

**BEFORE THE JOINT ELECTRICITY REGULATORY COMMISSION**

**FOR THE STATE OF GOA AND UNION TERRITORIES AT GURUGRAM**

**PETITION NO:** 113 of 2023

**DATE OF ORDER:** 20.09.2024

**IN THE MATTER OF:** Petition under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 by the Adjudicating Officer and for directions to Electricity Department, Government of Goa to make payment of penalty as adjudicated by the Adjudicating Officer.

**AND IN THE MATTER OF:**

The Bureau of Energy Efficiency

... Petitioner

Versus

Electricity Department, Government of Goa,

Vidyut Bhavan, Panaji, Goa

... Respondent

**Parties Present:**

## **For the Petitioner**

1. Ms. Namrata Mohapatra, Advocate, Bureau of Energy Efficiency
2. Sh. Rajendra Sharma, Legal Expert, Bureau of Energy Efficiency

## **For the Respondent**

1. Sh. Shailesh Nayak Burye, Superintending Engineer, Electricity Department, Goa.
2. Sh. Sayish G.N. Shirodkar, Junior Engineer, Electricity Department, Goa.

The Petitioner filed a Petition under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 by the Adjudicating Officer and for directions to Electricity Department, Government of Goa to make payment of penalty as adjudicated by the Adjudicating Officer.

### **A. Submissions of the Petitioner**

1. The Bureau of Energy Efficiency (“**Petitioner**”) filed a Petition against the Electricity Department, Government of Goa (“**Respondent**”) under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 (“**Petition**”) before the Joint Electricity Regulatory Commission for the State of Goa and Union Territories at Gurugram (“**Commission**”).
2. The Petitioner is a statutory body set up by the Central Government on 01.03.2002 under the provisions of the Energy Conservation Act, 2001 (“**EC Act**”). The Respondent was included within the scope of the EC Act through statutory order No. 3445(E) dated 28.09.2020.
3. On 07.10.2021 the Petitioner as per the Clause (g) of sub-Section 2 of Section 58, read with Clause (q) of sub-Section 2 of Section 13 of the EC Act notified the Regulations 2021 known

as “*The Bureau of Energy Efficiency (Manner and Interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021*” (hereafter referred to as “**BEE Regulations 2021**”).

4. The Regulations 2021 framed by the Petitioner for energy audit in Electricity Distribution Companies (“**DISCOMs**”) provides broad framework for conduct of annual energy audit and quarterly energy accounting with necessary pre-requisite and reporting requirements. The relevant clauses of the Regulations 2021 are given below:

***“3. Intervals of time for conduct of annual energy audit. –***

*(1) Every electricity distribution company shall conduct an annual energy audit for every financial year and submit the annual energy audit report to the Bureau and respective State Designated Agency and also made available on the website of the electricity distribution company within a period of four months from the expiry of the relevant financial year: Provided that on the commencement of these Regulations, the first annual energy audit of every electricity distribution company shall be conducted within six months from the date of such commencement, by taking into account the energy accounting of electricity distribution company for the financial year immediately preceding the date of the commencement of these Regulations.*

*(2) Where a new electricity distribution company is established after the commencement of these Regulations, such electricity distribution company shall conduct its first annual energy audit on completion of*

*the first financial year from the date of being notified as designated consumer.*

*Explanation. — If any entity created as a result of merger, demerger, slump sale, acquisition, change of control or any other corporate restructuring of, or involving, any existing electricity distribution company, such entity shall not be considered as a new electricity distribution company for the purposes of this sub-Regulation.*

***4. Intervals of time for conduct of periodic energy accounting. –***

*(1) Every electricity distribution company shall —*

*(a) ensure that all feeder wise, circle wise and division wise periodic energy accounting shall be conducted by the energy manager of the electricity distribution company for each quarter of the financial year; and*

*(b) submit the periodic energy accounting report to the Bureau and respective State Designated Agency and also made available on the website of electricity distribution company within forty-five days from the date of the periodic energy accounting.*

*(2) After the commencement of these Regulations, every electricity distribution company shall, notwithstanding anything in sub-Regulations (1)-*

*(a) conduct its first periodic energy accounting, for the last quarter of the financial year immediately preceding the date of such commencement; and*

*(b) conduct its subsequent periodic energy accounting for each quarter of the financial year for a period of two financial years from the date of such commencement and submit the periodic energy accounting report within sixty days from the date of periodic energy accounting.*

