

**THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI**

(APPELLATE JURISDICTION)

APPEAL NO. 93 OF 2017

Dated: 29th January, 2020

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. S.D. Dubey, Technical Member**

In the matter of:-

NTPC Limited

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

.... Appellant

Versus

- 1. Central Electricity Regulatory Commission**
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi- 110001
- 2. Madhya Pradesh Power Management Company Limited,**
Through its Managing Director,
Shakti Bhavan, Vidyut Nagar, Jabalpur-482 008
- 3. Maharashtra State Electricity Distribution Company Limited**
Through its Chairman cum Managing Director,
'Prakashgard', Bandra (East) Mumbai-400 051
- 4. Gujarat Urja Vikas Nigam Limited**
Through its Chairman,
Sardar Patel Vidyut Bhawan,
Race Course, Baroda – 390007
- 5. Chhattisgarh State Power Distribution Company Ltd,**
Through its Chairman cum Managing Director,
Dhagania, Raipur-492 013

6. **Electricity Department, Govt. of Goa,**
Through its Secretary,
VidyutBhavan, Panaji, Goa - 403001

7. **Electricity Department**
Through its Secretary,
Administration of Daman & Diu,
Daman-396 210

8. **Electricity Department**
Through its Secretary,
Administration of Dadra and Nagar Haveli,
Silvassa - 396230

....Respondents

Counsel for the Appellant(s) : Mr. Shri Venkatesh
Mr. Pratyush Singh
Mr. Suhail Buttan
Mr. Vikas Mainni

Counsel for the Respondent(s): Mr. Ravin Dubey for R.2

JUDGMENT

(PER HON'BLE MRS. JUSTICE MANJULA CHELLUR, CHAIRPERSON)

The present appeal is filed challenging the validity and propriety of impugned order dated 06.02.2017 passed in Petition No. 327/GT/2014 by the Central Electricity Regulatory Commission (“**CERC/Commission**”) pertaining to Vindhyachal Super Thermal Power Station Stage-II of the Appellant. The controversy raised in this appeal is ***“whether the additional capital expenditure incurred towards***

installation of Continuous Emission Monitoring System (for short referred to as “CEMS”) and installation of CCTV Surveillance System falls within the purport and import of Regulation 14 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014 (hereinafter referred to as “Tariff Regulations of 2014/2014 Regulations”)?

2. In the impugned order the expenditure made towards above installations was disallowed, and according to the Appellant, the expenditure in question clearly attracts several sub-regulations of Regulation 14 of 2014 Regulations.

3. The admitted facts are Unit – I of Vindhyachal Stage –II achieved its Commercial Operation Date (**COD**) on 01.07.2000 and Unit –II of Vindhyachal Stage – II achieved its COD on 01.10.2000. On 06.04.2011, Ministry of Environment, Forest and Climate Change (MoEF&CC) issued a Circular directing that the stack emission as well as ambient air quality has to be continuously monitored in respect of all thermal power plants in terms of notified standards. The 1st Respondent-CERC, in Petition No. 258 of 2009, determined tariff for the Stage – II Vindhyachal on 26.12.2011 in terms of Tariff Regulations of 2009. CERC disallowed expenditure pertaining to monitoring system on

the ground that no reference for installation of such system was indicated in the Environment Clearance/Consent issued by the concerned authority. However, on 02.02.2013 Central Industrial Security Force (**CISF**) issued a letter mandating that NTPC has to install CCTV in Stage – II unit and so also in Cable Gallery. Hence, Mid-Term true up Petition came to be filed for fixing revised tariff for revision of fixed charges based on actual capital expenditure incurred for the years 2009-10 to 2011-12 and projected capital expenditure for the years 2012-13 & 2013-14. Though CERC allowed CEMS by its Order dated 14.11.2013, it has erroneously mentioned the same as CO2 Monitoring System.

