

In the Appellate Tribunal for Electricity at New Delhi
(Appellate Jurisdiction)

Appeal No. 232 of 2013

Dated: 1st July, 2014

Present: Hon'ble Mr. Rakesh Nath, Technical Member
Hon'ble Justice Surendra Kumar, Judicial Member

In the matter of:

M.P. Power Management Co. Ltd.
Shakti Bhawan, Rampur Jabalpur – 482 008,
Through its Deputy General Manager. ...Appellant

VERSUS

1. Central Electricity Regulatory Commission,
Floor Nos. 3 and 4, Chandralok Building, Janpath,
New Delhi 110001, through its Secretary.
2. NTPC Ltd., NTPC Bhawan, Scope Complex,
Core-7, Institutional Areas, Lodhi Road,
New Delhi- 110 003, through its
Managing Director.
3. Maharashtra State Electricity Distribution Company Ltd.,
Prakashgad, Bandra (East), Mumbai 400 051, through its
Managing Director.
4. Gujarat Urja Vikas Nigam Ltd., Vidyut Bhawan,
Race Course, Vadodra 390 007, through its
Managing Director.
5. Chhattisgarh State Power Distribution Company Ltd.,
P.O. Sunder Nagar, Danganiya, Raipur 492 013, through its
Managing Director.
6. Electricity Department, Govt. of Goa, Panaji,
Vidyut Bhawan, 3rd Floor, Panaji 403 001,
Goa, through its Secretary.

7. Electricity Department, Administration of Daman & Diu,
Daman 396 210, through its Secretary.
8. Electricity Department, Administration of Dadra and
Nagar Haveli, Silvassa, Via Vapi 396 210, through its Secretary.
9. Western Regional Power Committee, F-3, MIDC Area,
Marol, Aandheri (E), Mumbai- 400 093, through its Secretary.
10. Central Electricity Authority, New Delhi, Sewa Bhawan,
R.K. Puram, New Delhi -110066, through its Chairman.Respondents

Counsel for the Appellant(s) : Mr. Pradeep Misra
Counsel for the Respondent (s) : Mr. Manu Seshadri for R-1
Mr. M.G. Ramachandran for R-2

JUDGMENT

PER HON'BLE JUSTICE SURENDRA KUMAR, JUDICIAL MEMBER

1. This is an appeal under Section 111 of the Electricity Act, 2003 against the order dated 04.07.2013 passed by the Central Electricity Regulatory Commission (for short, hereinafter referred to as the 'Central Commission') in Petition No. 78 of 2001, titled as NTPC, New Delhi Vs. Madhya Pradesh Power Trading Ltd., Jabalpur & others, in the matter of approval of incentive/dis-incentive payable for Kawas Gas Power Station (656.20 MW) for the year 1992-93 to 1997-98 and for Gandhar Gas Power Station (657.39 MW) for the years 1994-95 to 2000-01, in compliance of the judgment/order of the Hon'ble Supreme Court dated 24.01.2013 in Civil Appeal No. 2423 of 2011 (NTPC Vs. CERC & Others), whereby the order of the Hon'ble Supreme Court dated 24.01.2013 has been implemented and the said Petition No. 78 of 2001 has been disposed of in terms thereof.

2.1. that the appellant is the successor of the erstwhile M.P. State Electricity Board (hereinafter referred to as the 'Electricity Board'). The respondent no.1 is Central Electricity Regulatory Commission constituted under Section 76 of the Electricity Act, 2003.

2.2. that the respondent no.2, NTPC Limited (which was petitioner before the Central Commission) is a Government of India undertaking having several generating stations in the country and supplying power to beneficiary States/territories in Western Region from its Kawas Gas Power Station of capacity 656.20 MW situated at Surat, Gujarat from year 1992 and Gandhar Gas Power Station of capacity 657.39 MW situated at Bharuch, Gujarat from the year 1995.

2.3. that the respondent nos.3 to 8 are beneficiaries of the power generated from Kawas and Gandhar Gas Power Stations of NTPC/respondent no.2.

2.4. that the respondent nos. 9 & 10 are the Authorities which certified the deemed generation.

2.5. that the present appeal relates to issue of determination of incentive/dis-incentive payable to beneficiaries for Kawas generating Power Stations for the period from April, 1993 to July, 1996 and for Gandhar generating Power Station for the period from April, 1995 to July, 1996 in case of shortage of gas.

2.6. that, the tariff for the sale and purchase of electricity generated from these two generating power stations during the relevant period was governed by the terms of the notifications dated 30.04.1994 in respect of Kawas Gas Power Station and dated 28.04.1997 in respect of Gandhar Gas Power Station, notified by the Central Govt. under the then applicable provisions of Section 43A of Electricity (Supply) Act, 1948.

2.7. that Clause 4 of the Tariff Notifications dated 30.04.1994 and dated 28.04.1997, have provisions related to payment of incentive/dis-incentive to/by NTPC by/to the

beneficiaries in case where the Actual Generation Level in Kwh/KW/year (AGN), as certified by the Regional Electricity Board (REB) and Central Electricity Authority (CEA) in any financial year exceeds/falls below the Normative Operation Limits (Normative Power Limit of Operating Range) specified in the Notifications.

2.8. that Electricity Regulatory Commissions Act, 1998 came into force on 25.04.1998 and the Central Electricity Regulatory Commission was constituted on 24.07.1998.

2.9. that, on 06.09.2001, the respondent no.2/NTPC filed a petition being Petition No. 78 of 2001 before the Central Commission for approval of incentive/dis-incentive payable for the Kawas generating Power Station for the years 1992-93 to 1997-98 and for Gandhar generating Power Station for the years 1994-1995 to 2000-01 of the NTPC.

3. The terms and conditions and tariff for power supplied from Kawas GPS were initially notified by the Central Government in Ministry of Power on 30.4.1994 through two separate notifications. One notification determined the tariff and terms and conditions for supply of power from Kawas GPS for the period from 1.6.1992 to 31.8.1993 when the station was in open cycle mode. The other notification related to determination of tariff and terms and conditions for power supplied from Kawas GPS in combined cycle mode for the period from 1.9.1993 to 31.3.1998. These notifications were subsequently amended vide notifications issued on 19.6.1995 and 14.5.1999. The notification dated 19.6.1995 in respect of Kawas GPS provided for billing and payment of incentive and disincentive on monthly basis. The tariff and terms and conditions for supply of power from Gandhar GPS were determined by the Central Government in Ministry of Power vide notification dated 28.4.1997 as amended vide notification dated 14.5.1999. The notifications dated 14.5.1999 determined the revised fixed charges in respect of Kawas GPS and Gandhar GPS on

account of additional capitalization based on audited accounts up to the year 1996-97.

