

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

**Appeal No.319 of 2013**

**Dated: 5<sup>th</sup> Oct, 2015**

**Present:** HON'BLE MRS. JUSTICE RANJANA P. DESAI, CHAIRPERSON  
HON'BLE MR. T MUNIKRISHNAIAH, TECHNICAL MEMBER

**In the Matter of:**

**NTPC Limited**

**NTPC Bhawan, SCOPE Complex,  
7, Institutional Area, Lodhi Road  
New Delhi-110003**

**... Appellant(s)**

**Versus**

- 1) Central Electricity Regulatory Commission  
3<sup>rd</sup> & 4<sup>th</sup> Floor, Chanderlok Building,  
36, Janpath, New Delhi – 110001**
- 2) Madhya Pradesh Power Management Company Limited  
Shakti Bhawan, Vidyut Nagar,  
Jabalpur-482 008**
- 3) Maharashtra State Electricity Distribution Company Ltd.,  
Pradashgad, Bandra (East),  
Mumbai-400 051**
- 4) Gujarat Urja Vikas Nigam Ltd.,  
Sardar Patel Vidyut Bhawan, Race Course Road,  
Vadodra-390 007**
- 5) Chhattisgarh State Power Distribution Company Ltd.,  
PO-Sundar Nagar, Danganiya,  
Raipur-492913**
- 6) Electricity Department,  
Government of Goa,  
Vidyut Bhawan,  
Panaji, Goa-403 001**

- 7) **Electricity Department,  
Administration of Daman & Diu-396210**
- 8) **Electricity Department,  
Administration of Dadra and Nagar Haveli,  
Silvassa-396230**

**... Respondent(s)**

Counsel for the Appellant(s) :Mr. M G Ramachandran  
Ms. Poorva Saigal  
Ms. Swagatika Sahoo  
Ms. Anushree Bardhan  
Ms. Ranjitha Ramachandran

Counsel for the Respondent(s):Mr. M S Ramalingam for R-1  
Mr. Pradeep Misra  
Mr. Suraj Singh  
Mr. K K Agrawal  
Mr. Aashish Bernard for MPPMCL  
Mr. Vaibhav Choudhary for R-6  
Mr. R B Sharma for R-7

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

**PER HON'BLE MR. T MUNIKRISHNAIAH, TECHNICAL MEMBER**

1. The present appeal has been preferred by the NTPC under Section 111 of the Electricity Act 2003 before this Tribunal against the Impugned Order dated 11.09.2013 passed by Central Electricity Regulatory Commission (hereinafter called the Central Commission) in Petition No. 23/GT/2014 relating to the Approval of tariff for Jhanor Gandhar Gas Power station (657.39 MW) namely the revision of the fixed tariff for the period 1.4.2009 to 31.3.2014.

2. The Appellant, NTPC is aggrieved by the Impugned Order dated 11.9.2013 on the following aspects:

(a) The Central Commission erred in disallowing the claim of the NTPC for capitalization on various assets on the ground that the complete benefits of renovation & Modernization would be passed on to the beneficiaries only after the completion of Renovation & Modernization of all the three Gas Turbines. The Renovation & Modernization Work of one Gas Turbine has already commenced in FY 2012-13 and the work on another Gas Turbine is planned for FY 2013-14. The benefit of such of the assets which commissioned and put to use will accrue to the beneficiaries and ought to be considered without any deferment.

(b) Disallowance of Rs.17315.2 lakhs claimed as Additional Capitalization in respect of one Gas Turbine Life Extension Renovation & Modernization for the tariff period 2013-14 and capitalization of Vane Row 5 Blades of the value of Rs.1598 lakhs and Rotor Refurbishment of Rs.3639 lakhs commissioned and put to use in 2012-13

(c) That each Gas Turbine is an independent functional unit and the consequent benefits in the form of life extension and improvement in operational performance begins to accrue to the Respondent beneficiaries immediately after the servicing of an individual Gas Turbine, independent of the status of the

Renovation & Modernization works in the other Gas Turbines. Accordingly, there is no rationale in deferring the servicing of the Turbine commissioned till the commissioning of the other turbines.

(d) Disallowance of Rs.44.75 lakhs claimed as Additional Capitalization in respect of the Energy Management System for the tariff period 2009-14 on the ground that the same should be borne by the Appellant as the benefit of reduction in auxiliary consumption resulting from such installations is not being passed on to the beneficiaries during the period 2009-14.

