# Appellate Tribunal for Electricity
## (Appellate Jurisdiction)

## Appeal No. 118 of 2011

**Dated: 18th April, 2012**

**Present: HON'BLE MR. JUSTICE P S DATTA, JUDICIAL MEMBER**
**HON'BLE MR. V J TALWAR, TECHNICAL MEMBER,**

Uttar Haryana Bijli Vitran Nigam Limited
Vidhyut Sadan, Plot No C 16
Sector 6, Panchkula, Haryana

Dakshin Haryana Bijli Vitran Nigam Limited
Vidhyut Sadan, Vidhyut Nagar
Hissar ...Appellants

Versus

Haryana Electricity Regulatory Commission
Bays 33-36, Sector 4
Punchkula-134112
Haryana

Haryana Power Generation Corporation.
Urja Bhawan, C-7 Sector 6
Panchkula -134112
Haryana …Respondents

Counsel for the Appellant : Mr Amit Kappor

Counsel for the Respondent : Ms Shikha Ohri For R-1
Mr Pradeep Dahiya For R-2

## JUDGMENT

## PER MR. V J TALWAR TECHNICAL MEMBER

1 Appellants are distribution licensees in the state of Haryana. The Haryana Electricity Regulatory Commission (Commission) is the 1st Respondent herein. Haryana Power Generation Company Limited is the 2nd Respondent.

**2** The Commission has passed an order dated 31.3.2011 in pursuance of directions issued to the Commission by this Tribunal in its judgment dated 31.7.2009 in Appeal No. 42 of 2008 and judgment dated 26.4.2010 in Appeal Nos. 72 of 2009 & 141 of 2009. Aggrieved by this order of the Commission, the Appellant has filed this Appeal.

**3** Brief Facts of the case are as under:

a. On 8.5.2007 the Commission had issued Tariff orders determining the generation tariff and for the bulk supply business of the Appellant for the FY 2007-08. Aggrieved by these orders of the Commission the Appellant filed review petition before the Commission. The Commission disposed of the review petition by an order dated 26.9.2007 accepting few of the contentions of the Appellant and rejecting the rest of the Contentions.

b. Aggrieved by the orders of the Commission dated 8.5.2007 and 26.9.2007 the Appellant filed Appeal No. 42 of 2008 against the generation tariff orders before this Tribunal.

c. While the Appeal No. 42 was pending before the Tribunal, the Commission issued Tariff order on 21.4.2008 fixing the

generation tariff for FY 2008-09. The Appellant filed review petition against the order dated 21.4.2008, which was dismissed by the Commission vide order dated 19.11.2008.

d. Aggrieved by the orders of the Commission dated 21.4.2008 and 19.11.2008 the Appellant filed Appeal No. 72 of 2009 before this Tribunal.

e. On 18.5.2009 the Commission passed tariff order fixing the generation tariff for the FY 2009-10. Aggrieved by this order of the Commission dated 18.5.2009, the Appellant filed Appeal No. 141 of 2009 before this Tribunal.

f. The Tribunal decided the Appeal No 42 of 2008 on 31.7.2009 directing the Commission, inter alia, to carry out a station-wise study to determine the Station Heat Rate of the power plants of the Appellant and to re-determine the Station Heat Rate based on the results of such study.

g. The Tribunal decided the Appeal Nos 72 of 2009 and 141 of 2009 vide judgment dated 26.4.2010 and in respect of the issue of Station Heat Rate it reiterated the directions given to the Commission in Appeal No. 42 of 2008.

h. In accordance with the directions of this Tribunal the Appellant got conducted the Energy Audit of its Panipat TPS (all units except unit no. 1 which was under R&M) and Unit No. 3 Faridabad TPS from Evonik Energy Services India Pvt. Ltd. The report of energy audit was submitted in March – April 2010. The energy audit for Unit No. 1 & 2 Faridabad TPS could not be conducted as those units had been phased out by that time.

i. The energy audit of Unit No. 1 at Panipat TPS could not be done along with other units. The same has now been done and as per the energy audit results for this unit, the Station Heat Rate has been tested at 2973.24 K.cal/kwh after its R&M.