4. Meanwhile on 21.02.2014, Tariff Regulations of 2014 came into effect from 01.04.2014, which resulted in filing another true up Petition by NTPC bearing Petition No. 296/GT/2014 for revision of fixed charges year-wise between 2009 to 2014. This Petition clearly indicated actual capital expenditure for the instant period after duly considering the liabilities which are to be discharged for the period between 2009-2013 against the admitted claims item-wise. On 19.08.2014 another Petition bearing No. 327/GT/14 also came to be filed by the Appellant for approval of tariff of its generating station. Certain additional information as required by CERC also came to be placed on record. Respondent

No.2-M.P. Power Management Company Limited (**MPPMCL**) filed its reply to the said petition. Additional information also came to be furnished by NTPC apart from filing rejoinder to the reply of MPPMCL.

5. Ultimately on 06.12.2016, CERC passed final order in Petition No. 296/GT/14. Since the Appellant informed CERC that expenditure for CEMS would be undertaken in the next control period i.e., 2014-19, the amount which was originally approved by Order dated 14.11.2013 was reduced opining that the same would be considered for the control period of 2014-19 in terms of Tariff Regulations of 2014. However, on 06.02.2017, impugned order came to be passed disallowing the said expenditure towards CEMS and CCTV Surveillance System.

6. According to the Appellant, the said expenditure is warranted on account of letter from MoEF&CC, which was obligatory in nature, therefore, the Appellant has to comply with the same. They also contend that MoEF&CC is a Governmental Instrumentality which falls within the definition under Regulation 3(31). The action to be taken falls within the definition of Change in Law in terms of Regulation 3(9)(d) of Tariff Regulations of 2014. Therefore, the Appellant contends that the opinion of the CERC in rejecting the said claim holding that no documentary evidence for installation of CCTV and Surveillance System

was provided by the Appellant is incorrect. According to the Appellant such information was clearly brought on record from various documents that were placed before the Commission at several stages, which is clear from the following material.

- i. The OM dated 06.04.2011 was claimed on projected basis by Appellant in Petition No. 133/GT/2013 for FY 2009-14 under Regulation 9 (2) of the 2009 Tariff Regulations.
- ii. The Central Commission after accepting the plea of the Appellant allowed the same vide its Order dated 14.11.2013. It is also stated that the same was allowed in the head of CO2 monitoring system, however, no such expenditure for CO2 monitoring system was claimed by the Appellant.
- iii. Further, Appellant in Petition No. 296/GT/2014 filed for Revision of Fixed Charges and had informed the Commission that expenditure for CEMS would not be undertaken in Control Period 2009-14 even though contract for the same has been awarded. The expenditure in fact was then projected to undertake in Control Period 2014-19.
- iv. The CERC passed its Final Order in Petition No. 296/GT/2014 and reduced the capex for the amount claimed as CEMS and granted liberty to the Appellant to claim the

said expenditure in Control Period 2014-19 based as per 2014 Tariff Regulations.”

7. The Appellant contends that having approved the OM dated 06.04.2011 as Change in Law and having granted liberty to the Appellant to claim Ad-Cap for CEMS for control period of 2014-19, it was not open to CERC to reject the said expenditure. As a matter of fact, documentary evidence pertaining to CEMS was already provided in Petition No. 133/GT/2013. Unfortunately, this has escaped the attention of the CERC. In terms of the decision in “**Gulf Goan Hotels Co. Ltd. vs. Union of India**” (2014 (10) SCC 673), the letter dated 06.04.2011 issued by MoEF&CC has force of law. Para 15 of the order dated 24.02.2017 in Petition No. 342/GT/2014, Order of this Tribunal are very relevant since it pertains to similar controversy pertaining to different units of the Appellant. According to the Appellant, the CERC fell in error to place reliance on the Judgment of this Tribunal in Appeal No. 129 of 2012 for the following reasons.

- i. The Appellant had claimed CO₂ monitoring system as expenditure in Change in Law in Petition No. 258 of 2009.
- ii. This was rejected vide Order dated 26.12.2011 on the premise that the requirement of CO₂ Monitoring system does not emanate from a Change in Law event.

- iii. The Tribunal at Para 21 of its Judgment in Appeal No. 129 of 2012 and batch matters has reaffirmed the finding of the Central Commission.
- iv. However, in so far as CEMS is concerned the same emanates from OM dated 06.04.2011 and meets the requirement of Change in Law. In fact the Commission in its Order dated 14.11.2013 has approved the same as an event of Change in law.

