

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

**ORDER IN APPEAL NO. 89 OF 2015 &**  
**IA NOS. 137 OF 2015**  
**ON THE FILE OF THE**  
**APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**Dated:**      **07<sup>th</sup> February, 2018**

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

**In the matter of:**

**1. Indian Wind Energy Association ,**

A-509-511, Atma House  
Opp. LA-Gajjar Chamber,  
Ashram Road, Ahmedabad-380 009.

..... Appellant(s)

***VERSUS***

**1. Gujarat Electricity Regulatory Commission**

Through its Secretary,  
6<sup>th</sup> Floor, GIFT ONE,  
Road 5C, Zone 5, GIFT City,  
Gandhinagar – 382355,  
Gujarat, India

**2. Torrent Power Ltd.**

Torrent House,  
Off Ashram Road,  
Ahmedabad – 380009

**3. Gujarat Energy Development Agency,**

4<sup>th</sup> Floor, Block No.11 & 12,  
Udyog Bhawan, Sector-11,  
Gandhinagar – 382 017

4. **Gujarat Urja Vikas Nigam Lt (GUVNL)**

Sardar Patel Vidyut Bhavan,  
Race Course, Vadodara – 390 007.

..... Respondents

Counsel for the Appellant (s) : Mr. Vishal Gupta  
Mr. Kumar Mihir

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

Mr. R. Mishra  
Mr. Abhishek Rana

Ms. Deep Chavhan for R-2

The Appellant, Indian Wind Power Association, herein being aggrieved by the impugned order dated 16.01.2015 passed in Petition No.1437 of 2014 on the file of Gujarat Electricity Regulatory Commission, Gandhinagar .

**The Appellant has sought the following reliefs in Appeal No. 89 of 2015:**

- (i) Allow the appeal and set aside the impugned order dated 16.01.2015 passed by the State Commission in Petition No.1437/2014;
- (ii) pass any other or further order/s as this Hon'ble Tribunal may deem fit and proper in facts and circumstances of the present case.

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

- I. Whether the State Commission erred in revising the RPO of FY 2013-14 for the Respondent No.2 as 0.07% as solar RPO and 4.55% as non-solar RPO on account of lower capacity addition and alleged unwillingness of the Wind Generators to supply electricity at preferential tariff determined by the Commission?

- II. Whether the State Commission was justified in revising the RPO of FY 2013-14 for the Respondent No.2 as 0.07% as solar RPO and 4.55% as non-solar RPO despite availability of Non-Solar and Solar RECs in the power exchange and are being traded at floor price?
- III. Whether the State Commission was justified in blaming the Generator being allegedly unwilling to sign Power Purchase Agreements at a preferential tariff for non-fulfilment of the Renewable Purchase Obligations by the obligated entities?

### **ORDER**

1. We have heard the learned counsel, Mr. Vishal Gupta, appearing for the Appellant and the learned counsel, Mr. Anand K. Ganesan, appearing for first Respondent and Ms. Deepa Chavhan appearing for the second Respondent for quite some time.
2. The learned counsel for the first and second Respondents submitted that the instant Appeal filed by the Appellant may kindly be disposed of , following the judgment dated 24.01.2018 passed in Appeal No.110 of 2015 on the file of Appellate Tribunal for Electricity , New Delhi. Therefore, they submitted that the subject matter involved in the instant case is directly covered by the judgment passed in this Hon'ble Tribunal. Further, they submitted that the instant appeal may be disposed of in terms and for the reasons stated in the

judgment dated 24.01.2018 passed in Appeal No.110 of 2015 in the interest of justice and equity.

3. *Per-contra*, the learned counsel appearing for the Appellant, Shri Vishal Gupta, *inter-alia*, contended and fairly submitted that, the statement made by the learned counsel appearing for the first and second Respondent may kindly be placed on record and the instant Appeal, being Appeal No. 89 of 2015 may be disposed of in terms of the judgment dated 24.01.2018 passed in Appeal No.110 of 2015 for the reasons stated therein in the interest of justice and equity.

4. The submissions made by the learned counsel appearing for the Appellant and the learned counsel appearing for the Respondents, as stated above, are placed on record.

5. The instant Appeal filed by the Appellant stands disposed of following the judgment dated 24.01.2018 passed in Appeal No. 110 of 2015 on the file of the Appellate Tribunal for Electricity, New Delhi.

6. The instant Appeal filed by the Appellant is allowed in part. The impugned Order 16.01.2015 passed in Petition No. 1437 of 2014 on the file of the Gujarat Electricity Regulatory Commission, Gandhinagar, Gujarat is hereby set-aside.

7. The matter stands remitted back to the State Commission to dispose of afresh in accordance with law without being influenced by the observations made in the Order dated 16.01.2015 passed in Petition No. 1437 of 2014 after offering opportunity for hearing to the Appellant and the Respondents and dispose of the same as expeditiously as possible at any rate within a period of six months from the date of receipt of the copy of this Order.

8. All contentions of the Appellant and the Respondents are kept open.

9. For the foregoing reasons, as stated above, the instant Appeal, being Appeal No. 89 of 2015, filed by the Appellant stands disposed of.

**IA NO. 137 OF 2015**

10. In view of the Appeal No.89 of 2015 on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, on account of which, the reliefs sought in IA No. 137 of 2015 does not survive for consideration and, hence, stand disposed of.

11. Order accordingly.

**(S.D. Dubey)**  
**Technical Member**  
*Pr/kt*

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