j. The Appellant submitted revised data for determination of Tariff for FY 2008-09 and 2009-10 to the Commission on 6.9.2010 for the implementation of directions given in Tribunal's Judgment dated 26.4.2010 in respect of Appellant's Appeal Nos. 72 & 141 of 2009.

k. On 16.9.2010 the Appellant submitted the revised tariff sheet for the FY 2007-08 on the basis of the Energy Audit Reports for the implementation of the Tribunal Judgment dated 31.7.2009 in respect of Appellant's Appeal Nos. 42 & 43 of 2008.

l. The Commission passed a common order implementing the directions of this Tribunal given in Appeal No. 42 of 2008, Appeal No. 72 & 141 of 2009.

m. Aggrieved by this implementation order of the Commission dated 31.3.2011, the Appellant has filed this Appeal.

4 Before we deal with the issues raised in this Appeal, it would be desirable to address important two issues that came up during the proceedings. These issues are:

i). Maintainability of the appeal raised by 2nd Respondent Generating Company

ii). impugned order being violative of Section 64 and 86 of the 2003 Act as alleged by the Appellant

5 We will first deal with the issue relating to maintainability of the Appeal. The learned Counsel for the 2nd Respondent argued that the present appeal filed by the appellants UHBVNL and DHBVNL is not maintainable as the order dated 31.3.2011 has been passed for implementation of the judgment of this Tribunal in the Appeal Nos. 42 & 43 of 2008 dated 31.07.2009 and Appeal Nos. 72 & 141 of 2009 dated 26.04.2010 and, therefore, by way of present appeal the appellants seek to challenge the judgments of this Tribunal, which has already attained finality as the same had not been challenged in Hon'ble Supreme Court till date. Moreover, the appellants were parties in Appeal Nos. 72 & 141 of 2009. Thus the appropriate remedy available to the appellants were to challenge the Judgment dated 26.04.2010 in Appeal Nos. 72 & 141 of 2009, if they were so aggrieved by the directions given by this Tribunal. The Commission has simply passed the impugned order dated 31.03.2011 for implementation and in pursuance to the directions given by this Tribunal in the Appeal Nos. 42 & 43 of 2008 dated 31.07.2009 and Appeal Nos. 72 & 141 of 2009 dated 26.04.2010. Moreover, the 2nd Respondent has also challenged the same order dated 31.03.2011 as the Commission has not implemented the Judgment in its true letter and spirit. Accordingly, the present appeal requires to be dismissed out rightly. Again, the appellants were parties in Appeal Nos. 72 & 141 of 2009 and arrayed as respondents. The appeals came to be decided by this Tribunal after affording opportunity to the appellants and therefore the appellants cannot re-agitate the same issues before this Tribunal by way of present appeal as hit by the principle of res-judicata.

6 Per Contra, the learned Counsel for the Appellant stated that the objection of the 2nd Respondent is misconstrued. The Appellants are not challenging the issues determined in the judgments dated 26.04.2010 in Appeal No. 72 and 141 of 2009 & judgment dated 31.07.2009 in Appeal No. 42 and 43 of 2008. In fact the present appeal is filed since the Commission has passed the impugned order without undertaking any prudency check to the claims made by the 2nd Respondent and is contrary to the observations and directions of the this Tribunal's judgments dated 31.07.2009 and 26.04.2010

7 The Commission has passed impugned order dated 31.3.2011 in pursuance of the directions of this Tribunal's judgments dated 31.07.2009 and 26.04 2010. This order is different from the Commission's Tariff orders for the Year 2007-08, 2008-09 and 2009-10 which were under challenge in Appeal No. 42 of 2008 and Appeal No 72 & 141 of 2009 respectively. In other words, the impugned order dated 31.3.2011 is an implementation order implementing the directions given in judgments in these Appeals of 2008 and 2009. As a matter of fact, the 2nd Respondent has also challenged the same impugned order dated 31.3.2011 in another Appeal no. 83 of 2011. If the 2nd Respondent has right to challenge the impugned order on the ground that the directions of the Tribunal in judgments dated 31.7.2009 and 26.4.2010 has not been followed by the Commission in respect of Station Heat Rate, why the Appellants, who are also the stake holders and who were also arrayed as Respondents in Appeal no. 72 and 141 of 2009, cannot challenge the same impugned order on similar grounds? In this Appeal, the Appellant has also raised the

issue relating to Station Heat Rate of the 2nd Respondent's plants. In our view the Appeal no. 83 of 2011 filed by the 2nd Respondent Generating Company and present appeal would stand on same footing.