4. These notifications provided for payment of incentive/disincentive to/by the petitioner by/to the beneficiaries drawing power from these stations. According to these notifications, where the Actual Generation Level (AGN) in kWh/kW/year as certified by Regional Electricity Board (REB) and Central Electricity Authority (CEA) in any financial years exceeded the Normative Upper Limit of operating range (NGU) in kWh/kW/year, the petitioner became entitled to incentive. However, where AGN in kWh/kW/year fell below the Normative Lower Limit of operating range (NGL) in kWh/kW/year for the reasons attributable to the petitioner, the petitioner became liable to pay disincentive to the beneficiaries drawing power from the stations. As provided in these notifications, for the purpose of incentive/disincentive calculation, AGN achieved in any financial year would include the backing down as certified by REB due to lack of system demand and due to other conditions not attributable to the petitioner as certified by CEA, as deemed generation. The incentive and disincentive were to be determined by the Central Government in exercise of power under Section 43A (2) of the Electricity (Supply) Act, 1948. However, consequent to omission of Section 43A (2) with effect from 15.5.1999 in respect of the Central generating stations, the petition for determination of incentive/disincentive was filed before the Central Commission.

5. By order dated 24.10.2002 in Petition No. 78 of 2001, the Central Commission observed that in the absence of deemed generation certificate from CEA, the Central Commission was unable to entertain the claim of the NTPC, respondent no.2 / petitioner for computation towards incentive / disincentive for loss of generation on account of non-availability of gas. Accordingly, the Central Commission disposed of this Petition No. 78 of 2001 entailing the petitioner to pay dis-incentive to the

beneficiaries as per details mentioned in the order dated 24.10.2002.

6. Aggrieved by the order dated 24.10.2002, the NTPC filed Review Petition No.137 of 2002 (in Petition No.78 of 2001) and simultaneously the NTPC also filed an Appeal being FAO No. 36 of 2003 before the Hon'ble Delhi High Court under Section 16 of the Electricity Regulatory Commissions Act, 1998.

7. While so, the NTPC obtained fresh certificate of deemed generation dated 27.3.2003 from the CEA in respect of the period from 1996 to 1998 and filed the same before the Commission and requested it to reconsider the issue of dis-incentive to be paid by them for the said period, namely, from 1.8.1996 to 31.3.1998 by taking into account both the letters dated 12.12.2001 and the certificate dated 27.3.2003 respectively. The Central Commission, vide its Review Order dated 4.4.2003 in Review Petition No. 137 of 2002, after considering the letters of the CEA dated 12.12.2001 and 27.3.2003 while disposing of the Review Petition, directed the reconsideration of the liability of the NTPC/petitioner to pay dis-incentive for the period from 1.8.1996 to 31.3.1998, in Petition No. 78 of 2001. However, the prayer of the NTPC/petitioner for review of order relating to the period prior to 1.8.1996 was rejected by the Central Commission.

8. that against the Review Order dated 4.4.2003 of the Central Commission in Petition No. 78 of 2001, the appellant, MPPMCL (erstwhile MPSEB) filed Writ Petition No.117 of 2003 before the Hon'ble High Court of Madhya Pradesh, Jabalpur Bench and the same was dismissed by the High Court on 22.9.2003, against which no appeal was filed/preferred by the present appellant.

9. that thereafter, the Central Commission by its order dated 02.12.2003, disposed of the Petition No. 78 of 2001 observing as under:-

“...We accept the certificate issued by CEA for the purpose of computation of dis-incentive for the period in question as there is no challenge by any of the parties to the quantum of “deemed generation” certified by CEA. Accordingly, we direct that the petitioner shall be liable to incentive/dis-incentive as under....”

Year	Kawas GPS	Gandhar GPS
1993-94	(-) 16.13	-
1994-95	(-)41.51	0.00
1995-96	(-) 58.29	(-)18.61
1996-97	(-)13.92	(-)11.99
1997-98	1.29	0.00
1998-99	Incentive already allowed by Commission	(-) 92.99
1999-00	-do-	(-) 71.46
2000-01	-do-	(-) 48.72
Total	(-) 128.56	(-) 243.77

10. that against the order dated 2.12.2003 in Petition No. 78 of 2001, the appellant filed W.P. No. 1912 of 2004 before the Madhya Pradesh High Court, Jabalpur Bench and the Hon’ble High Court, vide its order dated 13.4.2007, on the prayer of appellant itself, dismissed the Writ Petition as withdrawn and gave liberty to the appellant (MPPMCL) to approach this Appellate Tribunal. In pursuance thereto, the appellant filed Appeal No. 118 of 2007 before this Tribunal challenging the Central Commission’s order dated 2.12.2003 and this Appellate Tribunal vide its judgment dated 13.1.2009 dismissed the said appeal observing as under:

“33. The above observation would make it clear that the Commission in the impugned order dated 2/12/03 gave a categorical finding that the documents referred to above would show that the NTPC was not able to generate power because of shortage of gas and as such it amounts to backing down. This finding would clearly indicate that the same was rendered on the basis of the earlier order dated 4/4/03 and the Order of the High Court dated 22/9/03. In the absence of the challenge of the High Court’s order dated 22/9/03, admissibility question cannot now be raised in this appeal.”

34. *We are only concerned with the questions raised before the Commission and the propriety of the order impugned. In our view, the points raised by the Appellant before the Commission have been dealt with in detail and correct conclusion has been arrived at.*

35. *Hence, we do not find any infirmity in the order impugned and accordingly, the Appeal is dismissed."*

11. *That meanwhile, the aforementioned appeal being FAO No.36 of 2003 filed by the NTPC/petitioner before the Hon'ble Delhi High Court, which we have mentioned above, was transferred to this Appellate Tribunal by the High Court's order dated 4.2.2008, which was numbered as Appeal No. 184 of 2009 in the Registry of this Tribunal.*

12. that, thereafter, this Appellate Tribunal, by its judgment dated 07.1.2011, in Appeal No. 184 of 2009, dismissed the appeal, filed by the NTPC against the Central Commission's order dated 24.10.2002 (which has been incorrectly written as 24.12.2002 in the impugned order at some places) with the following observations:

"23. Learned Counsel for the Appellant has now argued that the Central Commission should have allowed the deemed generation based on the NTPC data verified by WREB Secretariat (now WRPC Secretariat). We feel that the Central Commission's order for the period prior to formation of the Central Commission and its Regulations has to be based on the Government of India notification and any agreement between the parties. In the Government of India notification, it is not specified that non-availability of fuel has to be considered as a condition non-attributable to NTPC for the purpose of deemed generation.