5. According to the above-mentioned provisions of the Regulations 2021, the Respondent must conduct Periodic Energy Accounting by in-house energy manager and similarly Annual Energy Audit by an accredited energy auditor (by engaging a third-party agency). The Regulations also makes it mandatory for the Respondent to create a centralized energy accounting and audit cell with sufficiently qualified personnel.
6. The Petitioner to create awareness and facilitating the compliance of the Regulations 2021 organized region-wise webinars/workshops for DISCOMs. The Petitioner sent the invitation by email dated 15.11.2021 to the DISCOMs including the Respondent to join these webinars/workshops.
7. The timeline for the compliance of the Regulations by the Respondent is mentioned herein below:
  - i. The **First Periodic Energy Accounting Report** (Quarter-II) from period 01.07.2021 to 30.09.2021 was to be submitted by 06.12.2021.
  - ii. The **Subsequent periodic energy accounting report** (Quarter- III) from period 01.10.2021 to 31.12.2021 was to be submitted by 01.03.2022.
  - iii. The **Subsequent periodic energy account report** (Quarter-IV) from period 01.01.2022 to 31.03.2022 was to be submitted by 30.05.2022.

- iv. The **Annual energy audit report for FY 2020-21** was to be submitted by 06.04.2022.
  - v. The **Subsequent Annual energy audit report for FY 2021-2022** was to be submitted by 31.07.2022.
8. The Central Government in accordance with the Section 14 (i) of the EC Act issued a letter dated 27.10.2021 addressing the Chief Secretary, ACS/Principal Secretary/ Secretary (Energy/ Power) of all State Governments and UTs to inform about the Regulations 2021. It was instructed through this letter that all the distribution companies governed under the various provisions the EC Act are required to have its 1st energy audit conducted by an accredited energy auditor within six months i.e. by 06.04.2022 for FY 2020-21 and periodic energy accounting for the last quarter ending September 2021 by energy manager by 06.12.2021.
9. The Petitioner issued a letter dated 18.11.2021 addressed to the Respondent informing that as per Clause 5(g) of the Regulations 2021, the DISCOMs shall create a centralized energy accounting and audit cell comprising of a Nodal Officer, an Energy Manager etc. The Nodal Officer will be the point of contact for all communication / activities related to the compliance of the Regulations 2021. The Petitioner requested to provide the details of Energy Audit Cell in a prescribed format as mentioned in the letter.
10. The Petitioner sent two letters dated 09.12.2021 and 28.01.2022 to the Respondent requesting the submission of the 1st annual energy audit report and periodic Energy Accounting Reports. It was also informed to the Respondent that non-compliance of the Regulations 2021 will attract penal provisions under the EC Act.

11. The Petitioner vide its E-mail dated 23.02.2022 circulated a letter dated 22.02.2022 to the Respondent that the 2nd periodic Energy Accounting Reports for Q3 of FY-2021-22 (period 01.10.2021 to 31.12.2021) must be submitted on or before 01.03.2022. The Respondent was also reminded about the non-submission of the 2nd Energy Accounting Report and the noncompliance of Regulations 2021 would attract the penal provision under the EC Act.
12. However, the Respondent did not submit the 1st Energy Accounting Report, therefore, the Petitioner issued a show cause notice dated 04.03.2022 to the Respondent for non-compliance of the provisions of the Regulations 2021 and directed the Respondent to explain the reasons of non-submission of 1st Energy Accounting Report.
13. The Petitioner vide letter dated 23.05.2022 informed the Respondent that 1st and 2nd Energy Accounting Report for Q2 and Q3 of FY 2020-21 has not been submitted to the Petitioner with a copy to state designated agency which was to be submitted by 06.12.2021 and 01.03.2022 respectively as per Regulations 2021. The Petitioner also directed the Respondent to submit their response and reasons for non – submission of the report along with a copy of 1st & 2nd Energy Accounting Report on or before 31.05.2022 failing which penal action would be initiated as provisions under the EC Act.
14. The Petitioner sent another letter dated 23.08.2022 to the Respondent requesting submission of its periodic Energy Accounting Report of FY 2021-22 and 1st & 2nd annual Energy Audit Reports for FY 2020-21 & FY 2021-22, duly providing reasons for non - submission of the report.