8. Pertaining to the expenditure of CCTV Cameras, according to the Appellant, CERC failed to appreciate that the said expenditure was necessitated by virtue of letter dated 02.02.2013 issued by CISF. All the details of expenditure could not be shared by the Appellant as the same was required to be kept undisclosed by National Security Agency and CISF, who are in-charge for protection of all power plants of NTPC.

9. The said expenditure squarely falls within the scope of ambit of Regulation 14(3)(iii), which is towards higher safety and security of the power plant. They further contend that CERC, in fact, allowed this expenditure in various other cases.

- i. Order dated 27.01.2017 in Review Petition No. 36/RP/2016 in Petition No. 270/GT/2014.

- ii. Order dated 16.02.2017 in Petition No. 293/GT/2014.
- iii. Order dated 08.08.2016 in Petition No. 219/GT/2014.

10. Contending that CERC ought not to have taken different view in different matters on the same issue, they have sought for the following reliefs.

- i. Allow the present appeal and set aside the impugned order dated 6th February, 2017 in terms of the grounds raised in Para 9 above;
- ii. Pass such other order(s) and this Tribunal may deem just and proper.

11. According to the 2nd Respondent, a Review Petition No. 11 of 2017 in Petition No. 327/GT/2014 came to be filed seeking review of the impugned order before CERC, which was also dismissed on 03.10.2017. According to the 2nd Respondent, the capital expenditure allowable under Regulation 14(3) of Tariff Regulations of 2014 are subject to prudence check by Central Commission, which also includes expenditure claimed under Regulation 14(3)(ii) and 14(3)(iii).

12. They further contend that Regulation 17 of 2014 of Tariff Regulations provides for “Compensation Allowance” admissible to power

plant to meet expenses on new assets of capital nature, which are not admissible under Regulation 14. The scope of “prudence check” as indicated by this Tribunal in several matters, the CERC disposed of both the main petition and the review petition by cogent reasons. There is no infirmity of any nature in the said order.

13. According to this Respondent, CERC has rightly rejected the expenditure of Rs.34.37 lakhs for FY 2014-15 and Rs. 2.38 lakhs for FY 2015-16 towards CEMS in terms of Regulations. The additional capital expenditure claimed on the basis of Change in Law was properly answered by the CERC opining that the Appellant has not submitted documentary evidence in support of the same. There was no justification substantiating the requirement of this asset by the Appellant and therefore CERC was justified in saying it was unable to carry out prudence check mandated in accordance with Regulation 14. The contention of the Appellant that CERC wrongly disallowed projected additional capital expenditure towards CEMS equating the said expenditure to online CO2 Monitoring System is also not correct. CERC has inadvertently indicated CO2 Monitoring System in the place of CEMS. The real intent of the order is clear from subsequent order dated 06.12.2016 passed in Petition No. 296/GT/ 2014, wherein Rs.60 lakhs was approved for CEMS only and not for CO2 Monitoring System.

14. Pertaining to CCTV Surveillance System of Stage – II, the Appellant has to produce documents before CERC that it involves security issue and National Security Agency has advised to maintain it as highly confidential matter. There was no such material produced by the Appellant, therefore the CERC was justified to reject the claim of the Appellant while carrying out prudence check as mandated in the Regulations. Therefore, CERC was justified to direct the Appellant to meet the said expenditure towards Compensation Allowance that is admissible under Regulation 17 of 2014 Regulations.

15. 2nd Respondent further contends that the letter dated 02.02.2013 of CISF is self explanatory. This letter was issued after technical audit was conducted on 28.06.2009 but recommendations were submitted to the Appellant on 26.11.2009. By letter dated 02.02.2013, CISF only had asked update on the progress made towards installation of CCTV in Cable Gallery and informed time frame within which it would be concluded. This does not indicate any recommendation for installation of CCTV in Cable Gallery of Stage –II. Actual recommendations made by CISF by technical audit were not produced. Therefore, CERC was justified in rejecting the said claim under Regulation 14. According to the 2nd Respondent, the decision in **Gulf Goan Hotels's** case with

regard to force of law is baseless. Similarly, the reliance on the judgment of this Tribunal dated 15.02.2011 in Appeal No. 173 of 2009 has no application on the instant appeal since the facts are entirely different in this appeal from the facts of the appeal relied upon. The Respondent further contends that the claim of projected additional capital expenditure for FY 2013-14 was in addition to previously approved capital expenditure for the said project. The question of withholding critical information would not arise while doing prudence check. With these submissions, they have sought for dismissal of the appeal.

