

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 14740-14741 OF 2025

BSES YAMUNA POWER LTD & ANR.

Appellant(s)

VERSUS

DELHI ELECTRICITY REGULATORY COMMISSION

Respondent(s)

WITH

CIVIL APPEAL NO(S). 12997-13000 OF 2025

O R D E R

1. There are two sets of Civil Appeals filed before this court: -

A. Civil Appeal Nos. 14740-14741 of 2025 filed by the BSES Yamuna Power Ltd. and BSES Rajdhani Power Ltd. ("BSES Discoms") are against the judgment of Appellate Tribunal for Electricity dated 11.09.2025 wherein challenge is laid to twelve issues. As regards nine issues there is a difference of opinion between the two members of the Bench of the Tribunal and therefore the issue were referred to a third member. The said issues are as under:

I Category

S. No	9 (Nine) issues raised by BSES Discoms' re. Reference
1	Issue No. 29: Revision of Distribution Loss from FY 2007-08 to FY 2010-11.
2	Issue No. 34: Disallowance of Fixed charges for Regulated Power for FY 2011-12

3	Issue No. 24(d): Collection of Electricity Duty.
4	Issue No. 32: Consideration of Normative Rebate.
5	Issue No. 15: Truing-up of Income Tax for FY 2007-08 to FY 2011-12.
6	Issue No. 14: Truing Up of Income Tax from FY 2002-03 to 2006-07.
7	Issue No. 19: Disallowance of R&M Expenses during MYT Control Period.
8	Issue No. 23: Error in Opening Consumer Contribution for the MYT Period.
9	Issue No. 39: Arbitrary rebate based on number of Bills issued.

Apart from the above, there are three independent issues raised by the BSES Discoms.

II Category

S. No	Independent 3 (Three) issues raised by BSES Discoms
1	Issue No. 24(e): Connection / Re-connection Charges not to be included in Non-Tariff Income
2	Issue No. 37: Disallowance of Land License Fee paid to GoNCTD for Fixed Assets during FY 2007-08 to 2011-12
3	Issue No. 45: Disallowance of Ombudsman Expenses for FY 2010-11 to 2011-12

B. Civil Appeal Nos. 12997-13000 of 2025 filed by Delhi Electricity Regulatory Commission ("DERC") against the judgment of Appellate Tribunal for Electricity dated 21.07.2025. In these appeals a challenge is laid to thirteen issues, out of which the Tribunal has rendered unanimous findings on five out of the said nine issues (I Category), thus, there is some overlap with the issues raised in the

first set of appeals which for the sake of brevity and convenience are segregated as under;

III Category

S. No	(Five) issues raised by DERC overlapping with issues in Impugned Order in Appeal No. 265-266 of 2013
1	Issue No. 4: Revision in Distribution Loss from FY 2007-08 up to FY 2009-10. ¹
2	Issue No. 5: Directives in relation to Regulated Power? ²
3	Issue No. 28: Commission earned on collection of electricity duty as Non-Tariff Income.
4	Issue No. 33: Consideration of Normative rebate in true up
5	Issue No. 37: Income-tax from FY 2007-08 to FY 2015-16.

IV Category

S. No	Independent 8 (Eight) issues raised by DERC
1	Issue No. 3B: O&M Expenses from FY 2008-09 to FY 2010-11 not revised in line with FY 2007-08.
2	Issue No. 27B: Consideration of revenue from sale of scrap as Non- Tariff Income
3	Issue No. 30 & 52: Erroneous computation of Net-worth & Capping of Equity at 30% and reopening the Statutory Transfer Scheme
4	
5	Issue No. 36: Fixed Charges against Regulated Power; Rate of Short-Term power procured during period of regulation from FY 2011-12 to FY 2015-16.
6	Issue No. 39: Computation of working capital requirement on the basis of net power purchase cost vis-à-vis gross power purchase cost.
7	Issue No. 42: Approach for truing-up of FY 2016-17.
8	Issue No. 44: Financing cost of LPSC from FY 2013-14 to FY 2015-16.

¹ DERC Has Relied Upon Chairperson's View Only on This Issue.

² [Issue No. 36: Fixed Charges against Regulated Power; Rate of Short-Term power procured during period of regulation from FY 2011-12 to FY 2015-16: This issue also similar to Issue No. 5 in Appeal Nos. 69-72 of 2018 and Issue No. 34 in Appeal Nos. 265-66 of 2013].