15. The Petitioner has filed the present Petition in accordance to the S.O.6027(E) dated 23.12.2022 wherein the Petitioner has been empowered to file Petition before the Competent Authority for Non-Compliance of the Regulation.
16. The Petitioner submitted a Rejoinder to the Counter Affidavit filed by the Respondent dated 06.03.2024 in compliance of the interim order dated 13.11.2023.
17. The Petitioner contends that the counter affidavit filed by the Respondent is frivolous and intended to deviate from the core issue at hand. The Petitioner submits that the counter affidavit should be set aside as it lacks substantial merit.
18. The Petitioner finds it imperative to respond to the Respondent's contentions to deny the baseless grounds raised and to present the correct facts and legal positions before this Hon'ble Commission. The Petitioner notes that the Respondent has admitted the contents of these paragraphs. Therefore, no further reply is necessitated. The Respondent admits delays in submitting periodic accounting reports for FY 2021-2022. The due and received dates are as follows:

<b>Quarter</b>	<b>Due Date</b>	<b>Received Date</b>
Q-2	6th December 2021	17th January 2023
Q-3	1st March 2022	17th January 2023
Q-4	30th May 2022	17th January 2023

19. The Respondent admits delays in submitting Annual Energy Audit Reports for FY 2020-2021 and FY 2021-2022. The due and received dates are as follows:

<b>Report</b>	<b>Due Date</b>	<b>Received Date</b>
1st Annual Energy Audit Report 2020-2021	6th April 2022	11th January 2023
2nd Annual Energy Audit Report 2021-2022	31st July 2022	19th January 2023



20. The Petitioner submits that despite the admission of delayed submissions, these delays constitute a direct violation of Section 26 of the Energy Conservation Act, 2001, and the Bureau of Energy Efficiency (Manner and Intervals for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021. No provisions exist for exemption from these delays, rendering the Respondent liable for a penalty under Section 26 read with Section 27 of the Act.

21. The Respondent admits delays in submitting periodic energy accounting reports for Q-1 to Q-4 of FY 2022-2023 and Q-1 of FY 2023-2024, as well as unaudited annual audit data. However, these unaudited reports do not comply with the Regulations, 2021, which require signatures and verification by an accredited energy auditor as per Regulation 9. The submission dates are as follows:

<b>Quarter/Report</b>	<b>Due Date</b>	<b>Received Date</b>
Q-1 FY 2022-2023	30th August 2022	24th March 2023
Q-2 FY 2022-2023	29th November 2022	24th March 2023
Q-3 FY 2022-2023	1st March 2023	3rd July 2023
Q-4 FY 2022-2023	30th May 2023	11th July 2023
Q-1 FY 2023-2024	30th August 2023	29th September 2023
Q-2 FY 2023-2024	14th November 2023	21st November 2023
3rd Annual Energy Audit Report	31st July 2023	5th December 2023

22. The Respondent's assertion of streamlining the process of quarterly and annual energy reports is unsubstantiated and lacks documentary proof. Internal disturbances or changes within the Distribution Company cannot justify non-submission or delayed submission of reports. The Respondent's reasons for delay are baseless and denied. The timelines in the Regulations, 2021 must be strictly adhered to.

23. In light of the aforementioned responses, the Petitioner respectfully requested this Hon'ble Commission to Initiate an enquiry for adjudging the penalty under Section 26 of the Act, 2001 for non-compliance with the Regulations, 2021. b. Direct the Respondent to make payment of the penalty as adjudicated by the Adjudicating Officer. c. Direct the Respondent to comply with the Regulations, 2021 notified by the Petitioner and submit the requisite forms for the Energy audit as prescribed. d. Pass any such order(s) as deemed fit and proper in the facts and circumstances of this case.

**B. Submissions of the Respondent**

24. The Respondent submitted that an In-house Energy Manager has been appointed and a Centralized Energy Accounting and Audit cell has been created.

25. The Respondent further stated that the periodic energy audit reports for the 2nd and 3rd quarters of FY 2021-22 were to be submitted by December 6, 2021, and March 1, 2022, respectively. The Respondent submitted these reports along with the 4th quarter report for FY 2021-22 on January 17, 2023. The First Annual Energy Audit Report for FY 2020-21 was due by April 6, 2022, and for FY 2021-22 by July 31, 2022. These reports were submitted on January 11, 2023, and January 19, 2023, respectively.

26. The Respondent submitted that despite delays, all quarterly and annual energy audit reports have been submitted. The Respondent has also submitted unaudited annual audit data for FY 2022-23, and the final audit report is awaited.

27. Furthermore, the Respondent requested the Hon'ble Commission to condone the initial delays due to the following reasons:

(i) It was the first detailed energy audit across all locations, requiring extensive and time-consuming data collection and correlation.

