

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

IA NO. 1716 OF 2018
IN
IA NO. 1472 OF 2018
IN APPEAL NO. 70 OF 2018 & IA NO. 97 OF 2018

Dated : 30th November, 2018

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

In the matter of:

BESES Yamuna Power Limited **Appellant(s)**
Vs.
Delhi Electricity Regulatory Commission **Respondent(s)**

Counsel for the Appellant (s) : Mr. Hasan Murtaza

Counsel for the Respondent(s) : Mr. Pradeep Misra
Mr. Suraj Singh for R-1

ORDER
(IA No. 1716 of 2018 – for early hearing)

The learned counsel, Mr. Hasan Murtaza appearing for the Appellant submitted that there is urgency in the matter and, therefore, he requested that early hearing of IA No. 1716 of 2018 may kindly be considered. In the light of the statement made and urgency shown in the accompanying affidavit along with application, the same may kindly be accepted and IA, being IA No. 1716 of 2018, may be allowed for early consideration.

Submission made by the learned counsel appearing for the Appellant, as stated above, placed on record.

In the light of the submission made by the learned counsel appearing for the Appellant and reasoning assigned in the accompanying affidavit along with application for early hearing the case is accepted and IA, being IA No. 1716 of 2018, is allowed.

(IA NO. 1472 OF 2018 – for Directions)

The learned counsel, Mr. Hasan Murtaza, appearing for the Appellant prayed to allow the present application permitting the Applicant/Appellant to withdraw Issue No. 27 A (Non-Tariff Income-Write Back of Miscellaneous Provisions) and Issue No. 16 B

(Efficiency factor from FY 2012-13 to FY 2015-16) from Appeal No. 70 of 2018 in the appeal and give liberty to the Applicant/Appellant to pursue the said issues before the State Commission in proceedings arising from Order dated 28.03.2018 in Petition No. 69 of 2017 with all questions being kept open.

The learned counsel appearing for the Respondent State Commission contended that in the light of the statement made in the accompanying affidavit in paragraphs no. 3 to 7 may be passed at the risk of the counsel appearing for the Appellant.

Submission made by the learned counsel appearing for the Appellant, as stated above, placed on record.

In the light of the submission made by the learned counsel appearing for the Appellant and reasoning assigned in the accompanying affidavit in paragraphs no. 3 to 7 and the submissions made by the learned counsel appearing for the Respondent State Commission, the application is disposed of permitting the Applicant/Appellant to withdraw Issue No. 27 A (Non-Tariff Income-Write Back of Miscellaneous Provisions) and Issue No. 16 B (Efficiency factor from FY 2012-13 to FY 2015-16) from Appeal No. 70 of 2018 in the appeal and liberty granted to the Applicant/Appellant to pursue the said issues before the State Commission in proceedings arising from Order dated 28.03.2018 in Petition No. 69 of 2017 with all questions open. The Memorandum of Appeal may be amended within two weeks time accordingly.

With these observations, IA, being IA No. 1472 of 2018, is allowed and stands disposed of accordingly.

Post main appeal for hearing on 14.02.2019.

(S.D. Dubey)
Technical Member

(Justice N.K. Patil)
Judicial Member

Bn/kt