2. Heard Mr. N. Venkataraman, learned Additional Solicitor General appearing on behalf of DERC and Mr. Kapil Sibal, Mr. Buddy A. Ranganadhan & Mr. Amit Kapur, learned senior counsels/counsel appearing on behalf of BSES Discoms.

3. At the outset, we take note of the submissions of Mr. Venkataraman that the Commission has no objection to remand of nine issues (I Category) for determination in the appeals preferred by BSES Discoms, however, his instructions are not for remand on issues of balance three issues (II Category) of the BSES Discoms' appeals. He would also submit on instructions that the Commission has no objection to remand of five issues (III Category) in the appeals filed by the DERC. Insofar as the eight issues (IV Category) raised by DERC, he submits that the Commission prefers that this Court hears the matter and he has instructions not to seek a remand of the IV Category issues.

4. Having heard learned counsel for the parties, we are of the opinion that no positive purpose will be served in keeping certain issues pending before this Court while remanding the matters as regards to other issues. There must be a holistic determination for various issues arising for consideration. In this view of the matter, we direct as under:

(i) Being I Category issues arising out of tariff and true-up orders, it is directed that the Appellate Tribunal consider these issues in a full bench to reconcile the two judgments.

(ii) Since nine issues (I category) are being remanded to the Tribunal for an authoritative determination, rather than the disposing of the Civil Appeals in part, the other issues (3 by the BSES Discoms (II Category) and 8 by DERC (IV Category) raised in both set of Civil Appeals are also remanded for determination by the full bench of the Appellate Tribunal.

(iii) The findings of the Impugned Judgments so remanded shall stand vacated for a fresh consideration based on material already on record. Issues that are not challenged by either of the parties are to be treated as final and binding on the parties.

(iv) The Appellate Tribunal shall take up and adjudicate these issues uninfluenced by the observations made in the orders impugned.

(v) The Appellate Tribunal shall endeavor to take up and dispose of the issues as expeditiously as possible preferably within a period of two months from today.

5. This order is passed on the basis of the consensus note agreed upon by the learned counsels.

6. With these directions, the Appeals are disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

NEW DELHI;
MAY 12, 2026

ITEM NO.20

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 14740-14741/2025

BSES YAMUNA POWER LTD & ANR.

Appellant(s)

VERSUS

DELHI ELECTRICITY REGULATORY COMMISSION

Respondent(s)

IA No. 78/2026 - EX-PARTE STAY

IA No. 123/2026 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

WITH

C.A. No. 12997-13000/2025 (XVII)

FOR EX-PARTE AD-INTERIM RELIEF ON IA 269013/2025

IA No. 269013/2025 - EX-PARTE AD-INTERIM RELIEF

Date : 12-05-2026 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Appellant(s) : Mr. Pukhrambham Ramesh Kumar, AOR

Mr. N. Venkataraman, A.S.G.

Mr. Tushar Jain, AOR

Mr. Alok Shankar, Adv.

Mr. Vaibhav Chaudhary, Adv.

Mr. Pradul Singhal, Adv.

Ms. Kanika Gupta, Adv.

Mr. Mayank Rawat, Adv.

For Respondent(s) : Mr. Kapil Sibal, Sr. Adv.

Mr. Buddy A. Ranganadhan, Sr. Adv.

Mr. Amit Kapur, Adv.

Mr. Anupam Varma, Adv.

Mr. Pukhrambham Ramesh Kumar, AOR

Mr. Rahul Kinra, Adv.

Mr. Aditya Ajay, Adv.

Mr. Adanya Ojha, Adv.

Ms. Mahima Kaur, Adv.

Ms. Shefali Tripathi, Adv.

Mr. Karun Shamra, Adv.

Ms. Rajkumari Divyasana, Adv.

Mr. Buddy A. Ranganadhan, Sr. Adv.
Mr. Vijayendra Pratap Singh, Adv.
Mr. Aditya Jalan, Adv.
Mr. Ankitesh Ojha, Adv.
Ms. Isnain Muzamil, Adv.
Ms. Dhriti Batra, Adv.
Mr. Kshitij Pandey, Adv.
Mr. Abhijnan Jha, AOR

Mr. N. Venkataraman, A.S.G.
Mr. Tushar Jain, AOR
Mr. Alok Shankar, Adv.
Mr. Vaibhav Chaudhary, Adv.
Mr. Pradul Singhal, Adv.
Ms. Kanika Gupta, Adv.
Mr. Mayank Rawat, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The Civil Appeals are disposed of in terms of the Signed Order.
2. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
ASSTT. REGISTRAR(NSH)

(Signed Order is placed on the file)