is entitled to utilize distribution network already established by the distribution licensee, but such access to distribution network of the licensee is not free of cost. The generating company/power purchasing agreement holder should pay wheeling charges and cross-subsidy surcharge. This is also clearly discernable, from a reading of the first Proviso appended to Section 42 (2) of the Act.

19. As part of opening of electricity sector and creating different entities operating in three aspects of electricity, Viz., Generation, Transmission and Distribution, and various other aspects of electricity, Regulatory Commissions are established in the Central Government and in the States. At the Central level, it is called as Central Electricity Regulatory Commission (CERC) and at the State

level, it is called as the State Electricity Regulatory Commission (SERC). The primary objective of CERC is to bridge gap between demand and supply of electricity, which negatively impacts consumers. To this end, the CERC aims to promote competition, efficiency and economy in bulk power markets, improve the quality of supply and promote investments while advising the Government of India on removal of institutional barriers. It has developed a common platform for electricity trading.

20. The primary objective of SERC is to protect the interests of the consumers by improving the functionality of the power sector in the State. SERC performs both mandatory as well as advisory functions. In discharge of its functions, the SERC is guided by the National Electricity Policy, National Electricity Plan and tariff policy published under section 3 of the Act. Sections 82 to 90 of the Act provide for the constitution, powers and functions of the State Commissions.

21. The SERC determines the tariffs within the State, except when open access is provided under Section 42 where it determines only the wheeling charges and surcharges. It regulates electricity purchases and the procurement process of distribution licensees including price of procurement; facilitates intra-state transmission and wheeling; issues all licenses for various operations like distribution, transmission and trading, that take place within the State; provides suitable measures for the generation of electricity from renewable sources; adjudicates upon all disputes between licensees, and generating companies and refers appropriate disputes to arbitration; levies all fees; specifies the State Grid Code; enforces quality standards; and fixes trading margin in

intra-State trading. Thus, the SERC has to periodically determine, Tariff, wheeling charges and cross subsidy surcharge and once such determination is made, it is binding on all stake holders.

22. The objective of levying Cross-subsidy is to ensure that the amounts so collected by the distribution company are required to meet the current level cross-subsidies within the area of supply of distribution licensee. In other words, though tariff is determined and fixed by the Electricity Regulatory Commission, the distribution licensee cannot collect tariff so fixed where subsidy is extended by the State. For various reasons, including promoting agriculture, industry etc., Government extends subsidy to the identified consumers. By way of collecting cross-subsidy surcharge, the distribution companies may meet the deficiencies in the actual collection and the tariff fixed.

23. In **Sesa sterlite limited** (supra), the Supreme Court elaborately considered the issue of cross-subsidy surcharge.

23.1. Having regard to the contentions urged in these writ petitions, it is appropriate to note the observations of Hon'ble the Supreme Court,

“27. The issue of open access surcharge is very crucial and implementation of the provision of open access depends on judicious determination of surcharge by the State Commissions. **There are two aspects to the concept of surcharge — one, the cross-subsidy surcharge i.e. the surcharge meant to take care of the requirements of current levels of cross-subsidy, and the other, the additional surcharge to meet the fixed cost of the distribution licensee arising out of his obligation to supply.** The presumption, normally is that generally the bulk consumers would avail of open access, who also pay at relatively higher rates. As such, their exit would necessarily have adverse effect on the finances of the existing licensee, primarily on two counts — one, on its ability to cross-subsidise the vulnerable sections of society and the other, in terms of recovery of the fixed cost such licensee might have incurred as part of his obligation to supply electricity to that consumer on demand (stranded costs).

The mechanism of surcharge is meant to compensate the licensee for both these aspects.

28. Through this provision of open access, the law thus balances the right of the consumers to procure power from a source of his choice and the legitimate claims/interests of the existing licensees. Apart from ensuring freedom to the consumers, the provision of open access is expected to encourage competition amongst the suppliers and also to put pressure on the existing utilities to improve their performance in terms of quality and price of supply so as to ensure that the consumers do not go out of their fold to get supply from some other source.