- (ii) Monthly energy data was required from all substations and had to be correlated to calculate technical losses.
- (iii) GIS mapping had to be verified and updated for accurate loss calculations.
- (iv) Faulty feeder meters had to be calibrated or replaced.
- (v) The process of recording meter readings had to be streamlined.
- (vi) There were administrative delays in appointing the Accredited Energy Auditor.
- (vii) Data from previous periods had to be verified and correlated.
- (viii) Field visits were necessary to verify data accuracy.
- (ix) Finalization of reports was delayed due to the need to comply with the Accredited Energy Auditor's observations.
- (x) Financial data for commercial loss calculations required thorough verification.
- (xi) Election duties and procedural delays impacted the timely submission of reports of FY 2021-22.

28. The Respondent has clarified the reasons for delays in previous paragraphs and asserts that all efforts were made to comply with the audit requirements. The invocation of penalty provisions under Section 26 of the Energy Conservation Act, 2001, by the Petitioner is viewed as harsh, given the Respondent's efforts to comply.

**C. Analysis and Findings**

29. Heard the Petitioner and the Respondent at length.

30. I have examined the entire record placed before me along with the relevant provisions of the Energy Conservation Act 2001, the Energy Conservation (Amendment) Act 2022, The Bureau of Energy Efficiency (Manner and Intervals for Conduct of Energy Audit in

Electricity Distribution Companies) Regulations, 2021 (BEE Regulations, 2021) and the MoP Notification dated 23.12.2022 (hereafter referred to as MoP Notification, 2022).

31. The Petitioner in its Petition has relied upon Section 26 of Energy Conservation Act, 2001 which has since been amended vide Energy Conservation (Amendment) Act, 2022 and is quoted below:

*“26. (1) If any person fails to comply with the provisions of clause (h) or clause (i) or clause (k) or clause (l) of section 14 or clause (h) of section 15, he shall be liable to a penalty which shall not exceed ten lakh rupees:*

*Provided that in the case of continuing failures, the person shall be liable to an additional penalty which may extend to ten thousand rupees for every day during which such failures continue.*

*(2) Notwithstanding anything contained in this Act or any other Act for the time being in force, if any person fails to comply with the provisions of clauses (c) and (d) of Section 14, he shall in addition to the penalty of ten lakh rupees, be also liable to pay additional penalty which shall not exceed five thousand rupees per appliance or equipment in relation to which the non-compliance has occurred, but shall not be lower than two thousand rupees:*

*Provided that where such non-compliance relates to any industrial unit or vessel, he shall also be liable to an additional penalty which shall not exceed twice the price of every metric ton of oil equivalent consumed in excess of the prescribed norms:*

*Provided further that if the manufacturer of a vehicle fails to comply with the fuel consumption norms, he shall also be liable to pay an additional penalty per unit of vehicles sold in the corresponding year, as follows, namely: --*

- i. *twenty-five thousand rupees per vehicle for non-compliance of norms up to 0.2 litres per 100 kms;*
- ii. *fifty thousand rupees per vehicle for non-compliance of norms above 0.2 litres per 100 kms.*

*(3) If any person fails to comply with the directions issued under clauses (n) and (x) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees for each such failure:*

*Provided that he shall also be liable to an additional penalty which shall not exceed twice the price of every metric ton of oil equivalent prescribed under this Act, which is in excess of the prescribed norms.*

*(4) If a person fails to comply with the provisions of sub-section (1) of section 13A or fails to provide any information under section 52, he shall be liable to a penalty which may extend to fifty thousand rupees on first such non-compliance or failure: Provided that for every subsequent non-compliance or failure, he shall be liable to pay an additional penalty which shall not exceed ten thousand rupees per day of such non-compliance or failure:*

*Provided that for every subsequent non-compliance or failure, he shall be liable to pay an additional penalty which shall not exceed ten thousand rupees per day of such non-compliance or failure.*