24. According to the notification, CEA has to certify deemed generation due to backing down for reasons non-attributable to NTPC. CEA has taken an administrative decision to allow deemed generation only if the actual generation fell below the normative lower limit, that too till 31.3.1998, and subject to certain conditions for verification of data for the past and future. According to the notification, CEA was the concerned authority to certify the deemed generation for reasons non-attributable to NTPC. CEA has certified the deemed generation for the period 1.8.1996 to 31.3.1998 and accordingly the benefit for the same has been passed on to NTPC by the Central Commission. For prior period for which data was not available with WREB, the requisite condition of agreement on NTPC data by the constituents has not been met. Therefore, CEA has not issued the deemed generation certificate.

The Central Commission has rightly decided not to give any directions to CEA, a statutory authority under the Act, to certify the deemed generation for the past period prior to August, 1996. Thus we do not find any fault in the decision of the Central Commission. The data verified by WREB Secretariat from NTPC records cannot be considered by the Central Commission for allowing deemed generation without a certification by CEA.

25. It is also argued by the Learned Counsel for the Appellant that Maharashtra and Gujarat Electricity Boards (Respondent 3 & 4 respectively) have settled the matter relating to deemed generation due to non-availability of gas with NTPC as 'one time settlement' and therefore the same should also be applicable to other constituents. We do not accept this argument. Agreement by some of the Respondents as 'one time settlement' cannot be imposed on other Respondents, who have not accepted the deemed generation due to non-availability of gas based on NTPC data.

26. In view of above, we find that there is no substance in the Appeal. The Appeal, is therefore, dismissed. No order as to costs."

13. That against the said judgment dated 7.1.2011, passed by this Appellate Tribunal in Appeal No. 184 of 2009, the NTPC-respondent/ petitioner filed Civil Appeal being Civil Appeal No. 2423 of 2011 before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide its order dated 24.1.2013, disposed of the said appeal by remanding back the matter to the Central Commission to decide the claim of the NTPC-respondent/petitioner on merits. The relevant portion of the order dated 24.1.2013 is extracted as under:

"It is brought to our notice by the learned Attorney General that necessary certification has been issued on 11th October, 2012.

In view of the above, the matter now needs to be remanded back to the Central Electricity Regulatory Commission for deciding the claim made by the NTPC on merits.

At this stage, it is brought to our notice on behalf of the State of M.P. Power Management Company that the aforesaid certification has been issued without taking their consent. The aforesaid Power Management Company will be at liberty to raise the issue before the Central Electricity Regulatory Commission, if available in law. We order accordingly.

The appeal stands disposed of in the above terms."

14. that, in compliance with the directions contained in the order of the Hon'ble Supreme Court dated 24.1.2013, the learned Central Commission heard the parties on 21.3.2013 and 26.3.2013 respectively and reserved the matter for orders after directing the parties to file their written submissions. The NTPC-respondent/petitioner and the appellant MPPMCL filed their written submissions.

15. that during the hearing of the matter before the learned the learned Central Commission, the appellant MPPMCL raised the following preliminary objections submitting as under:

- a) that the instant petition was dismissed by the Central Commission's order dated 24.10.2002 on the ground that there was no deemed generation certified by the CEA, against which order, the NTPC had filed appeal before Delhi High Court and also filed Review Petition before the Central Commission.
- b) that the Review petition was allowed by interim order of the Central Commission dated 4.4.2003 considering the deemed generation certificate of CEA for the period 1.8.1996 to 31.3.1998. However, for the period prior to 1996, the prayer was rejected and accordingly the petition was finally disposed of on 2.12.2003.
- c) that neither the interim order dated 4.4.2003 rejecting the claim of NTPC respondent/petitioner for the period prior to 1996 nor the final order dated 2.12.2003 disposing of the said petition, were challenged by the NTPC-respondent/petitioner.
- d) that the earlier orders of the Central Commission have become final and conclusive between the parties. In terms of the direction contained in the order of the Hon'ble Supreme Court dated 24.01.2013, a fresh petition was required to be filed by the NTPC-respondent/petitioner before the Central Commission.
- e) that the appellant MPPMCL had not consented for certification of the data for loss of generation and WRPC had no right to certify the data without the consent of the appellant and the CEA was also not competent to issue the certificate of deemed generation on the basis of such approval of data by WRPC. The Central Commission's order was not based on merits. In response to this contention of the appellant, it was submitted on behalf of the NTPC that in the appeal filed before

the Hon'ble Supreme Court by the NTPC, the CEA was party to the appeal and the proceedings of Civil Appeal were adjourned from time to time to see whether CEA could certify the deemed generation. The CEA had certified the deemed generation by communication dated 11.10.2012 after duly verifying from WRPC the quantum of deemed generation, based on the communication of WRPC dated 19.6.2012 furnishing the loss of generation data in respect of both Kawas and Gandhar Gas Power stations for the period from April, 1993 to July, 1996 and the same was placed before the Hon'ble Supreme Court, when the Hon'ble Supreme Court remanded the matter back to the Central Commission by order dated 24.1.2013. The deemed generation to the extent certified by CEA is admissible as per Notification of the Govt. of India under Section 43A of the Electricity (Supply) Act, 1948.

16. The learned counsel for the NTPC-respondent/petitioner made the following submissions before the learned Central Commission, when the matter was being re-heard by the Central Commission on the same being remanded by the order of the Hon'ble Supreme Court dated 24.01.2013.

16.1. that the Review Petition was filed by the NTPC against the Central Commission's order dated 24.10.2002 relating to the period from 1.8.1996 to 31.3.1998. CEA had issued deemed generation certificate subsequent to order dated 24.10.2002. No review was filed relating to the period prior to 1996, which had got finalized. The appeal was rejected by this Appellate Tribunal on the ground that without the certification of CEA, the matter cannot be considered, against which Civil Appeal was filed before the Hon'ble Supreme Court.

