

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

ORDER IN APPEAL NO. 90 OF 2015 &
IA NO. 138 OF 2015
ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

Dated: 5th July, 2018

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of:

- 1. Indian Wind Energy Association ,**
A-509-511, Atma House
Opp. LA-Gajjar Chamber,
Ashram Road, Ahmedabad-380 009. Appellant(s)

VERSUS

- 1. Gujarat Electricity Regulatory Commission**
Through its Secretary,
6th Floor, GIFT ONE,
Road 5C, Zone 5, GIFT City,
Gandhinagar – 382355,
Gujarat, India
- 2. Gujarat Energy Development Agency,**
4th Floor, Block No.11 & 12,
Udyog Bhawan, Sector-11,
Gandhinagar – 382 017.
- 3. Madhya Gujarat Vij Company Limited (MGVCL),**
Sardar Patel Vidyut Bhavan,
Race Course Circle,
Vadodra – 390 007.
- 4. Dakshin Gujarat Vij Company Limited (DGVCL),**
Kapodara Char Rasta,
Surat – 395 006.

5. Uttar Gujarat Vij Company Limited (UGVCL),
Corporate Office, Mehsana-Visnagar Highway,
Mehsana – 384 001.

6. Paschim Gujarat Vij Company Limited (PGVCL),
Nanamawa Road,
Laxminagar,
Rajkot – 360 004.

7. Gujarat Urja Vikas Nigam Ltd. (GUVNL)
Sardar Patel Vidyut Bhavan,
Race Course, Vadodara – 390 007.

8. Torrent Energy Ltd.
Electricity House, Lal Darwaja,
Ahmedabad – 380009.

9. Kandla Port Trust,
Business Development Cell,
P.O. Box No.50, Administrative Cell,
Gandhidham, Kutch – 370201.

10.MPSEZ Utility Pvt. Ltd.
Adani House, Nr, Mithakhali Circle,
Navrangpura, Ahmedabad – 380 009.

11. Jubilant Infrastructure Pvt. Ltd.
Plot No.5, Vilayat GIDC,
Vagra, Bharuch – 390012.

12.ASPEN Infrastructure Ltd.,
Survey No.26, Village Pipaliya,
Taluka Waghodia,
Vadodara – 390 025.

..... Respondents

Counsel for the Appellant (s)	:	Mr. Vishal Gupta Mr. Mazid Durmani Mr. Abhishek Raj
Counsel for the Respondent(s)	:	Ms. Sanjana Dua for Ms. Suparna Srivastava for R-1 Mr. Anand K. Ganesan Ms. Swapna Seshadri for R-8 Ms. Ranjitha Ramachandran

Ms. Anushree Bardhan for R-7

Mr. R. Mishra for R-9

The Appellant, Indian Wind Power Association, herein being aggrieved by the impugned order dated 16.01.2015 passed in Petition No.1442 of 2014 on the file of Gujarat Electricity Regulatory Commission, Gandhinagar .

The Appellant has sought the following reliefs in Appeal No.909 of 2015:

- (i) Allow the appeal and set aside the impugned order dated 16.01.2015 passed by the State Commission in Petition No.1442/2014;
- (ii) pass any other or further order/s as this Hon'ble Tribunal may deem fit and proper in facts and circumstances of the present case.

The Appellant has presented this Appeal for considering the following Question of Law:

- I. Whether the State Commission was justified in adjusting the excess solar category of renewable energy against the shortfall in procurement of Non-solar category of renewable energy for FY 2013-14 for the GUVNL and its subsidiary companies despite the availability of Non-Solar RECs in the power exchange and are being traded at floor price?
- II. Whether the State Commission was justified in exempting the SEZs which are deemed distribution licensees and Kandla Port Trust from applicability of RPO for the FY 2013-14?
- III. Whether being at a nascent stage of operation or having a lesser quantum of power requirement for fulfilling the Renewable Purchase Obligation can be a valid reason for exempting the SEZs which are deemed

distribution licensees and Kandla Port Trust from applicability of RPO for the FY 2013-14?

ORDER

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

1. We have heard the learned counsel, Mr. Vishal Gupta, appearing for the Appellant and the learned counsel, Ms. Sanjana Dua, appearing for the Respondent No.1, learned counsel Mr. Anand K. Ganesan, appearing for Respondent No. 8 learned counsel, Ms. Ranjitha Ramachandran, appearing for Respondent No.7 & 10 and Mr. R. Mishra for Respondent No.9. Other Respondents served unrepresented.

2. The learned counsel appearing for the Appellant and learned counsel appearing for the Respondents submitted that, the subject matter involved in the instant case is directly covered by the Order passed by this Tribunal on 07.02.2018 in Appeal No. 89 of 2015 and IA No.137 of 2015. Therefore, they submitted that, the instant Appeal filed by the Appellant may kindly be disposed of in terms of the Order passed by this Tribunal , as stated supra, in the interest of justice and equity.

3. The submissions made by the learned counsel appearing for the Appellant and the learned counsel appearing for the Respondents, as stated above, are placed on record.

4. The instant appeal filed by the Appellant stands disposed of in terms of the order dated 07.02.2018 and for the reasons stated therein passed in Appeal No.89 of 2015 & IA No.137 of 2015 (*Indian Wind Energy Association Vs. Gujarat Electricity Regulatory Commission & Others*) on the file of Appellate Tribunal for Electricity, New Delhi . Accordingly, the instant Appeal filed by the Appellant is allowed in part.

The impugned order dated 16.01.2015 passed in Petition No.1442 of 2014 on the file of Gujarat Electricity Regulatory Commission, Gandhinagar is hereby set-aside.

The matter stands remitted back to the Respondent No.1, State Commission to dispose of the same afresh in accordance with law without being influenced by the observations made in the Order dated 16.01.2015 passed in Petition No. 1442 of 2014 after offering reasonable opportunity for hearing to the Appellant and the Respondents and dispose of the same as expeditiously as possible at any rate within a period of four months from the date of receipt of the copy of this Order.

5. All the contentions of the Appellant and the Respondents are left open.

6. For the foregoing reasons, as stated above, the instant Appeal, being Appeal No. 90 of 2015, filed by the Appellant stands disposed of.

IA NO. 138 OF 2015

7. In view of the Appeal No.90 of 2015 on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, on account of which, the reliefs sought in IA No. 138 of 2015 do not survive for consideration and, hence, stand disposed of.

8. Order accordingly.

(S.D. Dubey)
Technical Member
Bn/pr

(Justice N.K. Patil)
Judicial Member