**30. ... In a nutshell, CSS is a compensation to the distribution licensee irrespective of the fact whether its line is used or not, in view of the fact that, but for the open access the consumer would pay tariff applicable for supply which would include an element of cross-subsidy surcharge on certain other categories of consumers .....**

**31. .... In order to be liable to pay cross-subsidy surcharge to a distribution licensee, it is necessary that such distribution licensee must be a distribution licensee in respect of the area where the consumer is situated and it is not necessary that such consumer should be connected only to such distribution licensee but it would suffice if it is a "consumer" within the aforesaid definition.**

**36. ....Since it is duty-bound to establish, operate and maintain these dedicated lines by making huge investment, in order to get into the consumption in the area in question the very necessity of payment of CSS arises by the consumer of electricity covered by the definition of "consumer" under Section 2(15) of the Act but is not getting supply of that generator and someone else. ..."**

(Emphasis supplied)

23.2. In the said case, it was contended that the appellant being a deemed distribution licensee for the purpose of Electricity Act, it is not liable to pay cross-subsidy surcharge to the distribution licensee (WESCO) for the area in question. The appellant is a developer in the SEZ area. It has entered into power purchasing agreement with Sterlite Energy Limited (later merged with appellant). Under Section 14 (b) of the Act, appellant was treated as deemed distribution licensee. The appellant was drawing power as per PPA. By placing reliance on Section 14 (b) of the Act, and the provisions of SEZ Act, it was contended that as the appellant

itself being a deemed licensee authorized to distribute electricity within the special economic zone area and it is not required to pay cross-subsidy surcharge.

23.3. The contentions urged by the appellant were negated by the Appellate Tribunal for Electricity, against which the appeal was preferred. The Supreme Court upheld the decision of Tribunal.

24. It is thus beyond pale of doubt that whoever is accessing distribution licensee network must pay cross-subsidy surcharge in addition to wheeling charges.

25. The decision in **Nagrik Upbhokta M.Manohar**, (supra) relied upon by learned counsel for petitioners, has no application to the facts of this case. As can be seen from the facts noted in the said judgment, while fixing the prices of Kerosene, a control commodity, the amount as rounding of the rates was introduced and the said amount was meant to be utilized for general development purposes of local administration, for running a Department or system of governance. The Supreme Court held that such collection and creation of fund has no sanctity in law and is violative of Article 265 of the Constitution of India. The Supreme Court held that levying of amount in the guise of rounding of is unlawful and unauthorized.

26. Thus, the only issue for consideration is, whether the distribution licensee can levy cross-subsidy surcharge without an authorization by the Electricity Regulatory Commission.

27. To appreciate this contention, it is necessary to have a closer look at the provision in Section 42 of the Act. As noticed above, Section 42 first imposes obligation on the distribution licensee to develop and maintain an efficient coordinated and economical

distribution system in its area. It mandates provision of open access to anybody. However, while granting open access without any restriction, it enables the distribution licensee to collect wheeling charges and to levy cross-subsidy surcharge. Sub-Section (2) vests power in the Electricity Regulatory Commission to determine wheeling charges. While determining the wheeling charges it shall take due regard to all the relevant facts including cross-subsidy.

28. The entitlement of distribution licensee to collect cross-subsidy is also discernable from the third Proviso. Unless and until the State Commission passes a specific order reducing or removing collection of cross-subsidy, the distribution licensee is entitled to collect cross-subsidy surcharge. How much of cross-subsidy surcharge can be collected by a distribution licensee depends on the decision of Electricity Regulatory Commission. Thus, ordinarily, it should collect cross-subsidy surcharge as determined by the Electricity Regulatory Commission. The fact that for the subsequent period commencing from 01.07.2016, the cross-subsidy surcharge was again determined by Electricity Regulatory Commission would show that there was no decision by the Electricity Regulatory Commission to dispense with collection of cross-subsidy surcharge. Further even now, certain segments of the society are provided subsidized power. In fact, in the State of Telangana the farmers are provided free electricity. Therefore, the distribution licensee has to be compensated for the amount of loss caused to it on account of subsidies provided by the State Government.

29. In the case on hand, the Electricity Regulatory Commission, passed orders on 27.03.2015 fixing the tariff and cross-subsidy surcharge for the period, as modified later, from 01.05.2015 to 31.03.2016. Further orders are passed fixing the tariff and cross-subsidy surcharge for the period from 01.07.2016 to 31.03.2017. controversy is regarding the three months between these two periods. On the one hand, it was contended by learned counsel for petitioners that as there were no orders passed, even though prayer was sought, it is deemed that the Commission has rejected and on the other hand, it is the contention of the respondents including the Commission that the orders passed on 29.03.2016 also covers extension of cross-subsidy. To appreciate the arguments of learned counsel for petitioners it is assumed that there was no order passed under Section 42 covering the period from 01.04.2016 to 30.06.2016.