16.2 that this Tribunal had not rejected the said appeal on the ground of maintainability, but on merits. The Civil Appeal being Civil Appeal No. 2423 of 2011 filed by the NTPC-petitioner before the Hon'ble Supreme Court arose out of the judgment of this Appellate Tribunal dated 7.1.2011 on merits.

16.3. that it is clear from the order of the Hon'ble Supreme Court dated 24.01.2013 that the matter was referred to the CEA for verification of data and for issuance of

necessary certificate to the NTPC. The matter has been remanded to the Central Commission for implementation based on the certificate issued by CEA.

17. The learned Central Commission, by the impugned order dated 04.07.2013, as stated above, disposed of the Petition No. 78 of 2001 in the light of the order of the Hon'ble Supreme Court dated 24.01.2013 in Civil Appeal No. 2324 of 2011 with the following observations:-

"17. Considering the fact that the data for loss of generation was consented to by the constituents in the WRPC meeting wherein the respondents, MPPMCL was also a party and whose comments had been considered and keeping in view that CEA had certified the said figures for loss of generation based on said consent given by WRPC, we are not inclined to accept the submissions of the respondent, MPPMCL that it had not consented to the data for loss of generation available with WRPC and that the deemed generation certificate of CEA shall not be considered. It is also noticed that other constituents namely, GUVNL and MSEDCL had agreed for one time settlement. Taking the above factors in totality, the prayer of the petitioner is accepted and the claim of the petitioner for deemed generation on the basis of the certification given by CEA by its letter dated 11.10.2012 is considered as stated in the subsequent paragraphs.

18. It is noticed from the reports of WRPC, that the deemed generation in respect of Kawas GPS of the petitioner for the period April, 1996 to July, 1996 was 457.055 MUs instead of 459.292 MUs, as certified by CEA for the period from April, 1996 to July, 1996 (table under para 16 above). Accordingly, the figures in respect of deemed generation for Kawas GPS for April, 1996 to July, 1996 certified by CEA has been modified and the deemed generation for the period April, 1993 to July, 1996 is summarized as under:

Deemed Generation for the period April, 1993 to July, 1996		
Period	Kawas GPS (MUs)	Gandhar GPS
1993-94 (April, 1993 to March, 1994)	801.370
1994-95 (April, 1994 to March,	1499.173

1995)		
1995-96 (April, 1995 to March, 1996)	1652.849	522.940
1996-97 (April, 1996 to July, 1996)	457.055	141.010

19. Based on the above and considering the loss of generation due to shortage/non-availability of gas, the total deemed generation in respect of Kawas GPS and Gandhar GPS generating stations of the petitioner are summarized as under:

Loss of generation due to shortage of gas & deemed generation for Kawas GPS					
	Actual Generation	Grid Loss	Loss of Generation due to Gas Shortage	Total Deemed Generation	Total Deemed PLF
Year /Units	MUs	MUs	MUs	MUs	%
1993-94	2005.691	72.86	801.37	2879.92	60.94
1994-95	2104.629	5.57	1499.17	3609.37	62.79
1995-96	1960.192	6.21	1652.85	3619.25	62.79
1996-97*	1700.944	0.12	1908.30	3609.37	62.79

Loss of generation due to shortage of gas & deemed generation for Gandhar GPS					
	Actual Generation	Grid Loss	Loss of Generation due to Gas Shortage	Total Deemed Generation	Total Deemed PLF
Year /Units	MUs	MUs	MUs	MUs	%
1995-96	2135.863	15.17	552.94	2703.98	62.79
1996-97*	2886.956	14.72	714.23	3615.91	62.79

**The figure pertains to financial year taking into account the certification of CEA vide letter dated 11.10.2012 for the period April-July, 1996.*

20. It is observed from the table under para 19 above in respect of Kawas GPS that the deemed PLF achieved during the years 1994-95, 1995-96 and 1996-97 was 62.79%. Accordingly, the disincentive in respect of this gas based generating station has been worked out as zero during these years. Similarly, during the years 1995-96, 1996-97 and 1997-98, Gandhar GPS had achieved the deemed PLF of 62.79%. Accordingly, the disincentive in respect of this gas based generating station has been worked out as 'zero' during these years. There is no incentive payable during the period 1993-94 to 1996-97 in respect of Kawas GPS and for the years 1995-96 and 1996-97 in respect of Gandhar GPS of the petitioner.

21. During the year 1993-94, Kawas GPS could achieve the deemed PLF of 60.94% only and the same is below the normative lower disincentive limit of 62.79%. Accordingly, the annual fixed charges payable to the petitioner for the year 1993-94, in terms of the Govt. of India notification dated 30.4.1994 is as under:

Actual Generation Level (kWh/kW/year)	% of Annual Fixed Charges payable to NTPC
5343.46 and above	100.0
4843.46-5343.45	98.0
4343.46-4843.45	95.5
3843.46-4343.45	92.5
3343.46-3843.45	89.0
2843.46-3343.45	85.0
2369.55-2843.45	80.5
1895.64-2369.54	75.5
1421.73-1895.63	70.0
947.82-1421.72	64.0
473.91-947.81	57.5
0-473.90	50.0

22. Corresponding to the deemed PLF of 60.94% during the year 1993-94 for Kawas GPS, the actual generation level in KWh/kW/year works out to be 5338.49 KWh/kW/year and the corresponding fixed charges as 98%. Accordingly, the disincentive for Kawas GPS during the year 1993-94 works out to '2.93 crore.

23. With this, the order of the Hon'ble Supreme Court dated 24.1.2013 in Civil Appeal No. 2423/2011 stands implemented and the Petition No. 78/2001 is disposed of in terms of the above."

18. We have heard Mr. Pradeep Misra, learned counsel for the appellant, Mr. Manu Seshadri, learned counsel for the respondent no.1 and Mr. M.G. Ramachandran, learned counsel for the respondent no.2-NTPC and have gone through record minutely and the respective written submissions filed by them.