8 In view of the above discussions we hold that the impugned order dated 31.3.2011 is an appealable order and any appeal filed under Section 111 of the 2003 Act by any stake holder aggrieved by the order is maintainable.

9 Next issue raised by the Appellant during the proceedings is **related to violation of Section 64 and 86 of the 2003 Act.** The Appellant has submitted that the impugned order issued by the Commission is in violation of Sections 64 and 86 of the Act. The Appellant contended that Section 86 (3) of the Electricity Act, 2003 mandates that the Commission should ensure transparency while discharging the tariff determination function in accordance with the mandatory procedure prescribed under Section 64 of the Act. Inherently Sections 64 read with Section 86(3) warrant that the State Commission should grant opportunity to all the consumers and stakeholders by issuing notice inviting objections/ comments from the consumers and stakeholders. In the present case no opportunity had been provided to the Appellants to give their views. As such the impugned order is in violation of the principles of natural justice and should be struck down on this issue only.

10 The learned Counsel for the 2nd Respondent refuted the Contentions raised by Appellant and submitted that the ground of natural justice is

not available to the appellant in view of the Judgment dated 10.07.2007 passed by this Tribunal in Appeal Nos. 17,18 and 19 of 2007. In this judgment this Tribunal specifically rejected the same ground in respect of an order passed by the Commission on FSA applications of the answering respondent holding that Fuel Surcharge Adjustment has to be made as per the formula incorporated in the Tariff Regulation itself and the Commission has hardly any discretion in the fixation of FSA. Similar is the case here as the Commission has hardly any discretion in the matter of implementations of the directions given by this Tribunal. The Commission has passed the order-dated 31.03.2011 strictly in compliance of the directions given by this Tribunal and public hearing was not at all required in this matter.

11 The issue regarding requirement of public hearing while implementing the orders of this Tribunal has been decided by the Full Bench in Appeal no. 191 of 2009 in the matter of Maharashtra State Distribution Company Limited Verses Maharashtra Electricity Regulatory Commission. The ratio of Full Bench judgment in this case read as under:

> ***"16.1.... Regarding the public hearing, in our view the State Commission had correctly decided to issue public notice under Section 64(3) for issues where the State Commission had to devise new norms or new schemes or charges. The Tribunal had not given a clear finding on these issues which could be directly adopted by the State Commission. Accordingly, the State Commission had to reconsider these issues afresh and then decide. Thus, the decision of the State Commission for obtaining suggestions and***

***objections from the public in its order dated 19.1.2010 was correct and in the interest of principles of natural justice."***

12 It is clear from the above judgment of this Tribunal that if the findings of the Tribunal were very clear and it involves mechanical application of certain mathematical formula, no public hearing is required and the Commission can implement the directions of the Tribunal without calling for objections/comments from the stake holders. However, if the directions of the Tribunal in the judgment are such that they can not be directly adopted by the Commission and Commission's subjectivity is involved, in such cases the Commission is required to follow the procedure laid down in Section 64 of the Act and invite the objections/comments from the Stake Holders.

13 Let us now apply this principle to the present case and ascertain as to whether the principles of natural justice have been violated or not. This Tribunal had decided a number of issues pertaining to the determination of generation tariff of 2nd Respondent in Appeal No. 42 of 2008 and Appeal Nos. 72 & 141 of 2009 by judgments dated 31.7.2009 and 26.4.2010. If there is even a single issue decided by this Tribunal in these judgments, which demands the clarity or require subjectivity of the Commission, public hearing would be required before implementing the directions of this Tribunal.