16. The point that would arise for our consideration is ***“whether the Appeal warrants interference? and if so, what relief?”***

17. The relevant provisions required to be considered by us are Regulations 14 and 17 of Tariff Regulations of 2014 so also definitions of additional capitalization and prudence check.

“3.

(2) ***‘Additional Capitalisation’*** means the capital expenditure incurred, or projected to be incurred after the date of commercial operation of the project and admitted by the Commission after prudence check, in accordance with provisions of Regulation 14 of these regulations;

... ..

(48). **'Prudence Check'** means scrutiny of reasonableness of capital expenditure incurred or proposed to be incurred, financing plan, use of efficient technology, cost and time over-run and such other factors as may be considered appropriate by the Commission for determination of tariff. While carrying out the Prudence Check, the Commission shall look into whether the generating company or transmission licensee has been careful in its judgments and decisions for executing the project or has been careful and vigilant in executing the project;

14. Additional Capitalisation and De-capitalisation:

(1) The capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

... ..

(3) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law

... ..

(iii) Any expenses to be incurred on account of need for higher security and safety of the plant as

advised or directed by appropriate Government Agencies or statutory authorities responsible for national security/internal security;

- (iv) Deferred works relating to ash pond or ash handling system in the original scope of work;*
- (v) Any liability for works executed prior to the cut-off date, after prudence check of the details of such undischarged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;*
- (vi) Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;*
- (vii) Any additional capital expenditure which has become necessary for efficient operation of generating station other than coal/lignite based stations or transmission system as the case may be. The claim shall be substantiated with the technical justification duly supported by the documentary evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;*

... ..

Provided further that any capital expenditure other than that of the nature specified above in (i) to (iv) in case of coal/lignite based station shall be met out of compensation allowance:

... ..

17. Compensation Allowance:

(1) *In case of coal-based or lignite-fired thermal generating station or a unit thereof, a separate compensation allowance shall be admissible to meet expenses on new assets of capital nature which are not admissible under Regulation 14 of these regulations, and in such an event, revision of the capital cost shall not be allowed on account of compensation allowance but the compensation allowance shall be allowed to be recovered separately.*

(2) *The Compensation Allowance shall be allowed in the following manner from the year following the year of completion of 10, 15, or 20 years of useful life:*

<i>Years of Operation</i>	<i>Compensation Allowance (Rs Lakh/MW/year)</i>
<i>0-10</i>	<i>Nil</i>
<i>11-15</i>	<i>0.20</i>
<i>16-20</i>	<i>0.50</i>
<i>21-25</i>	<i>1.00”</i>

18. We have also gone through the judgments referred to by learned counsel for the Appellant i.e., **Gulf Goan Hotels**'s case, Para 15 & 16 of the said judgment read as under:

“15. The question ‘what is “law”?’ has perplexed many a jurisprude; yet, the search for the elusive definition continues. It may be unwise to posit an answer to the question; rather, one may proceed by examining the points of consensus in jurisprudential theories. What appears to be common to all these theories is the notion that law must possess a certain form; contain a clear mandate/explicit command which may be prescriptive, permissive or penal and the law must also seek to achieve a clearly identifiable purpose. While the form itself or absence thereof will not be determinative and its impact has to be considered as a lending or supporting force, the disclosure of a clear mandate and purpose is indispensable.

16. It may, therefore, be understood that a Govt. Policy may acquire the “force of ‘law’” if it conforms to a certain form possessed by other laws in force and encapsulates a mandate and discloses a specific purpose. It is from the aforesaid prescription that the guidelines relied upon by the Union of India in this case, will have to be examined to determine whether the same satisfies the minimum elements of law. The said guidelines are:

1. *Directives to the State Governments in letter dated 27th November, 1981 of the then Prime Minister;*
2. *Notification dated 22nd July, 1982 of the Governor setting up the Ecological Development Council for Goa, inter alia, for scrutiny of beach construction within 500 meters of HTL;*
3. *Environmental Guidelines for Development of Beaches of July 1983;*
4. *Order dated 11th June, 1986 of Under Secretary, Ministry of Tourism, also addressed to Chief Secretary, Govt. of Goa, constituting*

an inter-Ministerial Committee for considering tourist projects within 500 meters.”