19. Before we deal with the submissions of the rival parties and the points involved in this appeal, we mention that the learned Central Commission, while for

the first time, disposing of the main Petition No. 78 of 2001 filed by the NTPC-respondent/petitioner before the Central Commission, vide order dated 24.10.2002 had rejected the claim of the NTPC for computation towards incentive/dis-incentive for the loss of generation on account of non-availability of gas. The Central Commission vide its review order dated 04.04.2003, directed for re-opening of the proceedings in respect of dis-incentive for the period 1996-98, after considering the letter of CEA dated 27.03.2003 which was obtained by NTPC during the pendency of the Review Petition before the Central Commission. Review order dated 04.04.2003 was challenged by the appellant before Madhya Pradesh High Court by way of Writ Petition and the same was dismissed by the Hon'ble High Court on 22.09.2003. Thereafter, final order was passed by the Central Commission on 02.12.2003 by accepting the certificates of CEA dated 12.12.2001 and 27.03.2003 for the purpose of computation of dis-incentive fee for the period 1996-98 in respect of both gas power stations of NTPC, which order dated 2.12.2003 was challenged by the appellant before Madhya Pradesh High Court by way of filing the Writ Petition and the Writ Petition was dismissed as withdrawn vide order dated 13.04.2007 of the High Court giving liberty to the appellant to approach this Appellate Tribunal by challenging the said Central Commission's order dated 02.12.2003 through appeal before this Tribunal. Thus, the Central Commission's order dated 02.12.2003 was challenged before this Appellate Tribunal through Appeal No. 118 of 2007 which appeal was dismissed by this Appellate Tribunal vide judgment dated 13.01.2009. Consequently, the Central Commission's order dated 24.10.2002 in Petition No. 78 of 2001 stood modified to the extent allowed by the Central Commission's order dated 02.12.2003.

20. Meanwhile, the appeal filed by NTPC before Delhi High Court against Central Commission's order dated 24.10.2002 which was transferred to this Appellate Tribunal by the High Court's order dated 04.04.2008 was dismissed by this Tribunal vide judgment dated 7.1.2011 in Appeal No. 184 of 2009 whereby this Tribunal upheld the State Commission's order dated 02.12.2003. This Tribunal also at that time observed that the data verified by WREB Secretariat from NTPC records cannot

be considered by the Central Commission for allowing deemed generation without a certification by CEA. This Tribunal, in its judgment dated 7.1.2011 in Appeal No. 184 of 2009 filed against the Central Commission order dated 24.10.2002 while dismissing the appeal, clearly upheld the validity of the Central Commission's order dated 02.12.2002 observing that Central Commission could not direct CEA to certify the deemed generation and without the certificate of CEA, the data verified by WREB from NTPC records could not be considered by the Central Commission for allowing deemed generation.

21. We may further mention that the NTPC- respondent/petitioner filed Civil Appeal before the Hon'ble Supreme Court against this Tribunal's judgment dated 7.1.2011 and the Hon'ble Supreme Court vide its order dated 24.1.2013 has observed that it is brought to the notice of the Hon'ble Supreme Court by the learned Attorney General that necessary certification has been issued on 11.10.2012 by the CEA. The matter needs to be remanded back to the Central Commission for deciding the claim made by the NTPC on merits. It has also been mentioned in the Hon'ble Supreme Court's order that it has been brought to notice on behalf of the MPPMCL that said certification by CEA has been issued without the consent of MPPMCL, which will be at liberty to raise the issue before the Central Commission, if available in law.

22. What we may gather from the Hon'ble Supreme Court's order dated 24.1.2013 is that after submission of the necessary certification by CEA before the Hon'ble Supreme Court in the said Civil Appeal, the matter has been remanded back to the Central Commission only for deciding the claim of the NTPC on merits. If the said certification by CEA has been issued without the consent MPPMCL (which is appellant before us in this appeal), it will be at liberty to raise the issue before Central Commission only if available in law. It means that if the issue or question that the certificate by the CEA has been issued without the consent of MPPMCL and if that issue is available in law to be raised before the Central Commission, then only the MPPMCL will be at liberty to raise the issue and not otherwise.

23. The only question involved in this appeal before us is whether the Hon'ble Supreme Court's order dated 24.01.2013 in Civil Appeal No. 2423 of 2011, filed by the NTPC-respondent/petitioner before the Hon'ble Supreme Court has been applied in letter and spirit by the learned Central Commission while passing the impugned order dated 04.07.2013. we have to see whether the claim of the NTPC-respondent/petitioner has been decided by the impugned order on merits and if the aforementioned certificate regarding deemed generation by the CEA has been issued without the consent of the appellant, namely, MPPMCL who has been granted liberty to raise the issue before the Central Commission only if the same is available in law.

24. Shri Pradeep Misra, learned counsel for the appellant has made the following submissions:-

24.1. that incentive and dis-incentive, prior to the period of enforcement of ERC Act 1998, cannot be gone into by the Central Commission. The NTPC has claimed incentive due to lack of gas for the period from 1992 to 31.07.1996. The Central Commission could not grant or determine this claim of the NTPC as the claim was much prior to the constitution of the Central Commission. The Hon'ble Supreme Court in U.P.P.C.L. Vs. N.T.P.C. & Ors. (2009) (6) SCC 235 held that the claim, which was not raised when the tariff was in force, cannot be raised subsequently as the new consumers cannot be burdened with the liability of the earlier tariff period.

24.2. that the impugned Petition No. 78 of 2001 having been disposed of by the Central Commission to look/decide the claim of NTPC prior to 01.08.1996, cannot be gone into again because of the following reasons:-

- (i) that NTPC filed a Review Petition No. 137 of 2002 before CERC against the order dated 24.10.2002 and during the pendency of the Review Petition, NTPC produced letter dated 27.03.2003, from CEA wherein the loss of generation due to shortage/non-availability of gas was certified from 01.08.1996 to 31.03.1998 and on the basis of this letter of the CEA, the Central Commission, vide review order dated 04.04.2003, allowed the Review Petition only to reconsider liability of the NTPC to pay dis-incentive for the period from 01.08.1996 to 31.03.1998. Consequently, the original Petition No. 78 of 2001 was revived to the extent its review was allowed. The Central Commission, vide order dated 02.12.2003, allowed the claim of deemed generation of the NTPC for the period from 01.08.1996 to 31.03.1998 and the certificate issued by the CEA for the purpose of computation of dis-incentive for the period in question was accepted by the Central Commission in the review order, as there was no challenge by any of the parties to the quantum of 'deemed generation' certified by CEA.
- (ii) that after the disposal of Review Petition vide review order dated 04.04.2003 and subsequent disposal of the Petition No. 78 of 2001 vide Central Commission's order dated 02.12.2003, the FAO No. 36 of 2003 filed before the Hon'ble High Court has become infructuous because the Review Petition had already been allowed, hence appeal against the order under review filed by the appellant had become infructuous, as held by the Hon'ble Supreme Court

in the case of Kunhay Ahmed Vs. State of Kerala reported in 2000 (6) SCC 359.

