

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

**JUDGMENT IN APPEAL NO. 368 OF 2018**  
**ON THE FILE OF THE**  
**APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**Dated:** 9<sup>th</sup> April, 2019

**Present:** Hon'ble Mr. Justice N.K. Patil, Judicial Member  
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

**In the matter of:**

**The Tata Power Company Limited (Transmission)**

Through its Head – Corporate Legal  
34, Sant Tukaram Road, Carnac Bunder,  
Mumbai 400 009

..... **Appellant**

**VERSUS**

**1. Maharashtra Electricity Regulatory Commission**

Through its Secretary  
World Trade Centre, Centre No.1,  
13<sup>th</sup> Floor, Cuffee Parade,  
Mumbai 400 005

**2. Hindustan Petroleum Corporation Ltd**

Through its Chief Manager Elec. Maintenance,  
Mumbai Refinery, B.d. Patil Margn  
Mahul, Chembur,  
Mumbai 400 074

..... **Respondents**

Counsel for the Appellant(s) : Mr. Amit Kapur  
Mr. Abhishek Munhot  
Mr. Rahul Kinra

Counsel for the Respondent(s): Mr. S.K. Rungta, Sr. Adv.  
Mr. Buddy A. Ranganadhan  
Mr. Raunak Jain for R-1

Ms. Nikita Chouksey  
Mr. Varun Pathak for R-2

**The Appellant has sought the following reliefs in Appeal No. 368 of 2018:**

- i. Allow the Appeal and set aside the Impugned Order dated 01.08.2018 passed by Ld. Maharashtra Commission in Case No. 137 of 2016, to the extent rejecting the removal of the 110 kv Trombay-HPCL Feeders 1 & 2 and the 110 kv Trombay-BARC Feeders 3 & 4 from Transmission Licence No. 1 of 2014.
- ii. Hold and declare that the 110 kv Trombay-HPCL Feeders 1 & 2 do not form part of TPC-T's Transmission System and accordingly, exclude/remove them from TPC-T's Transmission Licence No. 1 of 2014 (as amended).
- iii. Hold and declare that the 110 kv Trombay-BARC Feeders 3 & 4 do not form part of TPC-T's Transmission Licence No. 1 of 2014 (as amended).
- iv. Pass such other or further order (s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

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

- A. Whether Ld. Maharashtra Commission has contrary to the statutory framework passed the Impugned Order, disallowing TPC-T's prayers for amendment of its Transmission Licence No. 1 of 2014, to the extent set out in the present Appeal ?
- B. Whether Ld. Maharashtra Commission failed to appreciate that both the 110 kv HPCL & BARC Feeders cannot be transmission lines in terms of the governing legal framework, thereby mandating the amendment sought ?

- C. Whether Ld. Maharashtra Commission has passed the Impugned Order dated 12.03.2018 in Case No. 58 of 2017 (HPCL vs. Tata Power-D), without independently and subjectively considering TPC-T's application for removal of the 110 kv HPCL and BARC Feeder from Transmission Licence No. 1 ?
- D. Whether Ld. Maharashtra Commission pre-judged TPC-T's application for amendment in Case No. 137 of 2016, by passing its Order dated 12.03.2018 ub Case No. 58 of 2017 before disposing TPS-T's Amendment Application, thereby violating the principles of natural justice and transparency (enshrined in Section 86(3) of the Electricity Act)?
- E. Whether Ld. Maharashtra Commission failed to appreciate that the 110 kv Trombay-HPCL Feeder 1 & 2 and the 110 kv Trombay-BARC Feeder 3&4 were inadvertently/erroneously recorded in Transmission Licence No. 1 of 2014 and cannot continue to form part of the same, owing to the statutory framework which clearly carves out distinctions between transmission and distribution lines based on the nature of its use and not on voltage.

