

COURT-II

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

APPEAL NO. 393 OF 2017

Dated : 14th March, 2019

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

In the matter of:

Guttaseema Wind Energy Co. Pvt. Ltd. Appellant(s)

Vs.

**Karnataka Electricity Regulatory Commission & Respondent(s)
Ors.**

Counsel for the Appellant(s) : Mr. Prashanto Chandra Sen, Sr. Adv.
Mr. Kaustubh Singh
Mr. M. Srinivas R. Rao
Mr. Sarath S. Janardanan
Mr. Abid Ali Beeran

Counsel for the Respondent(s): Mr. Anand K. Ganesan
Ms. Parichita Chowdhury for R-1

Ms. Pankhuri Bhardwaj
Ms. Ragima R. for R-2 & R-5

ORDER

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

The Appellant has presented the instant Appeal seeking the following reliefs:

1. Call for Records:
2. Upon perusal of records, be pleased to set aside the impugned order dated 24.02.2015 passed by the Karnataka Electricity Regulatory Commission, and remand the matter back to the Karnataka Electricity Regulatory Commission for

re-determination of generic wind tariff based on the following three grounds:

- a. Adopt capex indexation mechanism of the Central Commission for capex determination every year;
 - b. Allow transmission loss of 3.88% in Delivered Energy for determining the wind tariff;
 - c. Re-calculate the tariff correctly, and publish the calculations alongwith the revised order;
3. Grant the cost of this Appeal and pass such other order/s as this Tribunal may deem fit and proper in the circumstances of the case.

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

- a) Whether the KERC should not have published the calculations of the wind tariff of Rs. 4.50kWh as renotified under the impugned order?
- b) Whether the KERC should not have fully complied with the directions of this Tribunal as regards the indexation of capital cost of the wind projects?
- c) Whether the wind tariff of Rs. 4.50/kWh should correspond to the quantum of kWh energy sent out from the pooling station of the project or to the quantum of kWh energy actually purchased by the ESCOMs at the grid substation.

In the instant Appeal, Guttaseema Wind Energy Company Pvt. Limited in short, the “Appellant”) is questioning the legality and validity of the Impugned Order dated 24.02.2015 passed by the Karnataka Electricity Regulatory Commission, Bangalore.

The learned senior counsel Mr. Prashanto Chandra Sen .appearing for the Appellant at the outset submitted that the instant Appeal filed by

the Appellant may be disposed of reserving the liberty to the Appellant to file Review Petition before the Respondent No.1/the State Commission for reviewing order impugned dated 24.02.2015 on the file of Karnataka Electricity Regulatory Commission, Bangalore within a period of two weeks' from the date of receipt of copy of this order.

Further, the learned senior counsel appearing for the Appellant submitted that in the event the Appellant could not succeed before the State Commission in the Review Petition to be filed by them, liberty may be reserved to the Appellant questioning the correctness of the Impugned Order dated 24.02.2015 passed by the Respondent No.1/the State Commission.

Per contra, the learned counsel appearing for the Respondent No.2 and 5 interalia contended and fairly submitted that the submissions made by the learned senior counsel appearing for the Appellant may be placed on record and appropriate order may be passed to meet the ends of justice.

The submissions of the learned senior counsel appearing for the Appellant and the learned counsel appearing for the Respondents, as stated supra, are placed on record.

In the light of the statements made by the learned senior counsel appearing for the Appellant and the learned counsel appearing for the Respondents, the instant Appeal filed by the Appellant stands disposed of permitting the Appellant to file Review Petition before the 1st Respondent/the State Commission for reviewing the order impugned dated 24.02.2015 passed by the Karnataka Electricity Regulatory Commission, Bangalore.

within a period of two weeks' time from the date of receipt of copy of this order.

The 1st Respondent/the State Commission is directed to dispose of the Review Petition as expeditiously as possible at any rate within a period of three months from the date of filing of Review Petition by the Appellant.

Needless to clarify that in the event the Appellant could not get any relief in the Review Petition to be filed before the 1st Respondent/the State Commission for reviewing the order impugned dated 24.02.2015, liberty is reserved to the Appellant to redress its grievances and question the correctness of the Impugned Order dated 24.02.2015 passed by the Karnataka Electricity Regulatory Commission, Bangalore.

With these observations, the instant Appeal being Appeal No. 393 of 2017 stands disposed of. Order accordingly.

(Ravindra Kumar Verma)
Technical Member
mk/ss

(Justice N.K. Patil)
Judicial Member