- (iii) that the NTPC had neither challenged the review order dated 04.04.2003 nor the order dated 02.12.2003 by which the impugned Petition No. 78 of 2001, which was re-opened after allowing the Review Petition, was disposed of. Consequently, the review order dated 04.04.2003 and final order dated 02.12.2003 became final and conclusive between the parties, as thereafter nothing remained to be decided by the Central Commission.
- (iv) that the phrase “backing down as certified by Regional Electricity Board due to lack of system demand and other conditions not attributable to NTPC as certified by Central Electricity Authority” cannot amount that in case of less generation due to availability of fuel will come under this clause and thus the NTPC was not entitled to any benefit on this account.

24.3. that, as per Tariff Regulation dated 30.04.1994 in respect of Kawas GPS, there was no clause that the NTPC would be entitled for deemed generation due to non-availability of gas.

24.4. that, the terms and conditions of the tariff cannot be changed with retrospective effect even today by the Central Commission by amending the Regulations, hence the CEA also cannot take any decision with retrospective effect, affecting the right of the beneficiaries. The Central Commission or the CEA cannot amend the terms and conditions of the

tariff from retrospective effect and the benefit from 1992 could not be granted.

24.5. that this Appellate Tribunal in its judgment dated 07.01.2011, clearly recorded a finding that consent given by any constituent is not binding on the other constituent, namely, the appellant. In the absence of the consent of the appellant, the CEA ought not to have issued the letter dated 11.10.2012 and the same is not binding on the appellant or on the Central Commission. Thus, without the consent of the appellant, the Regional Electricity Board (now WRPC) had no right to certify the data and the CEA was also not competent to issue the certificate of deemed generation on the basis of such approval of data by the WRPC. Hence the said letter issued by CEA was not binding on the Central Commission.

24.6. that the letter dated 11.10.2012 of CEA is also against the principles of natural justice as the dissent of the appellant had not been taken note of in the said letter, though WRPC had sent dissent of the appellant to CEA. Making elaborate arguments on this submission, Mr. Misra has stated that the said matter was discussed in 61st meeting of Commercial Committee of Western Region Power Committee (WRPC). In the minutes of meeting which were issued vide letter dated 16.04.2012 and received by the appellant on 23.04.2012, it was mentioned that M.P. Tradeco had consented for the data placed at Annexure-9 verified by erstwhile WREB Secretariat on behalf of WREB. Immediately on receiving the said minutes, the appellant lodged its protest vide letter dated 25.04.2012 and thereafter reminder was sent on 14.05.2012. The next meeting, namely, 62nd meeting of the Commercial Committee of WRPC was held on 08.02.2012 wherein the representative of the appellant clearly stated that the appellant did not agree for certification of

data by CEA and lodged its protest. In the minutes of 62nd meeting of Commercial Committee, issued on 22.10.2012, it was mentioned that the letter dated 14.05.2012 sent by the appellant had been communicated to CEA vide letter dated 21.06.2012. In spite of the protest of the appellant through its letter dated 25.04.2012 and remainder dated 14.5.2012 having been communicated to CEA vide letter dated 21.06.2012, the CEA sent letter /certificate dated 11.10.2012 to the NTPC regarding certification for deemed generation from April, 1993 to July, 1996. The perusal of the letter/certificate of the CEA dated 11.10.2012 would reveal that neither the dissent of the appellant was considered therein nor even a copy of the certificate /letter dated 11.10.2012 was endorsed to the appellant which is clear violation of the principles of natural justice and the said letter cannot be relied upon by the NTPC.

24.7. Lastly, that there is no deemed generation in respect of Kawas and Gandhar GPS prior to August, 1996 and on merits also the petition, being Petition No. 78 of 2001, is liable to be rejected.

25. **Per contra** Shri M.G. Ramachandran, who appeared for NTPC-respondent no.2/petitioner has taken the following pleas:-

25.1. that the Central Commission, after its constitution under Electricity Regulatory Commissions Act, 1998 has jurisdiction to decide all matters between the appellant and NTPC irrespective of the period involved, as the making of a tariff is continuous process and it can be amended or altered by the Central Commission in case of need.

25.2. that the doctrine of merger does not apply to the facts of the present case in the light of the order dated 02.12.2003 passed by this Appellate Tribunal in Appeal No. 88 of 2013.

25.3. that the non-availability of fuel is beyond the control of the generator and the same has been recognized as ground for deemed generation.

25.4. that the scope of the proceedings before the Central Commission was confined to the ambit of the remand order dated 24.1.2013 passed by the Hon'ble Supreme Court in the aforesaid Civil Appeal.

25.5. that the certification by CEA was pursuant to the decision at the 62nd meeting of Western Regional Power Committed and the same has been done in accordance with law and as stipulated by the Tariff Notification issued by the Government of India. It is not open to the appellant to contend that it had not consented to the certification by the CEA.

25.6. that it is extraneous on the part of the appellant to contend that the Central Commission has not dealt with the objections raised by the appellant because objections of the appellant have been dealt with in paragraphs 12 and 13 of the impugned order of the Central Commission.

25.7. that it is the well settled principle of law that the Court, to which the case is remanded, has to comply with the remand order. Hence, the Central Commission was bound by the remand order of the Hon'ble Supreme Court to act within the scope of the remand order. It was not open to the Central Commission to do anything except to carry out the terms of remand order in letter and spirit. It is also well settled that the Court, to which the case is remanded, has to comply with the order of the remand and acting contrary to the order of remand is contrary to law as

held in the case of **Ramabai V. Harbilas, AIR 1997 M.P. 90**. Thus, it was not open to the Central Commission to go into the extraneous issues apart from the scope of the remand order.

25.8. that the notification dated 30.04.1994 (Kawas) and 28.4.1997 (Gandhar) issued by the Government of India specifically provided for deemed generation to be considered if the generation is not there, due to the reasons not attributable to NTPC, as certified by the Central Electricity Authority (CEA). In these Tariff Regulations, there is no requirement for taking consent of the appellant or other beneficiaries for such deemed generation.