*(5) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue."*

32. The Petitioner has prayed the following:

- a. Direct the Adjudicating officer for holding an enquiry for the purpose of adjudging the penalty under section 26 of the Energy Conservation Act, 2001 for non-compliance of the Regulation by the Respondent.
  - b. Direct the Respondent to make payment of penalty as adjudicated by the Adjudicating Officer.
  - c. Direct the Respondent to comply with the Regulation notified by the Petitioner and submit the requisite form for Energy Audit as provided in the Regulation.
  - d. Pass any such other and further orders as are deemed to fit and proper in facts and circumstances of the case.
33. The main grievance of the Petitioner is that the Respondent has not complied with the provisions of the BEE Regulations, 2021 as it has failed to submit the energy accounting report and audit report. For the FY 2020-21 and 2021-22.
34. Clause 3 of the BEE Regulations, 2021 provides for the periodic accounting and audit of the distribution licensees as under:
1. *Every electricity distribution company shall conduct an annual energy audit for every financial year and submit the annual energy audit report to the Bureau and respective State Designated Agency and also made available on the website of the electricity distribution company within a period of four months from the expiry of the relevant financial year: Provided that on the commencement of these regulations, the first annual energy audit of every electricity distribution company shall be conducted within six months from the date of such commencement, by taking into account the energy accounting of electricity distribution company for the financial year immediately preceding the date of the commencement of these Regulations.*

2. *When a new electricity distribution company is established after the commencement of these Regulations, such electricity distribution company shall conduct its first annual energy audit on completion of the first financial year from the date of being notified as designated consumer.*

*Explanation, --- if any entity created as a result of merger, demerger, slump sale, acquisition, change of control or any other corporate restructuring of, or involving, any existing electricity distribution company, such entity shall not be considered as a new electricity distribution company for the purposes of this sub-regulations.*

35. Clause 4 of the BEE Regulations, 2021 provides as under:

1. *Every electricity distribution company shall---*

a. *Ensure that all feeder wise, circle wise and division wise periodic energy accounting shall be conducted by the energy manager of the electricity distribution company for each quarter of the financial year; and*

b. *Submit the periodic energy accounting report to the Bureau and respective State Designated Agency and also made available on the website of electricity distribution company within forty-five days from the date of the periodic energy accounting.*

2. *After the commencement of these Regulations, every electricity distribution company shall, notwithstanding anything in sub-regulations (1)-*

a. *Conduct its first periodic energy accounting, for the last quarter of the financial year immediately preceding the date of such commencement; and*

b. *Conduct its subsequent periodic energy accounting for each quarter of the financial year for a period of two financial years from the date of such commencement and submit the*

*periodic energy accounting report within sixty days from the date of periodic energy accounting.*

36. Clause 5 of the BEE Regulations, 2021 provides as under:

*Pre-requisites for annual energy audit and periodic energy accounting-*

*Save as otherwise provided, every electricity distribution company shall undertake all actions as may be required for the annual energy audit and periodic energy accounting before the start of the relevant financial year, including the following actions, namely:*

- a. The identification and mapping of all of the electrical network assets;*
- b. The identification and mapping of high tension and low-tension consumers;*
- c. The development and implementation of information technology enabled energy accounting and audit system, including associated software;*
- d. The electricity distribution company shall ensure the installation of functional meters for all consumers, transformers and feeders:*

*Provided that meter installation may be done in a phased manner within a period of three financial years from the date of the commencement of these regulations in accordance with the trajectory set-out in the First Schedule:*

- e. All distribution transformer (other than high voltage distribution System up to 25kVA and other distribution system below 25kVA shall be metered with communicable meters. And existing non-communicable distribution transformer meters shall be replaced with communicable meters and integrated with advanced metering infrastructure:*
- f. the electricity distribution company shall establish an information technology enabled system to create energy accounting reports without any manual interference:*



*Provided that such system may be established-*

- i. within a period of three years from the date of the commencement of these regulations in case of urban and priority area consumers; and*
  - ii. within five years from the date of the commencement of these regulations in case of rural consumers:*
- g. the electricity distribution company shall create a centralized energy accounting and audit cell comprising of-*
- i. a nodal officer, an energy manager, and an information technology manager, having professional experience of not less than five years; and*
  - ii. a financial manager having professional experience of not less than five years.*
- h. any other requisite that Bureau may direct for energy audit and accounting purpose.*

37. Regulation 3 of BEE Regulations, 2021 deals with the periodicity for carrying out energy audit and the submission of audit reports to BEE. Similarly, Regulation 4 deals with the periodicity for carrying out energy accounting and the submission of accounting reports to BEE. Regulation 5 deals with the pre-requisites to be arranged by the distribution companies for the purpose of energy audit and energy accounting.

