

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

I.A. No. 191 of 2014 in Appeal No. 99 of 2014
&
I.A. No. 198 of 2014 in Appeal No. 104 of 2014

Dated: 30th May, 2014

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member**

I.A. No. 191 of 2014 in Appeal No. 99 of 2014

In the matter of:

**Haryana Power Purchase Centre,
Room No. 239, Shakti Bhawan, Sector-6,
Panchkula-134 109,
(Representing Uttar Haryana Bijli Vitran Nigam Ltd.
and Dakshin Haryana Bijli Vitaran Niram Limited,
The Distribution licenseeApplicant/Appellant**

Vs.

- 1. Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36, Janpath,
NEW DELHI-110 001**
- 2. Sasan Power Limited,
3rd Floor, Reliance, Energy Centre,
Santa Cruise East, Mumbai-400 055.**
- 3. M.P. Power Management Company Limited.
Shakti Bhawan, Jabalpur-462 008,
Madhya Pradesh.**
- 4. Paschmianchal Vidyut Vitran Nigam Limited,
Victoria Park, Meerut-25000, Uttar Pradesh.**

5. **Purvanchal Vidyut Vitran Nigam Limited,
Hydel Colony, Bhikaripur,
Post-DLW, Varanasi-221 004,
Uttar Pradesh.**
6. **Madhya Vidyut Vitran Nigam Limited,
4-A, Gokhale Marg, Lucknow-226 00,
Uttar Pradesh**
7. **Dakshinancial Vidyut Vitran Nigam Limited,
220 kV Vidyut sub-station,
Mathura Agra By-Pass Road,
Sikandra, Agra-282 007,
Uttar Pradesh.**
8. **Ajmer Vidyut Vitran Nigam Ltd.,
Hathi Bhata, City Power House,
Ajmer-305 001, Rajasthan**
9. **Jaipur Vidyut Vitran Nigam Ltd.,
Vidyut Bhawan, Jaipur-302 005,
Rajasthan**
10. **Jodhpur Vidyut Vitran Nigam Ltd.,
New Power House, Industrial Area,
Jodhpur-342 003,
Rajasthan.**
11. **Tata Power Delhi Distribution Limited,
Grid sub-station Building, Hudson Lines,
Kingsway Camp. New Delhi-110 009.**
12. **BSES Rajdhani Power Limited,
BSES Bhawan,
Nehru Place,
New Delhi-110 019**
13. **BSES Yamuna Power Limited,
Shakti Kiran Building,
Karkardooma,
Delhi-110 096.**

14. **Punjab State Power Corporation Limited,
The Mall, Patiala-147 001,
Punjab.**

15. **Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun-248 001.**

.... Respondents

**Counsel for the Applicants/
Appellant (s):**

**Mr. M.G. Ramachandran
Ms. Poorva Sahegal
Ms. Anushree Bardhan**

Counsel for the Respondent(s):

**Mr. J.J. Bhatt, Sr. Adv.
Mr. Vishrov Mukherjee for R.2
Mr. Prinay Deep Shah for R.11
Mr. G. Umapathy for R.3
Ms. Swapna Seshadri for R.14
Mr. Rahul Dhawan for R.12 & 13
Mr. Saurabh Mishra for R.1**

I.A. No. 198 of 2014 in Appeal No. 104 of 2014

In the matter of:

1. **Ajmer Vidyut Vitran Nigam Ltd.,
Hathi Bhata, City Power House,
Ajmer-305 001, Rajasthan**
2. **Jaipur Vidyut Vitran Nigam Ltd.,
Vidyut Bhawan, Jaipur-302 005,
Rajasthan**
3. **Jodhpur Vidyut Vitran Nigam Ltd.,
New Power House, Industrial Area,
Jodhpur-342 003,
Rajasthan.**

....Applicants/Appellants

Vs.

1. **Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36, Janpath,
NEW DELHI-110 001**

2. **Sasan Power Limited,
3rd Floor, Reliance, Energy Centre,
Santa Cruise East, Mumbai-400 055.**
3. **M.P. Power Management Company Limited.
Shakti Bhawan, Jabalpur-462 008,
Madhya Pradesh.**
4. **Paschmianchal Vidyut Vitran Nigam Limited,
Victoria Park, Meerut-25000, Uttar Pradesh.**
5. **Purvanchal Vidyut Vitran Nigam Limited,
Hydel Colony, Bhikaripur,
Post-DLW, Varanasi-221 004,
Uttar Pradesh.**
6. **Madhya Vidyut Vitran Nigam Limited,
4-A, Gokhale Marg, Lucknow-226 00,
Uttar Pradesh**
7. **Dakshinancial Vidyut Vitran Nigam Limited,
220 kV Vidyut sub-station,
Mathura Agra By-Pass Road,
Sikandra, Agra-282 007,
Uttar Pradesh.**
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**11. Punjab State Power Corporation Limited,
The Mall, Patiala-147 001,
Punjab.**

**12. Haryana Power Purchase Centre,
Room No. 239, Shakti Bhawan, Sector-6,
Panchkula – 134 109**

**13. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
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Mr. Rahul Dhawan for R.12 & 13
Mr. Saurabh Mishra for R.1**

ORDER

Rakesh Nath, Technical Member

These IAs have been filed for staying the operation of the impugned order of the Central Commission dated 21.02.2014 and for restraining the Central Commission from proceeding further in the matter regarding compensation to Sasan Power Limited, a

generating company on account of unforeseen depreciation of the Indian Rupee.

2. The tariff of Sasan Project is based on Tariff Based Competitive Bidding process which was undertaken under Section 63 of the Electricity Act, 2003. Sasan Power Limited has claimed compensation in tariff as a result of unforeseen depreciation of Indian Rupee. The Central Commission by the impugned order dated 21.02.2014 has held that there may be a case for the procurers of power from Sasan Power Limited to share a part of the burden as compensation on account of depreciation in the Indian Rupee in order to make the project viable and therefore, it considers necessary to examine all the issues before taking a final view and to give a direction with regard to exercise of its power under Section 79(1)(b) of the Act in the interest of the

project developer as well as the consumers of the procurer States. The Central Commission has also directed Sasan Power Limited to submit some information on affidavit with copy to the procurers and has listed the matter for further hearing.

3. It is the case of the Applicants/Appellants that the Central Commission cannot exercise its regulatory powers in the matter as the tariff has been decided on the basis of Tariff Based Competitive Bidding under Section 63 of the Act.

4. On the other hand, the contention of the Sasan Power Limited, Respondent no. 2 is that the Central Commission has not passed any orders on the merits of the dispute and the issue whether the Central Commission is to exercise its powers under Section 79(1)(b) of the Electricity Act, 2003 and grant

compensation to them is still sub-judice before it. They further submitted that on 6th May, 2014 the Central Commission has taken the submissions of the parties on record and reserved judgment in the matter and the stay of the proceedings before the Central Commission at this stage will gravely prejudice the matter since the judgment on merits will be delayed.

5. We have heard Shri M.G. Ramachandran, learned counsel for the Applicants/Appellants and Shri J.J. Bhatt, Sr. Adv. representing Respondent no. 2.

6. After careful examination of the matter, we are not inclined to restrain the Central Commission from proceeding further with the matter. However, the implementation of the order of the Central Commission in the matter will be subject to the

outcome of the Appeal Nos. 99 of 2014 and 104 of 2014.

7. With these directions, the above IAs are disposed of.

8. Post the main Appeals for hearing on **25.07.2014.** In the meantime, the pleadings be completed.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

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REPORTABLE/~~NON-REPORTABLE~~

vs