19. We have also gone through the judgment dated 09.05.2019 in Appeal No. 125 of 2017 between NTPC vs CERC and MPPMCL etc. On reading of Regulations 14 and 17, it is clear that Regulation 17 is a general provision whereas Regulation 14 is a special provision pertaining to existing project.

20. The contention of the Respondents is that the word “Prudence Check”, which is clearly defined in the Regulations, as stated above, indicates that all the facts and circumstances which constitute necessary information pertaining to a particular point has to be taken into account to arrive at a proper conclusion. According to the Respondent, CERC was justified in rejecting the claim of the Appellant while conducting prudence check, for want of proper information. The reliance is placed on letter dated 02.02.2013 written by CISF, which reads as under:

*“OFFICE OF THE ASSTT. COMMANDANT/FIRE
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HIM AFFAIRS)*

*CISF Unit VSTPS
Vindhyanagar*

NO. CISF/FW/VSTPS(V)/2013-76

Date: 02 Feb-2013.

To

AGM (C & I)

VSTPS Vindhyanagar

**SUB: UPDATING OF FIRE WING ABOUT AIG /FIRE
OBSERVATION REGARDING INSTALLATION OF CCTV
IN CABLE GALLERY REG.**

During the Technical Audit of CISF Unit VSTPS Vindhyanagar carried out by AIG/Fire on 28.06.2009 it was suggested to install CCTV in cable gallery to keep watch on fire at the incipient stage and also to monitor any movement in side of cable gallery being vital installation. The same was communicated by this office letter No.CISF /VSTPP/Fire/AIG(Fire) /INSP/09-940 dated 26.11.2009 (The zerox of letter is herewith enclosed for ready reference). In compliance to above letter a joint visit consisting representative of fire wing safety department & C&I department was conducted in all the cable galleries of stage-I, II & III for assessing the required quantity of CCTV Camera in order to cover the entire area inside the cable gallery. The committee suggested to install 150 Nos of CCTV to cover all the cable galleries by its protocol dated 09.06.2010 (The zerox of signed protocol is enclosed for ready reference). Now AIG/FIRE wants the time frame under which compliance on the said point is to be made.

Therefore it is requested to update Fire Wing about the progress made regarding installation of CCTV in cable gallery and inform about the time frame under which the point is to be complied with.

Asstt. Commandant/Fire

CISF Unit VSTPS (V)

...”

21. According to the 2nd Respondent, this letter is in continuation of several compliances required to be done by the Appellant after technical audit which came to be conducted in 2009. According to the 2nd respondent, if installation of CCTV in Cable Gallery was imperative, the letter would not come in 2013 asking to comply with the requirement, therefore it was not of that importance and relevance. According to the Respondent even if any additional expenditure that were to be allowed has to be with reference to Tariff Regulations of 2009 and not of Tariff Regulations of 2014.

22. Apparently the letter dated 02.02.2013 pertains to technical audit conducted by CISF in 2009 in respect of several units of Appellant pertaining to Vindhyachal thermal stations. There was instruction to install CCTV in Cable Gallery in order to keep vigil on fire accidents at the very initial stage, since this would assist the Appellant to monitor any movement inside the Cable Gallery since it being a vital installation. The Joint Inspection consisting of representatives of fire wing of Safety Department and C&I department was conducted in all these Cable Galleries of three stages of Vindhyachal thermal stations i.e., Stage – I, II and III. The recommendation was made after technical audit and there

seems to be follow-up by CISF. The Joint Inspection was conducted to assess how many number of CCTVs are required to cover all the Cable Galleries of Stage – I, II and III. The letter dated 02.02.2013 would only indicate that CISF wanted to know the progress made by the Appellant pertaining to installation of CCTVs in Cable Galleries in terms of recommendations of CISF since fire wing department wanted such progress. Apparently, there is delay in implementing the recommendations of CISF in terms of letter dated 26.11.2009 as indicated in the letter dated 02.02.2013. One cannot ignore the importance of CCTV in the Cable Galleries merely because of delay in installing the same by the Appellant. The fact remains whether such installation was to be made or not? Installation of CCTVs was required to keep a vigil on fire and also to check smallest movement inside the Cable Gallery since it was a vital installation. Joint Inspections being conducted definitely to show that such installation was a must.

