IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI (APPELLATE JURISDICTION)

[ADANI GROUP]

APPEAL NO.100 OF 2013 & I.A. No.116 OF 2013; APPEAL NO.98 OF 2014 & I.A. NO.343 & 402 OF 2014; APPEAL NO. 116 OF 2014; APPEAL NO. 125 OF 2014 & I.A. NO.211 OF 2014 & APPEAL NO. 134 OF 2014

ALONG WITH

[CGPL GROUP]

APPEAL NO.151 OF 2013 & I.A. NO.220 OF 2013 & I.A. NO.412 OF 2014 & APPEAL NO.97 OF 2014; APPEAL NO. 91 OF 2014; APPEAL NO.100 OF 2014; APPEAL NO.115 OF 2014; APPEAL NO.124 OF 2014; APPEAL NO.133 OF 2014 & I.A. NO.234 OF 2014 & APPEAL NO.139 OF 2014 & I.A. No. 238 OF 2014

ALONG WITH

[GMR GROUP]

<u>APPEAL NO.44 OF 2014 & I.A. NO.65 OF 2014; APPEAL NO.74</u> <u>OF 2014 & I.A. NO.143 OF 2014</u>

ALONG WITH

[SASAN GROUP] APPEAL NO.99 OF 2014; APPEAL NO.104 OF 2014

Uttar Ha	aryana Bijli Vitran	Nigam Ltd.)		
& Anr.	(Jointly throug	gh Haryana)		
Power Pr	urchase Centre), e	etc.)	••••	Appellants
	Vs.				
	Electricity	Regulatory)		
Commis	sion & Ors., etc.)	• • • •	Respondents

INDEX PART - I FACTS OF APPEALS

S.No.	Topic	Page No.
1.	Description of parties and appearances.	1 – 31
11.	Facts leading to Constitution of Full Bench.	32 – 34
111.	FACTS LEADING TO APPEALS RELATING TO	
	ADANI GROUP:	35 – 56

	[A]	Description of Parties in Appeal No.100 of 2013.	35 – 36
	[B]	Brief facts of Appeal No.100 of 2013.	36 – 37
	[C]	PPA dated 02/02/2007 with GUVNL.	37 – 42
	[D]	PPAs dated 07/08/2008 with Haryana Utilities.	42 – 46
	[E]	Events leading to institution of Petition	46 – 50
		No.155/MP/2012 and Relief sought therein.	
	[F]	Summary of Central Commission's Interim Order	
		dated 16/10/2012 on the preliminary issue of	50
		jurisdiction.	
	[G]	Summary of Central Commission's Order dated	
		02/04/2013 rejecting the claim of Force Majeure	
		and Change in Law and constituting an Expert	50 – 51
		Committee to look into the alleged difficulties	
		faced by Adani Power and find an acceptable	
		solution.	
	[H]	Institution of Appeal No.100 of 2013.	51
	[1]	Constitution of Expert Committee and its	51 – 53
		Reports.	
	[J]	Summary of Central Commission's Final Order	
		dated 21/02/2014 granting compensatory tariff	53 – 54
		to Adani Power.	
	[K]	Details of appeals filed by various Utilities and	54
		Consumer Organizations in Adani Group	
		challenging the Final Order dated 21/02/2014.	
	[L]	Adani Power's Cross-Objections and its Rejection	55 – 56
		by this Tribunal.	
IV.		S LEADING TO APPEALS RELATING TO CGPL	56 – 70
	GRO	<u>UP:</u>	
	[A]	Description of Parties in Appeal No.151 OF 2013.	56 – 57
	[B]	Brief facts of Appeal No.151 of 2013.	57
	[C]	Events leading to institution of Petition	58 – 66
		No.159/MP/2012 and the Relief sought.	
	[D]	Summary of Central Commission's Interim Order	
		dated 15/04/2013 rejecting the claim of Force	
		Majeure and Change in Law and by invoking	66 – 67
		Section 79(1)(b) of the said Act constituting an	
		Expert Committee for suggesting the	
		compensatory tariff which would be payable to	
		CGPL.	
	[E]	Institution of Appeal No.151 of 2013.	67
	[F]	Summary of Central Commission's Final Order	
		dated 21/02/2014 granting compensatory tariff	67 – 68
		to CGPL.	
		18 881 2.	
	[G]	Details of Appeals filed by various Utilities and	
	[G]		68 – 69
	[G]	Details of Appeals filed by various Utilities and	68 – 69

