

**COURT-II**

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**DFR No. 1819 of 2014 (FAO 303 of 2003)**

**&**

**DFR No. 1820 of 2014 (FAO 301 of 2003)**

**Dated: 17<sup>th</sup> November, 2015**

**Present: Hon'ble Mr. Justice Surendra Kumar, Judicial Member  
Hon'ble Mr. Inderjit Kapoor, Technical Member**

**In the matter of:-**

**DFR No. 1819 of 2014 (FAO 303 of 2003)**

**Power grid Corporation of India Ltd. .... Appellant(s)  
Versus  
Karnataka Power Transmission Corporation Ltd. & Ors. ... Respondent(s)**

Counsel for the Appellant(s) : Mr. S. B. Upadhyay, Sr. Adv. with  
Ms. Anisha Upadhyay

Counsel for the Respondent(s) : Mr. Ishaan Mukherjee for Mr. Anand K.  
Ganesan, R.No.1  
Mr. Raj Kumar Mehta, Mr. Abhishek  
Upadhyay and Ms. Himanshi Andley,  
Adv.

**DFR No. 1820 of 2014 (FAO 301 of 2003)**

**Power grid Corporation of India Ltd. .... Appellant(s)  
Versus  
Karnataka Power Transmission Corporation Ltd. & Ors. ... Respondent(s)**

Counsel for the Appellant(s) : Mr. S. B. Upadhyay, Sr. Adv. with  
Ms. Anisha Upadhyay

Counsel for the Respondent(s) : Mr. Ishaan Mukherjee for Mr. Anand K.  
Ganesan, R.No.1  
Mr. Raj Kumar Mehta, Mr. Abhishek  
Upadhyay and Ms. Himanshi Andley,  
Adv.

## ORDER

These are two matters being DFR Nos. 1819/2014 (FAO 303/2003) and 1820/2014 (FAO 301/2003) have been transferred from the Hon'ble High Court of Delhi to this Appellate Tribunal. Mr. S. B. Upadhyay, learned Sr. Advocate for the appellant in each of the appeals is present, Mr. R. K. Mehta for respondent No.8/GRIDCO and Mr. Ishan Mukherjee for Respondent No.1 are also present. The admitted fact is that these appeals were filed by the respective appellant before the Hon'ble High Court of Delhi under Electricity Regulatory Commission Act, 1998 and the same remained pending before the Hon'ble Delhi High Court. After enactment of the Electricity Act, 2003 the ERC 1998 stood repealed. Since as per Section 111 of the Electricity Act 2003, the appeal against the Commission's order lies before this Appellate Tribunal instead of Delhi High Court. The appellant withdrew the appeal with liberty to approach this Appellate Tribunal to initiate proceeding and accordingly, the appellant filed these appeals before this Appellate Tribunal which was disposed of as not maintainable vide order dated 28.07.2006 of this Appellate Tribunal. Each of the appellant again approached the Delhi High Court through CM No. 12732 of 2006, the Hon'ble Delhi High Court transferred these appeals to this Appellate Tribunal with the consent of all the parties vide order dated 10.07.2014.

2) Before this Appellate Tribunal, the appellant referred to Supreme Court Judgment *HPERC & Anr. Vs. HPSEB (2014) 5 SCC 219* and this Appellate Tribunal vide order dated 31.07.2014 directed the parties to seek clarification from the Hon'ble Delhi High Court. Accordingly, the appellant filed CM No. 15521-15523 of 2014 before the Hon'ble Delhi High Court. Since the appeals have been filed before this Appellate Tribunal after complying with the procedure and deposited the court fees as prescribed under the law. This Appellate Tribunal vide order dated 15.09.2015 took the view that no clarification is required and directed the appeals to be listed for hearing on 17.11.2015. Thereafter, Hon'ble Delhi High Court vide order dated 04.11.2015 has further taken the view that no clarification is required in view of the Supreme Court Judgment. The Hon'ble High Court has further observed that in view of order dated 15.09.2015 of this Tribunal, the appellant will have to approach this Appellate Tribunal. Delhi High Court in its order dated 04.11.2015 has observed as under:

*“In these applications the relief sought is that, appropriate directions and/or necessary clarification with regard to the maintainability of the appeals be issued. In view of the judgment of the Supreme Court, no clarification is required. However, since, the Tribunal, has issued a subsequent order, which, as indicated above, is dated 15.09.2015, the appellant would have to approach the Tribunal with regard to the captioned appeals which are, at the moment, pending before it.*

*The applications are disposed of with liberty to approach the Tribunal in that behalf and obtain appropriate directions as to whether they would have the jurisdiction to proceed with the pending appeals.”*

3) We have mentioned in an appeal, in this Appellate Tribunal, where in a similar situation we had admitted the appeals, being Appeal Nos. 86, 87, 227 of 2006 & 14 of 2009, and this Appellate Tribunal decided the said appeals vide a Full Bench judgment dated 08.12.2011. Thus this has been the practice of this Tribunal to hear, admit and decide such appeals which were filed under old dispensation and have been transferred to this Tribunal.

4) In view of the above and after hearing both the sides, we deem it proper to admit these appeals. Hence, both these appeals are admitted.

5) Issue notice to respondents returnable within two weeks from today and counter affidavit may be filed within two weeks thereafter. Rejoinder, if any, may be filed within three weeks thereafter.

6) *Dasti* service is permitted. Notice be issued to only those respondents whose counsels are not present today.

Post these appeals for hearing on 07<sup>th</sup> January, 2016.

**( Inderjit Kapoor )  
Technical Member**

**( Justice Surendra Kumar )  
Judicial Member**

sh/vg