

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

APPEAL NO.307 OF 2013

Dated : 14th July, 2016

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. T. Munikrishnaiah, Technical Member.**

In the matter of:-

**M/S. MAITHON POWER LIMITED,)
Jeevan Bharti, 10th Floor, Tower I,)
124, Connaught Circus, New Delhi –)
110 001.) ... **Appellant****

AND

1. **DELHI ELECTRICITY)
REGULATORY COMMISSION,)
Viniyamak Bhawan, "C" Block,)
Shivalik, Malviya Nagar, New)
Delhi – 110 017.)**
2. **TATA POWER DELHI)
DISTRIBUTION LTD.)
Through its Chief Executive)
Officer,)
Grid Sub-station Building,)
Hudson Lines, Kingsway Camp)
Delhi-110019.)**
3. **TATA POWER TRADING)
COMPANY LIMITED,)
Mahalaxmi Receiving Station,)
Senapati Bapat Marg, Lower)
Parel, Mumbai – 400 013.) ... **Respondents****

Counsel for the Appellant(s) : Mr. Sakya Singha Chaudhary
Mr. Avijeet Lala
Mr. Mazag Andrabi

Counsel for the Respondent(s) : Mr. Nikhil Nayyar
Mr. Dhananjay for **R-1**

Mr. Dushyant Manocha
Mr. Paresh Bihar Lal
Mr. Ajit Warriier
Mr. Manish Srivastava
Mr. K. Datta
Mr. Bhaskar Subramanian
Mr. Divij Kumar
Ms. Nayatana
Mr. Saurabh Gupta
Mr. Arav Kapoor
Ms. Shreya Munoth for **R-2**

JUDGMENT

PER HON'BLE (SMT.) JUSTICE RANJANA P. DESAI – CHAIRPERSON:

1. The Appellant has challenged Order dated 17/09/2013 passed by the Delhi Electricity Regulatory Commission (“**the State Commission**”) in Petition No.01 of 2012 filed by the Appellant.

2. In the impugned order, the State Commission has referred to Petition No.10 of 2012 filed by the Appellant against M/s. BSES Rajdhani Power Ltd. (“**BRPL**”) wherein the same issue regarding maintainability of the petition before the State Commission which was raised in Petition No.01 of 2012 was

raised. The State Commission has observed that by order passed in Petition No.10 of 2012 it has held that the Central Commission is without doubt the final obiter in case of generating station with a composite scheme. The State Commission has further observed that it does not propose to reproduce its full order in Petition No.10 of 2012 since the facts in both the petitions are substantially the same and the reliefs sought by the petitioners in both the cases are also substantially the same. The State Commission has therefore on the same reasoning which it has recorded in its order dated 10/9/2013 passed in Petition No.10 of 2012 directed the Appellant who is the petitioner therein to approach the Central Commission.

3. We have by a reasoned order dismissed Appeal No.306 of 2013 filed by the Appellant against Order dated 10/09/2013 passed by the State Commission in Petition No.10 of 2012. We have thus confirmed the State Commission's order in the said petition. Since admittedly issue of maintainability which goes to the root of the matter is involved in Petition No.10 of 2012 and Petition No.1 of 2012 out of which the present appeal arises and since facts and reliefs sought by the Appellant in both the

petitions are substantially the same we confirm the impugned order and dismiss the appeal in terms of our order in Appeal No.306 of 2013. Needless to say that if the Appellant approaches the Central Commission, it shall deal with it in light of observations made by us in order passed in Appeal No.306 of 2013.

4. Pronounced in the Open Court on this **14th day of July, 2016.**

T. Munikrishnaiah
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]

√REPORTABLE/NON-REPORTABLE