23. As observed in the Judgment pertaining to Appeal No. 125 of 2017, it is clear from the letter dated 02.02.2013 that till 2013 the Appellant had not installed these CCTVs in the Cable Galleries. Till Joint Inspection was made, one could not have assessed how many CCTVs were required. If installation of CCTV was not completed, definitely it would not be possible for anticipating additional capital

expenditure of this nature to fall under Regulations of 2014 since such Regulations were not in existence at the relevant point of time. It was also contended that installation of CCTV Surveillance System including CCTVs required long process including approvals/consents/clearances at several stages. It is also not the case of the Respondent that expenditure of this nature would not fall under Regulation 14(3)(iii) of Tariff Regulations of 2014. If the Commission was not satisfied with the information provided by the Appellant, they ought to have sought for further information which could have been provided. However, no further details are forthcoming on this aspect. Under these circumstances, there was no justification to reject the claim under Regulation 14 since the additional capital expenditure was incurred after cut-off date of the plant in question.

24. Paragraphs 31 and 32 of the Judgment of this Tribunal in Appeal No. 125 of 2017 dated 09.05.2019 is relevant, which reads as under:

“31. It is well settled if special provision is available one should not take recourse to general provision. General provisions must yield to special provisions in such situation. Therefore, it is clear from the impugned order that the very process in assessing the claims was not properly appreciated by the Commission. If at all Commission needed some more information, they ought to have asked the Appellant for such information instead of opining that there is incomplete information. It is not in dispute in so far as other plants of the Appellant, similar claim as

safety measures was allowed by the very same Central Commission. Therefore, there is no doubt that if additional capital expenditure after cut-off date is spent towards higher security and safety of the plant in terms of Regulation as recommended by appropriate Government Agency or Statutory Authority, it shall fall under Regulation 14(3)(iii). In that view of the matter, and for the reasons mentioned above, we are of the opinion that the Respondent Commission proceeded on wrong assumption and denied the claim of the Appellant under Regulation 14(3)(iii) of 2014 Regulations.

32. *Having regard to the submissions of both the parties and relevant regulations of the CERC, we are of the view that as per the prudent industrial practice, the installation of CCTV for surveillance and safety of vital installations is essential. As in the instant case, it has also been recommended by Government instrumentalities to install adequate numbers of CCTV for surveillance of the plant and ensuring safety measures for fire etc. in the cable galleries. Thus, the estimated projection for installation of requisite number of CCTVs by the Appellant requires consideration by the CERC without insisting much on the procedural information whatsoever. In fact, the Commission has to accord in-principle approval only for the proposal of the Appellant in this regard, and the actual amount would need to be allowed after prudence check in the true up exercise. As CERC has allowed similar expenditures in other thermal power plants of the Appellant, there does not appear any visible reason for not allowing the same in the instant case. This is also required for CERC to take a consistent view in all the cases rather than adopting selective approach from case to case on same plea. We are therefore, of the considered view that CERC has passed the impugned order in an inconsistent way without adequate evaluation of the case in hand.”*

25. For the foregoing discussion and reasons, we are of the opinion that the impugned order deserves to be set aside. Accordingly, the

appeal is allowed setting aside the impugned order dated 06.02.2017. The matter is remitted back to the Central Commission for examination of the matter afresh after giving opportunity to both the parties and to pass consequential orders on merits.

26. All the IAs, which are pending till date, are disposed of as infructuous. Parties shall bear their own costs.

27. Pronounced in the open court on this the 29th day of January 2020.

S.D. Dubey
[Technical Member]

Justice Manjula Chellur
[Chairperson]

Dated: 29th January, 2020

REPORTABLE/~~NON-REPORTABLE~~

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