14 Let us examine the issue related to Station Heat Rate, which is also an issue raised by the Appellant in this Appeal and the by 2nd Respondent in another Appeal being Appeal no. 83 of 2011. The directions of this Tribunal in its judgment dated 31.7.2009 in Appeal No. 42 of 2008 read as under:

> *"17. Therefore under the circumstances, it is essential for the State Commission to arrange for a station-wise study to determine the SHR of the power plants of the appellant. The study may be conducted in a time bound manner. If the study indicates substantial variation (say more than 2-3%) than the benchmarks adopted by the State Commission, after adjusting for reasonable deterioration due to elapse of time, may be re-determined by the State Commission."*

15 The direction of the Tribunal in the judgment dated 26.4.2010 relating to Station Heat Rate is reproduced below:

> *"The SHR was determined by the State Commission in a progressive manner based upon the Energy Audit tests conducted by the Central Electricity Authority (CEA). The State Commission, having taken into consideration that the improvements can be made over a period of time, had allowed the relaxed norms for the SHR from the time of the Energy Audit in the year 2005. The SHR has been gradually reduced over the years. ... A similar issue was raised before this Tribunal by the Appellant in Appeals No. 42 and 43 of 2009 and the SHR has been decided in detail in its judgment dated 31.07.2009.* ***According to the Tribunal the State Commission has to base its decision with regard to the SHR on the basis of the findings of the CEA. In pursuance of the findings given by this Tribunal, the State Commission has asked the Appellant to appoint either the CEA or NTPC to conduct station-wise study to determine the SHR of the generating stations of the Appellant. In accordance with the study conducted and the report to be made available to the State Commission, the State Commission will examine the issue of SHR in accordance with the directions of the Tribunal. {emphasis supplied}***

16 Perusal of above directions would indicate that its implementation would depend upon results of the proposed study to be conducted by the CEA or NTPC. Station Heat Rate is to be re-determined by the Commission if the results of study indicate 'substantial' variation and

the Commission will examine the issue of Station Heat Rate upon getting the study report. The 2nd Respondent did not get the study conducted by CEA or NTPC, instead got it conducted by M/s Evoniks, a third private party. Thus, subjectivity of the Commission was essentially required to implement the directions of this Tribunal. Accordingly, the Commission ought to have invited the Objections/ comments from the stake holders as per requirement of Section 64 of the 2003 Act. Admittedly, the Appellants were parties to Appeal No. 72 & 141 of 2009 being arrayed as Respondents in these Appeals. The Commission should have, atleast invited the comments of all the Respondents in Appeal No. 42 of 2008 and Appeal no. 72 & 141 of 2009 before passing the impugned order dated 31.3.2011.

17 In view of above discussions we hold that the impugned order is in violation of principles of natural justice and Sections 64 and 86 of the 2003 Act. However, we are of the opinion that the issues raised by the Appellant in this Appeal are also important issues and deserve our consideration on merits as well.

18 The Appellant has raised following issues in this Appeal for our consideration:

I. Interest on Working Capital
II. Station Heat Rate
III. Return on Equity
IV. Technical Parameters i.e. Auxiliary Consumption and Specific Oil Consumption

19 First Issue before us for our consideration is **related to interest on working capital.**

**20** Assailing the impugned order of the Commission, the Learned Counsel for the Appellant made the following submissions:

a. The Commission has misconstrued directions of this Tribunal for the period FY 2007-08 and 2008-09 while calculating interest on working capital. The directions of this Tribunal in Appeal No. 42 of 2008 and 72 of 2009 were very clear that interest on working capital is permissible as per applicable CERC norms.

b. The Appeals no. 42 of 2008 and Appeal No. 72 of 2009 relate to the year 2007-08 and 2008-09 respectively. Therefore, the applicable CERC norms would be as per CERC Tariff Regulations for 2004-09. However, the Commission has chosen to adopt the CERC Tariff Regulations for 2009-14.

**c.** In terms of Regulation 21(i)(b) of the CERC (Terms and Conditions of Tariff) Regulations, 2004, the Commission should have allowed interest on working capital @ SBI PLR existing as on 1.4.2004 for FY 2007-08 and FY 2008-09. It is noteworthy that the SBI PLR existing as on 01.04.2004 was 10.25% per annum. The Commission while passing the impugned order allowed interest on working capital for FY 2007-08 and 2008-09 @ 12.75 % i.e. the SBI PLR rate prevailing as on 01.04.2009. The financial impact of higher rate of interest allowed by the Commission would be about Rs 44 crores.