## **J U D G M E N T**

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

1. In the instant Appeal, the Appellant, The Tata Power Company Limited (Transmission), Mumbai, is questioning the legality, validity and propriety of the impugned Order dated 01.08.2018 in Case No. 137 of 2016 passed by the Maharashtra Electricity Regulatory Commission, Mumbai (1<sup>st</sup> Respondent herein).
2. The learned counsel, Mr. Amit Kapur, appearing for the Appellant, at the outset, submitted that, the subject matter involved in the instant appeal is

directly covered by the Judgment and Order passed by this Tribunal dated 18.03.2019 in Appeal No. 84 of 2018 & IA No. 419 of 2018 in the case of The Tata Power Company Limited – Distribution vs. Maharashtra Electricity Regulatory Commission & Ors. Therefore, he submitted that, following the said Judgment and Order and in terms and for the reasons stated therein, the instant appeal filed by the Appellant may kindly be allowed and the impugned Order dated 01.08.2018 in Case No. 137 of 2016 passed by the Maharashtra Electricity Regulatory Commission, Mumbai may kindly be set aside.

3. Further, the counsel for the Appellant submitted that, the matter may kindly be remitted back to the 1<sup>st</sup> Respondent/MERC for reconsideration afresh in terms of the Judgment and Order dated 18.03.2019 passed by this Tribunal in Appeal No. 84 of 2018 & IA No. 419 of 2018 in the interest of justice and equity.

4. ***Per-contra***, the learned senior counsel, Mr. S.K. Rungta, appearing for the 1<sup>st</sup> Respondent/MERC, inter-alia, contended and fairly submitted that, the subject matter involved in this appeal is directly covered by the Judgment and Order dated 18.03.2019 passed in Appeal No. 84 of 2018 & IA No. 419 of 2018 by this Tribunal and in terms and for the reasons stated therein, and in the light of the submissions of the learned counsel for the Appellant, as stated supra, the instant appeal may be disposed of to meet the ends of justice.

5. Submissions of the learned counsel appearing for the Appellant and the learned senior counsel appearing for the 1<sup>st</sup> Respondent/MERC, as stated supra, are placed on record.

6. We have heard the learned counsel, Mr. Amit Kapur, appearing for the Appellant and the learned senior counsel, Mr. S.K. Rungta, appearing for the 1<sup>st</sup> Respondent/MERC.

7. In the light of the submissions of the learned counsel for the Appellant and the learned senior counsel for the 1<sup>st</sup> Respondent/MERC and as rightly pointed out by the learned counsel for both the parties, the subject matter involved in this case is directly covered by the Judgment and Order passed by this Tribunal dated 18.03.2019 in Appeal No. 84 of 2018 & IA No. 419 of 2018 in the case of The Tata Power Company Limited – Distribution vs. Maharashtra Electricity Regulatory Commission & Ors, following the said Judgment and Order and in terms and for the reasons stated therein, the instant appeal filed by the Appellant stands disposed of with the following directions.

## **ORDER**

For the forgoing reasons, as stated above, the instant appeal filed by the Appellant is allowed.

The impugned Order dated 01.08.2018 passed in Case No. 137 of 2016 on the file of the 1<sup>st</sup> Respondent/MERC is hereby set aside so far it relates to the prayers sought by the Appellant in the instant appeal.

The matter stands remitted back to the 1<sup>st</sup> Respondent/MERC with the direction to pass an appropriate order in the light of the observations made by this Tribunal in its Judgment and Order dated 18.03.2019 in Appeal No. 84 of 2018 & IA No. 419 of 2018 in the case of The Tata Power Company Limited – Distribution versus Maharashtra Electricity Regulatory Commission & Ors, in accordance with law as expeditiously as possible at any rate within a period of three months from the date of the receipt of the copy of this Judgment and Order.

The Appellant and the 2<sup>nd</sup> Respondent/HPCL herein are directed to appear before the 1<sup>st</sup> Respondent/MERC personally or through their counsel without further notice on 29.04.2019 at 11:00 AM to collect necessary date of hearing.

With these observations the instant appeal filed by the Appellant stands disposed of.

Parties to bear their own costs.

**(Ravindra Kumar Verma)**  
**Technical Member**

**(Justice N.K. Patil)**  
**Judicial Member**

*vt/ss*