

**COURT-II**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
**(APPELLATE JURISDICTION)**

**ORDER IN APPEAL NO. 233 OF 2018**  
**ON THE FILE OF THE**  
**APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**Dated: 29<sup>th</sup> January, 2019**

**Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member**  
**Hon'ble Mr. Ravindra Kumar Verma, Technical Member**

**In the matter of:**

**M/s Greenko Budhil Hydro Power Pvt. Ltd.**

Registered Office :

Plot No. 1367, Road No. 45, Jubilee Hills,  
Madhapur,

Hyderabad – 500033

And also at:

11<sup>th</sup> Floor, Building No. 9B, DLF Cyber City,  
Phase-III, Gurgaon – 122 002

..... Appellant

***VERSUS***

**1. Central Electricity Regulatory Commission**

Through it's Secretary

3<sup>rd</sup> and 4<sup>th</sup> Floor, Chanderlok Building,

36, Janpath,

New Delhi-110 001

**2. Power Grid Corporation of India Ltd.**

Through it's General Manager (Commercial),

B-9, Qutab Institutional Area,

Katwaria Sarai,

New Delhi-110 016

..... Respondents

Counsel for the Appellant (s) : Mr. S. Venkatesh  
Mr. Samarth  
Mr. Nishtha Kumar  
Mr. Sandeep Rajpurohit  
Mr. Somesh Shrivstava

Counsel for the Respondent(s): Ms. Suparna Srivastava  
Ms. Sanjna Dua for R-2

**The Appellant has presented the instant Appeal seeking the following reliefs::**

- a. That this Hon'ble Tribunal may be pleased to allow the present Appeal and set aside the Impugned Order dated 28.03.2018 in terms of the grounds raised in Para 9 above;
- b. Set aside the Impugned Letter dated 14.11.2017 issued by PGCIL;
- c. For such further or other relief as circumstances and nature of the case may require

**The Appellant has presented this Appeal for considering the following Questions of Law:**

- (I) Whether the Ld. Central Commission while passing the Impugned Order has failed to appreciate that HSPPL is an existing company incorporated under the Companies Act, 1956 and therefore there cannot be a successor to an existing company incorporated as it is in perpetual succession?
- (II) Whether the Ld. Central Commission has failed to appreciate that the Appellant is neither the successor of HSPPL nor in any manner related or associated to HSPPL and therefore, legally

the Appellant in no manner can be made responsible for the liability and obligations of HSPPL?

- (III) Whether the Ld. Central Commission failed to appreciate that the Appellant Company and HSPPL are two separate entities and that in terms of Section 9 of the Companies Act, 2013 such entities cannot be held responsible for each other as there is no commonality of shareholders?
- (IV) Whether Ld. Central Commission has failed to appreciate that the Appellant Company was not even a party to the proceedings before the Ld. Central Commission in Petition No. 32/MP/2017 and hence in no manner can be held accountable for the outcome of such proceedings?
- (V) Whether the Ld. Central Commission had failed to exercise its statutory functions embodied under Section 79(1) (f) of the Act?
- (VI) Whether the Ld. Central Commission had intentionally abdicated from its statutory functions?
- (VII) Whether the Ld. Central Commission while passing the Impugned Order has failed to appreciate that the onus of proving that the Appellant has taken over HSPPL lies with PGCIL and not the Appellant?
- (VIII) Whether the Ld. Central Commission while passing the Impugned Order has failed to appreciate determination of rights and obligation of a party seeking legal remedy has to be

necessarily done by a competent judicial or legislative authority?

## **ORDER**

### **PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER**

1. In the instant Appeal, the Appellant is questioning the legality, validity and propriety of the Order dated 28.03.2018 passed by the Central Electricity Regulatory Commission, New Delhi in Petition No. 252/MP/2017 in the case of Greenko Budhil Hydro Power Private Limited v Power Grid Corporation of India Limited.

2. The leaned counsel, Mr. S. Venkatesh, appearing for the Appellant submitted that, the Appellant is not the successor and neither has any relation whatsoever with Himachal Sorang Power Pvt Ltd (in short, "HSPPL"). Thus, the impugned Demand Notice dated 14.11.2017, issued by the second Respondent/Power Grid Corporation of India Ltd. (in short, "PGCIL") cannot be sustainable in the eyes of law. Therefore, he submitted that, the second Respondent/PGCIL may be directed to withdraw the impugned Demand Notice dated 14.11.2017 immediately.

3. Further, he submitted that, the observations made in the impugned Order dated 28.03.2018 by the Central Electricity Regulatory

Commission/first Respondent may be expunged in the interest of justice and equity.

4. ***Per-contra***, the learned counsel, Ms. Suparna Srivastava, appearing for the second Respondent/PGCIL, *inter-alia* contended and on instructions, submitted that, in the light of the submissions of the counsel for the Appellant, the second Respondent will withdraw the Demand Notice dated 14.11.2017 issued by the second Respondent/PGCIL immediately. Therefore, she submitted that, the instant appeal filed by the Appellant may be disposed of.

5. Submissions of the learned counsel appearing for the Appellant and the second Respondents, as stated supra, are placed on record.

6. The first Respondent, though served, is unrepresented.

7. In the light of the submissions made by the learned counsel for the Appellant and the second Respondent/PGCIL, the instant appeal, being No. 233 of 2018, on the file of the Appellate Tribunal for Electricity, New Delhi stands disposed of with the direction to the second Respondent/PGCIL to withdraw the impugned Demand Notice dated 14.11.2017 immediately.

8. Further, it is needless to clarify that the observations made in the Order dated 28.03.2018, passed by the first Respondent/CERC in Petition No. 252/MP/2017 is expunged in view of the fair submissions made by the learned counsel for the second Respondent/PGCIL, as stated supra.

9. With these observations the Order dated 28.03.2018, passed by the first Respondent/CERC in Petition No. 252/MP/2017 is hereby modified and stands disposed of.

Order accordingly.

**(Ravindra Kumar Verma)**  
**Technical Member**

*vt/kt*

**(Justice N.K. Patil)**  
**Judicial Member**