3. The Central Electricity Commission noted that the Appellant in response to the directions of the Central Commission vide letter dated 22.8.2012 vide its Affidavit dated 7.9.2012 has submitted as under:

*“As regards to Para (2) (i) and (iii), the Petitioner respectfully submits that the expenditure projected in the original Petition No.226/2009 was based on tentative estimates of cost included in the CEA approval for R&M activities for life extension from 15 to 25 years and the expected schedule of implementation without having done through the process of negotiating and bidding.*

*At the time of filing the above tariff petition the major R&M of gas turbines was planned during 2010-2013. It is submitted that after the NTPC board approval, the process of tendering and procurement activities were initiated and only OEM namely M/s Alstom shown their interest for participation in response to NTPC proposal for capital addition scheme of Jhanor Gandhar Gas turbines. In all, total 14 nos. leading gas turbines*

*manufacturers/gas turbine components manufactures (other than OEM) were contacted but all of them expressed their regret stating that components of 13 E/13 E1 model gas turbines machines do not fall in their product line manufacturing. Finally after concluding the techno commercial negotiations and price negotiations the main package of GT renovation was awarded on 16.5.2012 to the said OEM M/s Alsthom*

*It is submitted that based on the latest assessment of time schedule of supplies for the main plant (GT renovation) and other packages by the contractor, planned shutdown of GT's 1, 2 and 3, R&M implementation and subsequent capitalization, the major R&M of gas turbine is now expected during 2012-2015 as indicated in the instant petition. Accordingly, the petitioner has projected an expenditure of Rs. 17315.42 lakhs and Rs.24698.15 lakhs in FY 2012-2013, FY 2013-2014 respectively under the head of R&M of gas turbines. It is humbly clarified that since the remaining expenditure of Rs. 24698 lakhs (including IDC, FC and contingency charges) is proposed to be incurred in the year 2014-15 beyond this tariff period 2009-2014, the same has been shown in the FY 2014-2015 only for the purpose of re-conciliation of Form-9 with the original petition."*

4. The Central Commission, based on the submissions of the Appellant **decided this issue** holding that the expenditure claimed on this account would only be considered during the next tariff period i.e. Tariff Period 2014-19 for the reasons stated in the Impugned Order.
5. We find that the issue covered by the judgment passed by this Tribunal in Appeal No.250 of 2013 is identical to this Appeal i.e. Appeal No.319 of 2015. Further, this Tribunal in the judgment in Appeal No.250 of 2013 observed that the claim of the Appellant was

not disallowed by the Central Commission but, only deferred the consideration of the claim to the next tariff period when R&M works are expected to be over. Thus, the claim of the Appellant/Petitioner will be considered by the Central Commission in the next tariff period i.e. 2014-19.

6. The **next issue** is **Disallowance of Capital Expenditure towards Energy Monitoring System amounting to Rs.44.75 lakh.**
7. The Appellant/Petitioner submits that the Central commission has disallowed the claim of Rs.44.75 lakhs towards Energy Monitoring System on the ground that the reduction in auxiliary power consumption due to energy monitoring system is not passed on to the beneficiaries and therefore, the cost for the same should be borne by the Appellant.
8. The Respondent Central Commission in the Impugned Order dated 11.9.2013 held that the Petitioner has claimed Rs.11.40 lakh in 2009-10, 0.35 lakh in 2010-11, 24.00 lakh in 2012-13 and 9.00 lakh in 2013-14 towards Energy Management System for the generating station as per CEA notification dated 17.3.3006 read with CEA (installation and Operation of Meters), Regulation, 2006. As per provision of Energy Conservation Act, 2001 the designated consumers of energy are required to carry out Energy audit of generating station. Considering the fact that the benefit of reduction in auxiliary power consumption is not passed on to the beneficiaries during the period 2009-14, we are of the view that the said

expenditure should be borne by the Petitioner. Hence, the expenditure claimed is not allowed on this count.

9. Further, this Tribunal in Appeal No.173 of 2013 and Appeal No.250 of 2013 has held that the expenditure on implementation of Energy Management System was rightly disallowed and this Tribunal affirmed the order of the Central Commission. Relying on this Tribunal's earlier judgment in Appeal No.173 of 2013 and Appeal No.250 of 2013, we uphold the same view. We hold that the judgment rendered by this Tribunal in Appeal No.173 of 2013 and Appeal No.250 of 2013 shall squarely apply in this case also.
10. In view of the above, we do not find any illegality or perversity with the Impugned Order. We uphold the same view and reasoning recorded in the Impugned Order. Consequently, all these issues are decided against the Appellant and the Appeal merits dismissal.

### **ORDER**

11. This appeal is hereby dismissed without any costs. The Impugned Order is hereby affirmed.
12. Pronounced in the open court on this **5<sup>th</sup> day of October, 2015.**

**( T Munikrishnaiah )**  
**Technical Member**

**( Justice Ranjana P. Desai )**  
**Chairperson**

**Dated, the 5<sup>th</sup> Oct, 2015.**



**REPORTABLE / ~~NON-REPORTABLE~~**