25.9. that in the earlier proceedings, the CEA did not certify the deemed generation but during the pendency of the proceedings of appeal before the Hon'ble Supreme Court, such certification by the CEA was done. The Central Commission was, therefore, bound to consider the certification as per the Tariff Notifications. Accordingly, there is absolutely no case on merit of the appellant and the appellant is raising hyper-technical pleas without any merit in the appeal.

25.10. that in the present case, the NTPC-respondent/petitioner had duly pursued the remedy before the Central Commission, Hon'ble High Court, this Appellate Tribunal and the Hon'ble Supreme Court right from the beginning. The impugned order has been passed, in pursuance of the directions given by the Hon'ble Supreme Court vide letter dated 24.1.2013 in Civil Appeal No. 2423 of 2011. Accordingly, there is no infirmity in the order passed by the Central Commission deciding the matter relating to deemed generation for the period from April, 1993 to 31.07.1996.

25.11. that in UPPCL V. NTPC Limited (2009) 6 SCC 235 (cited by the appellant), it has been reiterated that it is open for the Central Commission to make an amendment or an alteration to the tariff, if any, occasion arises therefor because making of tariff is a continuous process. The said power can be exercised not only on an application filed by the generating companies but by the Commission also on its own motion.

25.12. that the tariff determination involves some period of time and thus there is gap from the effective date of tariff and the date of implementation of the revised tariff. Further, the tariff is bound to be revised from time to time having an impact on the recovery of money relating to past period. Such revision can be on account of subsequent developments including truing up of financials, implementation of Court orders and host of other aspects. Hence, there is no merit in the contention of the appellant as regards the retrospective revision of tariff.

26. **Regarding the doctrine of merger**, the following contentions have been raised on behalf of NTPC-respondent no.2/petitioner:-

26.1. that the objections sought to be raised by the appellant before the Central Commission on the maintainability of the FAO No. 36 of 2003 filed before the Hon'ble Delhi High Court which was subsequently transferred to this Appellate Tribunal and registered as Appeal No. 184 of 2009 is clearly an afterthought. The appellant did not raise any such objection in the proceedings when the proceedings were pending before the Delhi High Court in FAO No. 36 of 2003. The appellant also did not raise any such objection in the proceedings in Appeal No. 184 of 2009 when the same was pending before this Appellate Tribunal. The

appellant did not even raise any such objection in the proceedings before the Hon'ble Supreme Court in Civil Appeal No. 2423 of 2011.

26.2. that the Central Commission has passed the impugned order in pursuance of the remand of the matter by the directions of the Hon'ble Supreme court. In terms of the same, it is not open to the appellant to raise the issue on the maintainability of FAO No. 36 of 2003 before the Hon'ble High Court in the appeal under Section 16 of the Electricity Regulations Act, 1998 at this belated stage, namely, after 10 years when the said FAO No. 36 of 2003, Appeal No. 184 of 2009 and Civil Appeal No. 2423 of 2011 have all been decided.

26.3. that without prejudice to the above, the principle of merger laid down by the Hon'ble Supreme Court in **Kunhey Ahmed Vs. State of Kerala (2000) 6 SCC 539** has no application to the facts of the present case in regard to the order dated 24.10.2002, passed by the Central Commission in Petition No. 78 of 2001. The FAO No. 36 of 2003 filed against the said order was admitted and pending for decision before the Hon'ble High court when the Central Commission decided the Review Petition No. 136 of 2002. The scope of FAO 36 of 2003 in the appeal then pending was not in any manner affected by virtue of the review order dated 4.4.2003 of the Central Commission.

26.4. that by the Review Order dated 04.04.2003, the Central Commission disposed of the matter relating to incentive/dis-incentive for the period 1.8.1996 to 31.3.1998 holding that the dis-incentive will not be given effect to. The Central Commission did not pass any order in regard to the period from 1.4.1992 to 31.7.1996. In the circumstances

mentioned above, there was no merger of the order dated 24.10.2002 in the review order dated 4.4.2003.

26.5. that in terms of ruling cited in the judgment dated 02.12.2013 in Appeal 88 of 2013, since the Central Commission did not pass any order in regard to the period from 1.4.1992 to 31.7.1996 in its review order dated 4.4.2003, therefore, appeal would lie against the impugned order dated 24.10.2002 and the question of merger would not arise.

27. Regarding non-availability of fuel and certification of deemed generation, Mr. Ramachandran, learned counsel on behalf of respondentno.2-NTPC/petitioner regarding **non-availability of fuel and certification of deemed generation** has advanced the following arguments.

27.1. that the certification by the CEA vide communication dated 11.10.2012 was pursuant to the decision at 62nd meeting of the Commercial Committee of the Western Regional Power Committee. Accordingly, the certification has been done in accordance with law and as envisaged by the Tariff Notifications issued by the Government of India. It is not open to the appellant to plead that it had not consented to the certification and, therefore, the certification should not be given effect to. In this regard, the Tariff Notifications required the CEA to decide on the certification. As held by this Appellate Tribunal in its decision dated 7.1.2011 in Appeal No. 184 of 2009, it was the administrative decision of the CEA to deal with the consent or non-consent to certification by the appellant. Thus, notwithstanding any earlier procedure for certification

with the consent of all beneficiaries, it was open to the CEA to consider such certification based on duly verified data.

27.2. that it is erroneous on the part of the appellant to contend that the terms and conditions of the tariff notifications of the Government of India were modified with retrospective effect. The CEA and the Central Commission have only implemented the terms of the Tariff Notifications which provide for deemed generation to be available to NTPC for the loss of generation due to non-availability of gas.

27.3. that the data for loss of generation was consented to by the constituents wherein the appellant was also a party in the 20th meeting of the Western Regional Power Committee and that the CEA had certified the said figures only after the consent given by the Western Regional Power Committee.

27.4. that in terms of the above, the absence of consent by the appellant cannot take away the functions of the CEA and in any event, the appellant had acted in an arbitrary manner in refusing to consent even after proper verification of the data.

28. We have deeply considered the submissions advanced by both sides and collated the same with the material and evidence available on record. We have carefully and cautiously examined the reasonings/ findings recorded in the impugned order dated 04.07.2013 passed by the Central Commission. To ensure whether the learned Central Commission, after remand of the matter back to it by the Hon'ble Supreme Court's order dated 24.1.2013 has been complied in toto and without any failure on any aspect of the dispute.