	[H]	CGPL's appeal challenging rejection of its claim of Force Majeure and Change in Law by this Tribunal due to delay in filing and subsequent	69 – 70
		events.	
V.	FACT	S LEADING TO APPEALS RELATING TO GMR	70 – 78
	GRO	JP.	
	[A]	Description of Parties in Appeal No.44 of 2014.	70 – 71
	[B]	Brief facts of Appeal No.44 of 2014.	71 – 77
	[C]	Summary of Central Commission's Interim Orders dated 16/12/2013 and 03/01/2014 deciding the preliminary issues of jurisdiction and maintainability.	77 – 78
	[D]	Details of appeals filed by various Utilities in	78
VI.	EACT	GMR Group challenging the interim orders. S LEADING TO APPEALS RELATING TO	78 – 82
VI.		AN GROUP.	70 – 02
	[A]	Description of Parties in Appeal No.99 of 2014.	78 – 79
	[B]	Brief facts of Appeal No.99 of 2014.	79 – 81
	[C]	Summary of Central Commission's Interim Order dated 21/02/2014 which while holding that the claim of Force Majeure is not admissible, proceeded to grant relief in exercise of its regulatory power under Section 79 of the said Act.	81 – 82
	[D]	Details of appeals filed by various Utilities in SASAN Group.	82
VII.	AGRE	EED ISSUES FOR CONSIDERATION.	82 – 88

<u>PART – II</u>

PRELIMINARY ISSUES

S.No.	Topic	Page No.
VIII.	PRELIMINARY ISSUE REGARDING SCOPE AND EXTENT OF THE SUPREME COURT'S ORDER DATED 31/03/2015 IN CIVIL APPEAL NO.10016 OF 2014.	89 – 99
IX.	FACTS LEADING TO THE ISSUE REGARDING SCOPE AND EXTENT OF THE SUPREME COURT'S ORDER DATED 31/03/2015 IN CIVIL APPEAL NO.10016 OF 2014.	89 – 94
	[A] Submissions of Prayas on the issue regarding scope and extent of the Supreme Court's Order dated 31/03/2015 in Civil Appeal No.10016 of 2014.	94 – 95

	[B]	Analysis and conclusion of the Tribunal on the issue regarding scope and extent of the	95 - 98
		Supreme Court's Order dated 31/03/2015 in Civil Appeal No.10016 of 2014.	
	[C]	Answer to Issue No.1 of Agreed Issues.	98 – 99
X.	PREL REGA MAJE SUPF BY O WITH	IMINARY ISSUE ON CGPL'S CLAIM ARDING ITS ENTITLEMENT TO RAISE FORCE EURE OR CHANGE IN LAW GROUNDS TO PORT THE COMPENSATORY TARIFF GRANTED PROBLEM DATED 21/2/2014 CLAIMING PARITY H THE SUPREME COURT'S ORDER DATED 3/2015.	99 – 122
XI.	MAJE SUPF BY O WITH	ARDING TO THE CGPL'S CLAIM ARDING ITS ENTITLEMENT TO RAISE FORCE EURE OR CHANGE IN LAW GROUNDS TO PORT THE COMPENSATORY TARIFF GRANTED PROBLEM DATED 21/2/2014 CLAIMING PARITY H THE SUPREME COURT'S ORDER DATED 8/2015.	100 – 102
	[A]	Submissions of CGPL regarding its entitlement to raise <i>Force Majeure</i> or Change in Law grounds to support the compensatory tariff granted by Order dated 21/2/2014 claiming parity with the Supreme Court's Order dated 31/03/2015.	102 – 100
	[B]	Submissions of Prayas on CGPL's claim regarding its entitlement to raise <i>Force Majeure</i> or Change in Law grounds to support the compensatory tariff granted by Order dated 21/2/2014 claiming parity with the Supreme Court's Order dated 31/03/2015.	110 – 113
	[C]	Submissions of Rajasthan, Gujarat, Punjab, Haryana and Maharashtra Utilities on CGPL's claim regarding its entitlement to raise <i>Force Majeure</i> or Change in Law grounds to support the compensatory tariff granted by Order dated 21/2/2014 claiming parity with the Supreme Court's Order dated 31/03/2015.	113 – 115
	[D]	Analysis and conclusion of the Tribunal on CGPL's claim regarding its entitlement to raise <i>Force Majeure</i> or Change in Law grounds to support the compensatory tariff granted by Order dated 21/2/2014 claiming parity with the Supreme Court's Order dated 31/03/2015.	116 – 121
	[E]	Answer to Issue No.2 of the Agreed Issues.	121 – 122
XII.	INTE	IMINARY ISSUE AS TO WHETHER AN ERIM ORDER CAN BE CHALLENGED ALONG HITHE FINAL ORDER.	122 – 127

[A]	Analysis and conclusion of the Tribunal on the	
	issue as to whether an interim order can be	122 - 127
	challenged along with the Final Order.	
[B]	Answer to the preliminary issue as to whether	
	an Interim Order can be challenged along with	127
	the Final Order.	