21 The learned counsel for the 2nd Respondent argued that this Tribunal vide its judgment dated 31.07.2009 in the Appeal Nos. 42 & 43 of 2008 and judgment dated 26.04.2010 in Appeal Nos. 72 & 141 of 2009 had accepted the prayer of the appellant that Interest rate on working capital should be allowed at SBI PLR i.e.12.75% instead of 10% allowed by the Commission. The Commission has only followed the directions given by this Tribunal.

22 In view of rival contentions raised by both parties let us examine the submissions made by the 2nd Respondent in Appeal No. 42 of 2008 reproduced below:

> *"That the Hon'ble Commission erred in allowing interest on working capital only @ 10% and not as per CERC regulations, which provides that Rate of interest on working capital shall be the short-term Prime Lending Rate of State Bank of India as on 1.4.2004 or on 1st April of the year in which the generating unit/station is declared under commercial operation, whichever is later. The interest on working capital shall be payable on normative basis notwithstanding that the generating company has not taken working capital loan from any outside agency. The SBI PLR rate is 12.75%; however, the Hon'ble Commission has allowed the rate of interest 10%, which is against the CERC Regulations."*

23 The 2nd Respondent had made similar submission in Appeal No. 72 of 2009 except small variation in rate of interest of 10.5% allowed by the Commission.

24 Bare reading of above submissions made by the 2nd Respondent in Appeal No. 42 of 2008 and 72 of 2009 would reveal that it had requested for interest on working capital as per the CERC Regulations. The subject matter of these Appeals was the Tariff order

for the year 2007-08 and 2008-09. Obviously, the applicable CERC Regulations would be CERC Tariff Regulations for the period 2004-09. Now let us examine the direction of this Tribunal in judgment dated 31.7.2009 in Appeal No.42 of 2008 which is reproduced below:

> *"27. The appellant has submitted that the State Commission should have allowed interest on working capital as per the norms laid down by the Central Electricity Regulatory commission (CERC), which provides that the rate of interest applicable for working capital purposes would be the short-term prime lending rate (PLR) of State Bank of India (SBI) as on 01.04.2004 or on 1st April of the year in which the generating station/unit is declared commercially operational. The CERC norms provide that the SBI PLR would be applicable irrespective of whether the generating company has taken any loan or not and also whether loans have been taken at a different rate (may be lower or higher).*
>
> *.....*
>
> *35.* ***In view of the above, we decide the issue in favor of the appellant. The appellant may approach the State Commission for re-determination of its tariff after allowing for interest rate on working capital requirements as per the applicable norms****."*

25 From the above it is clear that this Tribunal has held that the interest on working capital was admissible as per applicable norms. The Commission has framed its Generation Tariff Regulations on 19.12.2008. Prior to this date, there were no Tariff Regulations in Haryana and the Commission had been following the CERC Tariff Regulations. Thus, for the years 2007-08 and 2008-09 the applicable norms would be as per CERC Tariff Regulations for 2004-09 i.e SBI PLR as on 1.4.2004 or 1st April of the year of Date of Commercial Operation.

26 Applicable norms for the year 2009-10 would be as per the Commission's Tariff Regulations 2008.

27 The question is thus answered in favour of the Appellant. The Commission is required to re-determine interest on working capital for 2007-08 and 2008-09 at SBI PLR on 1.4.2004 for the units which were commissioned prior to 1.4.2004 and for the units which were commissioned after 1.4.2004 at SBI PLR as on 1st April of the year of their commissioning. Interest on working capital for year 2009-10 is to be provided as per Commission's Tariff Regulations, 2008.

28 Next question before us for consideration is **related to Station Heat Rate** adopted by the Commission for Panipat TPS and Faridabad TPS.

29 This issue has been dealt with in detail in Appeal no. 83 of 2011 and the observations made in that judgment would squarely apply to the present appeal as well. We reiterate the findings made therein. The question is answered accordingly.

30 Next question is related to **Return on Equity**.

31 The Appellant has submitted that the 2nd Respondent Generating Company had asked for Return on Equity for year 2008-09 at lower rate. The Commission should not have enhanced it to 14%.