30. On true construction of provision in Section 42 it is clearly discernable that to access distribution network of a licensee the generator and consumer must pay wheeling charges and cross-subsidy surcharge until cross-subsidy surcharge is totally removed. The Electricity Regulatory Commission being an independent body is vested with power to determine money chargeable by a distributing licensee including cross-subsidy surcharge and once such determination is made it is binding on all parties. But merely because no determination is made by Electricity Regulatory Commission, in the peculiar facts of this case, the distribution licensee cannot be denuded of its competence to levy cross-subsidy surcharge.

31. It is not the case of petitioners that respondent distribution company resorted to collect exorbitant amount. The cross-subsidy was already decided by Electricity Regulatory Commission for the period ending on 31.03.2016 and pending consideration of the tariff revision and other charges for subsequent period, the distribution licensee was to collect the same surcharge as was determined for the period from 01.05.2015 to 31.03.2016. Thus, the decision to collect the same cross-subsidy, as was collected up to 31.03.2016 even for the period from 01.04.2016 to 30.06.2016 cannot be said as amounting to arbitrary exercise of power and authority. More so, when person accessing the distribution network is required to pay wheeling charges and cross-subsidy surcharge.

32. Accepting the contention of learned counsel for petitioners would mean that even though petitioners availed the facility of network of the distribution licensee, it need not pay cross-subsidy surcharge, but at the same time, it would expect the distribution licensee to maintain efficient -distribution network. Further during the said period, the distribution licensee continues to provide subsidized power. In addition, it also has the obligation to incur fixed costs arising out of the obligation to provide quality network.

33. Cross-subsidy surcharge is meant to cover the loss in revenue on account of subsidized power to certain segments of the Society and the fixed costs, it incurs as the distribution licensee. A distribution licensee cannot be expected to provide quality network unless it has resources to meet the expenditure. Therefore, I am of the considered opinion that merely because Electricity Regulatory Commission has not determined cross-subsidy surcharge for the

three months, the competency of the distribution licensee to collect cross-subsidy surcharge is not ousted. Further in the peculiar facts of this case, such collection cannot be held as amounting to illegal exercise of power by the respondent licensee. On the contrary, the claim of petitioners would be amounting to undue enrichment.

34. As noted above, due to some administrative constraints the respondent distribution licensee could not immediately apply for determination of tariff and other charges, they can collect from the consumers who utilize the distribution system. There was no decision made by Electricity Regulatory Commission rejecting request of distribution licensee to levy cross-subsidy surcharge. As Section 42 of the Act vests power in distribution licensee to levy cross-subsidy surcharge imposing restriction to levy such surcharge has to be specific and clear. Therefore, it cannot be assumed that as the Electricity Regulatory Commission has not specifically indicated to levy cross-subsidy surcharge, it is deemed to have rejected the prayer of the respondent-licensee to collect cross-subsidy surcharge to hold that the distribution licensee cannot collect cross-subsidy for the period of three months in issue. It is also appropriate to note that the Electricity Regulatory Commission has not objected to such collection. It takes the stand that it has authorized such collection and endorses the stand of distribution company.

35. For the reasons aforesaid, the decision of the Sothern Power Distribution Company of Telangana Limited to collect cross subsidy surcharge for the period from 01-04-2016 to 30-06-2016 is within its competence, is in proper exercise of power and legal.

The challenge to collection of cross-subsidy surcharge fails and Writ Petitions are dismissed.

36. However, it is made clear that in view of the decision of learned single Judge in W.P.no.26609 and 26623 of 2015 as affirmed by Division Bench in W.A.No.1683 of 2018 and batch, the licensee shall collect the cross-subsidy surcharge for the above period as was proposed by licensee for the period from 01-05-2015 to 31-03-2016. Pending Interlocutory Applications shall stand closed.

Date:22.03.2019  
Rds/kkm/tvk

**JUSTICE P.NAVEEN RAO**



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*Rds/kkm/tvk*