PART – III COMPOSITE SCHEME

S.No.		Topic	Page No.
XIII.	AGRI	EED ISSUE SUBMITTED BY PARTIES ON	
	COM	POSITE SCHEME UNDER SECTION 79(1)(b)	128 – 129
	ТО	ATTRACT THE JURISDICTION OF THE	
		FRAL COMMISSION.	
	[A]	Summary of Central Commission's Order dated	129 – 133
		16/10/2012 on Composite Scheme.	
	[B]	Submissions of Prayas on Composite Scheme.	133 – 142
	[C]	Submissions of GRIDCO on Composite Scheme.	142 – 148
	[D]	Submissions of Haryana Utilities in GMR Group	148 – 152
		on Composite Scheme.	
	[E]	Submissions of Haryana Utilities in Adani Group	152 – 155
		on Composite Scheme.	
	[F]	Submissions of Central Commission in Adani	155 – 166
		Group on Composite Scheme.	
	[G]	Submissions of Central Commission in GMR	166 – 169
		Group on Composite Scheme.	
	[H]	Submissions of Adani Power on Composite	170 – 178
		Scheme.	
	[1]	Analysis and conclusion of the Tribunal on	178 – 212
		Composite Scheme.	
	[J]	Answer to Issue No.3 of the Agreed Issues.	212 – 213
XIV	<u>AGRI</u>	EED ISSUE SUBMITTED BY PARTIES ON	
	COM	POSITE SCHEME UNDER SECTION 79(1)(b)	
	TO	ATTRACT THE JURISDICTION OF THE	213 – 214
	CEN1	TRAL COMMISSION IN THE CASE OF ADANI	
	POW	ER AND GMR.	
	[A]	Answer to Issue No.4 of the Agreed Issues.	214

<u>PART – IV</u>

<u>REGULATORY POWER & GRANT OF COMPENSATORY TARIFF</u>

S.No.		Topic	Page No.
XV	REGU	EED ISSUES SUBMITTED BY PARTIES ON JLATORY POWER AND GRANT OF PENSATORY TARIFF.	215 – 216
	[A]	Summary of Central Commission's view on Regulatory Power and grant of compensatory tariff.	216 – 218
	[B]	Submissions of Prayas on Regulatory Power and grant of compensatory tariff.	218 – 229
	[C]	Presentation on Key Issues by Ms. Chitnis representative of Prayas.	230
	[D]	Submissions of Energy Watchdog on Regulatory Power and grant of compensatory tariff.	230 – 233
	[E]	Submissions of Rajasthan Utilities on Regulatory Power and grant of compensatory tariff.	233 – 235
	[F]	Submissions of Central Commission on Regulatory Power and grant of compensatory tariff.	235 – 240
	[G]	Submissions of Adani Power on Regulatory Power and grant of compensatory tariff.	240 – 266
	[H]	Submissions of CGPL on Regulatory Power and grant of compensatory tariff.	266 – 269
	[1]	Analysis and conclusion of this Tribunal on the issues relating to Regulatory Power and grant of compensatory tariff.	269 – 308
	[7]	Answers to Issue Nos.5, 6, 7, 8 and 9 of the Agreed Issues.	308 – 309

PART – V

CHANGE IN LAW

S.No.		Topic	Page No.
XVI	AGRI	EED ISSUES SUBMITTED BY PARTIES ON	310
	CHAI	NGE IN LAW.	
	[A]	Summary of Central Commission's view on	310 – 311
		Change in Law.	
	[B]	Submissions of Prayas on Change in Law.	311 – 316
	[C]	Submissions of Punjab Utilities on Change in	317
		Law.	
	[D]	Submissions of Rajasthan Utilities on Change in	318 – 320
		Law.	
	[E]	Submissions of Adani Power on Change in Law.	321 – 329

[F	F]	Submissions of CGPL on Change in Law.	329 – 333
	G]	Analysis and conclusion of this Tribunal on Change in Law.	333 – 348
1]	H]	Answers to Issue Nos.10 and 11 of the Agreed Issues.	349

<u>PART – VI</u>

FORCE MAJEURE

S.No.		Topic	Page No.
XVII		EED ISSUES SUBMITTED BY PARTIES ON CE MAJEURE.	350 – 351
	[A]	Summary of Central Commission's Order dated 2/4/2013 on Force Majeure in Adani Group.	351 – 355
	[B]	Summary of Central Commission's Order dated 15/4/2013 on Force Majeure in CGPL Group.	355 – 358
	[C]	Submissions of Prayas on Force Majeure.	358 – 364
	[D]	Submissions of Punjab Utilities on Force Majeure.	364
	[E]	Submissions of Adani Power on Force Majeure.	365 – 379
	[F]	Submissions of CGPL on Force Majeure.	379 – 382
	[G]	Facts surrounding PPA dated 2/2/2007 between Adani Power and GUVNL.	382 – 392
	[H]	Facts surrounding PPAs dated 7/8/2008 between Adani Power and Haryana Utilities.	392 – 402
	[1]	Facts surrounding PPA dated 22/04/2007 between CGPL and procurers of Gujarat, Maharashtra, Punjab, Haryana and Rajasthan.	402 – 417
	[기]	Analysis and conclusion of this Tribunal on Force Majeure.	417 – 467
	[K]	Answers to Issue Nos.12, 13, 14 and 15 of the Agreed Issues.	467 – 468
		ISSUES & ANSWERS	469 – 480
	[L]	Decision on Adani Power and CGPL Group Appeals.	480 – 482
	[M]	Decision on GMR Group Appeals.	482 – 484
	[N]	Decision on Sasan Group Appeals.	484 – 486