29. Mr. Pradeep Misra, learned counsel for the appellant has vehemently contended that the incentive and dis-incentive prior to the period of enforcement of the Electricity Regulatory Commission Act, 1998, cannot be gone into by the Central Commission. Since the NTPC has claimed incentive due to lack of gas for the aforesaid period, the Central Commission could not grant or determine this claim as the claim was prior to the constitution of the Central Commission. We are unable to accept this contention of Mr. Misra because the same was not raised before the Hon'ble Supreme Court and on this term the matter was not remanded by the Hon'ble Supreme Court to the Central Commission.

30. The next contention of Mr. Misra, learned counsel appearing for the appellant is that the Central Commission could not go into the claim of NTPC prior to 1.8.1996 again. This contention is also not acceptable to us because the same was not raised before the Hon'ble Supreme Court and the matter was not remanded to backed to the Central Commission on this point.

31. The next contention of Mr. Pradeep Misra, learned counsel appearing for the appellant is that since the Review Petition had been allowed by the Central Commission vide review order dated 4.4.2003 against the impugned order of the Central Commission dated 24.10.2002, hence the appeal filed by NTPC against the same impugned order dated 24.10.2002 being FAO No. 36 of 2003 pending before the High Court had become infructuous as the appeal could not be entertained after the Review Petition has been allowed against the same impugned order. We are again unable to accept this contention of Mr. Misra because the same was not raised before the Hon'ble Supreme

Court when the matter was remanded to the Central Commission and the remand was not made on this point. We may mention here that this contention was not raised before the Hon'ble Supreme Court when the Civil Appeal was pending there and the Hon'ble Supreme Court passed the order dated 24.01.2013 in the Civil Appeal.

32. One more contention of Mr. Misra, learned counsel for the appellant is that the terms and conditions of tariff cannot be changed with retrospective effect by the Central Commission or the CEA. We again reject this contention of Mr. Misra because it is always open to the Central Commission or any State Commission to make an amendment or an alteration to the tariff if any occasion arises therefor because making of tariff is a continuous process and this power can be suo-motu exercised by the Commission on its own motion also. Since the tariff determination involves some period of time and thus there is some gap from the effective date of tariff and the date of implementation of the revised tariff. The tariff is bound to be revised from time to time having an impact on the recovery of money relating to past period and such revision of tariff can be on account of subsequent developments including truing up and implementation of Court order like the present one. We find that the Central Commission has not changed the terms and conditions of the tariff with retrospective effect but it has simply given effect to the order dated 24.1.2013 passed by the Hon'ble Supreme Court in Appeal No. 2423 of 2011.

33. The last contention of Mr. Pradeep Misra, learned counsel for the appellant is that in the absence of the consent of the appellant, who was a party to the proceedings/Civil Appeal before the Hon'ble Supreme Court, the Central Electricity Authority could not have issued the certification

letter dated 11.10.2012 and the same is not binding on the appellant or the Central Commission without the consent of the appellant, the Regional Electricity Board (now Western Region Power Committee), had no right to certify the data and the CEA was not competent to issue the said certificate of deemed generation merely on the basis of such approval of data by WRPC, particularly when the protest of the appellant had been communicated by WRPC to the CEA. The appellant was granted liberty to raise this point before the Central Commission by the Hon'ble Supreme Court if the same is available in law. The Central Commission, after considering the question in detail and citing the reasons passed the impugned order. We are not inclined to accept this contention of the appellant because the certification by CEA was pursuant to the 62nd meeting of the WRPC and the certification has been done in accordance with law and also as stipulated by the Tariff Notification issued by the Government of India and now it is not open to the appellant that it had not consent to the certification by the CEA. The Notifications dated 30.04.1994 (Kawas), dated 28.04.1997 (Gandhar), issued by the Government of India, specifically provided for deemed generation to be considered if the generation could not take place due to the reasons not attributable to the NTPC, as certified by the Central Electricity Authority. In these Tariff Regulations and the Notifications issued by the Government of India, there is no requirement for taking consent of the appellant or any other beneficiaries for certification of deemed generation by the CEA. Since the certification by the CEA was submitted before the Hon'ble Supreme Court during presence of learned counsel for both the parties and the same was pointed out by the learned Attorney General at that time when the matter was remanded back by the Hon'ble Supreme Court to the Central Commission for deciding this claim of the NTPC on merits as certification for such deemed generation has been done by CEA

during pendency of the Civil Appeal before the Hon'ble Supreme Court. The Central Commission was, therefore, bound to consider the certification as per the Tariff Notifications.

34. In view of the above discussions, we find that the learned Central Commission has passed the impugned order in complete obedience to the order of the Hon'ble Supreme Court dated 24.1.2013 passed in Civil Appeal No. 2423 of 2011 and the Hon'ble Supreme Court's order has been fully complied in letter and spirit by the learned Central Commission while passing the impugned order. We agree to all the findings/reasonings recorded by the Central Commission in the impugned order. Consequently, we do not find any merit or substance in the contentions raised on behalf of the appellant. Consequently, the instant appeal fails and is liable to be dismissed.

SUMMARY OF FINDINGS

35. We observe that the learned Central Commission while passing the impugned order dated 4.7.2013 in Petition No. 78 of 2001 has fully complied with the order dated 24.1.2013 passed by the Hon'ble Supreme Court in Civil Appeal No. 2423 of 2011 filed by NTPC – respondent/petitioner in letter and spirit and the learned Central Commission has fully complied with the remand order passed by the Hon'ble Supreme Court.

36. The Central Electricity Authority is authorized to take administrative decisions like certification of deemed generation after verification of data by the Western Regional Power Committee. The Notifications dated 30.04.1994 (Kawas), 28.04.1997 (Gandhar) issued by the Government of

India, specifically provide for deemed generation to be considered if the generation is not there due to the reasons not attributable to NTPC, as certified by the Central Electricity Authority (CEA). The consent of any beneficiary or all the beneficiaries for such deemed generation like the appellant before us is not mandatory for certification by the Central Electricity Authority. The Tariff Regulations, in this regard do not require any mandatory consent of any other beneficiaries for certification of deemed generation by the CEA. The certificate for deemed generation has properly and legally been issued by the CEA in the instant matter. Consequently, the appeal fails as it has no merits. The impugned order dated 04.07.2013 is hereby affirmed. No order as to costs.

Pronounced in open Court on this 1st day of July, 2014.

**(Justice Surendra Kumar)
Judicial Member**

**(Rakesh Nath)
Technical Member**

√ **REPORTABLE/NON-REPORTABLE**
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