38. The MoP Notification, 2022 issued on 23<sup>rd</sup> Dec, 2022 provides as under:

*S.O 6027 (E)--- In exercise of the power conferred by clauses (l), (k) and (1) of sections 14, 26 and 52 of the Energy Conservation Act, 2001 (52 of 2001), the Central Government, in consultation with the Bureau of Energy Efficiency (BEE) hereby direct: -*

- a. that every Electricity Distribution Company shall designate or appoint energy manager and accredited energy auditor and get periodic energy accounting conducted by the appointed energy manger and annual energy audit conducted by*

*the appointed accredited energy auditor and furnish reports to the State Designated Agency (SDA) and Bureau in accordance with the Bureau of Energy Efficiency (Manner and Intervals for Conduct of Energy Audit in electricity distribution companies) Regulations, 2021 as amended from time to time.*

*That in case of non-compliance of these directions or and non-submission of periodic energy accounting reports of annual energy audit reports or such other reports or such other reports as required submission of incorrect data or misrepresentation of facts, the State Designated Agency or Bureau or any person as designated by the Central Government shall file Petition for non-compliance to the respective State Electricity Regulatory Commission or Joint Electricity Regulatory Commission.*

39. Thus, MoP Notification 2022 issued the directions to the Distribution Companies to designate or appoint energy managers to carry out energy accounting and accredited energy auditors to carry out energy audit. In my view, the Respondent could give effect to the BEE Regulations, 2021 after issue of the MoP Notification, 2022.

40. I have noted that the Petitioner has submitted the following specific timeline for the compliance of the BEE Regulations, 2021 as under:

<b>Report</b>	<b>Whom to be submitted</b>	<b>Type of report/ audit</b>	<b>Period</b>	<b>Due date for submission</b>
Periodic Energy Accounting by Energy Manager (EM)	Bureau of Energy Efficiency and State Designated Agency	First Periodic Energy accounting (Quarter- II)	01.07.2021 To 30.09.2021	06.12.2021

		Subsequent Periodic Energy accounting (Quarter- III)	01.10.2021 To 31.12.2021	01.03.2022
		Subsequent Periodic Energy accounting (Quarter- IV)	01.01.2022 To 31.03.2022	30.05.2022
Annual Energy Audit by an Accredited Energy Auditor (AEA)	Bureau of Energy Efficiency and State Designated Agency	First Annual Energy Audit	FY 2020-21	06.04.2022
		Subsequent Annual Energy Audit	FY 2021-22	31.07.2022

41. The above timeline does not take into account the fact that directions for appointment of energy manager and accredited energy auditor was issued through MoP Notification, 2022 only on 23.12.2022. In my view, the Petitioner should have issued the following timeline for submission of the reports after the issue of MoP Notification:

(a) Audit Report for 2020-21: 22.06.2023

(b) Audit Report for 2021-22: 22.6.2023

(c) Audit Report for 2022-23: 31.7.2023

42. The Respondent in justification of delay, has submitted that it was the first detailed energy audit across all locations, requiring extensive and time-consuming data collection and correlation, Monthly energy data was required from all substations and had to be correlated to calculate technical losses, GIS mapping had to be verified and updated for accurate loss calculations, Faulty feeder meters had to be calibrated or replaced, process of recording meter readings had to be streamlined, administrative delays in appointing the Accredited Energy Auditor, data from previous periods had to be verified and correlated, field visits were necessary to verify data accuracy, finalization of reports was delayed due to the need to comply with the Accredited Energy Auditor's observations and financial data for commercial loss calculations required thorough verification.
43. I observe that even though BEE Regulations, 2021 provides for a time line for generation and submission of energy accounting report and audit report, the Respondent could not have complied with the said Regulation prior to 23.12.2022 when the MoP Notification for appointment of energy manager and accredited energy auditor was issued. As noted in para 41 above, the audit report for FY 2020-21 and 2021-22 should have been sought by 22.06.2023 and audit report for 2022-23 should have been sought by 31.07.2023. Thus, it is clear that only last quarter report for FY 2022-23, would be due only after 4 months as per Clause 3 of the BEE Regulations, 2021 i.e. on 31st July, 2023. In case of failure by the Respondent to submit the audit report by the said due date, the Petitioner could have approached the Commission for adjudication and imposition of suitable penalty. However, it is noted that the petitioner has filed the said petition Under Section 27 of the Energy Conservation Act, 2001 on 23.01.2023 for the period FY 2020-21& 2021-22 which is not in accordance with Clause 3 of the BEE Regulations, 2021 read with MoP Notification,

2022. Based on the facts and circumstances mentioned above, I am of the considered view that the said petition is premature. Accordingly, I consider it appropriate not to proceed with the enquiry for the purpose of imposition of penalty. Hence the said petition is dismissed.

**Sd/-**

**(Jyoti Prasad)**

**Member (Law), JERC**

**Adjudicating Officer**