32 The Learned Counsel for the 2nd Respondent opposed the contentions of the Appellant and submitted that

a. This Tribunal vide Judgment dated 26.04.2010 in Appeal Nos. 72 & 141 of 2009 had accepted the prayer of the appellant for Return on Equity @ 14% as against 10% allowed by the Commission as per the claim in the Appeal. This Tribunal after detailed hearing passed a detailed reasoned order and allowed the claim in view of the fact that the Commission had not allowed return on equity @ 14% in terms of their own Regulation and wrongly allowed only 10% return on equity.

b. The appeals came to be decided by this Tribunal after affording opportunity to the appellants and therefore the appellants can not re-agitate the same issue before this Tribunal once again.

c. The Commission has passed the order-dated 31.03.2011 strictly in compliance with the directions given by this Tribunal on the issue at hand.

33 Detailed examination of records available with us disclosed that the contention of the Appellant suggesting that the 2nd respondent generating company had asked for RoE at a lesser rate is incorrect. In fact, the Commission in its Tariff order for FY 2008-09 dated 21.4.2008 had allowed Rate of Return on Equity at 14%. The relevant portion of the Commission's tariff order dated 21.4.2008 is reproduced below for complete clarity.

> ***"Return on Equity (ROE)***
> *HPGCL has claimed Rs. 1668.4 million @ 14% as return on equity for FY 2008-09. On the issue of 14% ROE UHBVNL & DHBVNL in their objections submitted to the Commission stated that the ROE claimed by HPGCL is higher keeping in*

*view the financial position of the distribution companies. Both the distribution companies have claimed 10% ROE while HVPNL has claimed 8% ROE. They proposed that ROE of HPGCL should be in line with HVPNL. DHBVNL further submitted that ROE should be calculated based on the opening proposed equity as on 1st April 2008 and not on the basis of closing proposed equity as on 31st March 2009. Consequently, ROE @ 8% i.e. Rs. 926.11 million should only be allowed to HPGCL.*

*34 We have carefully considered the above contentions of the distribution companies and is of the considered view that adequate ROE is essential to augment the internal accruals of the company and* ***hence in line with the national norm allow 14% ROE amounting to Rs. 1637.4 million."***

35 This order was not challenged by the Appellant and has, attained finality.

36 As regards Return on Equity for FY 2009-10, this tribunal has allowed at 14% in line with the Commission's Tariff regulations 2008. Relevant extracts of the Tribunal's judgment dated 26.4.2010 in Appeal No. 72 and 141 of 2009 is reproduced below:

*20. The next issue relates to the Return on Equity.* ***This issue has been raised in Appeal No. 141 of 2009.*** *According to the Learned Counsel for the Appellant,* ***the Rate of Return on Equity ought to have been allowed by the State Commission at 14% as per regulations framed by the State Commission*** *but the State Commission has wrongly reduced the Rate of Return on Equity from 14% to 10%. It is true that the State Commission has reduced the rate of return on equity from 14% to 10%. The reason given by the State Commission is that the State Commission has already allowed relaxation in various norms and parameters while determining the revenue requirements and tariff. Appellant has been given relaxation in the norms and parameters applicable to the PTPS Units 1 to 6*

*and the Faridabad Station which is passed on to the consumers in the tariff.*

*21. We note that relaxation in norms has been allowed by the State Commission due to several valid reasons as enumerated in the impugned order. Fourteen percent Return on Equity is as per norms. If this is arbitrarily reduced to 10%, then the effect of allowing relaxed norms would get defeated. Once the State Commission had concluded that the norms need to be relaxed due to several factors such as vintage of the plants and the renovation and modernization etc., there was no reason to lower the Return on Equity and negate the relaxation allowed. In our view 14% Return on Equity is justified. We order accordingly.*

37 This Judgment of the Tribunal has also not been challenged by the Appellant. It is not now open to the Appellant to unsettle the settled issues in disguise of challenging the impugned order which is nothing but a 'Compliance order' implementing the directions of this Tribunal.

38 Last issue is related to **Technical Parameters i.e. Auxiliary Consumption and Specific Oil Consumption**

39 The Appellant has raised the issue of higher Auxiliary Consumption and Specific Oil Consumption allowed by the Commission for all Thermal Power Stations of the 2nd Respondent. However, during the proceedings the Learned Counsels for the Commission and the 2nd Respondent clarified that the directions of the Tribunal were only for the Faridabad TPS and the Commission has implemented those direction for Faridabad TPS only. The learned Counsel for Appellant did not press for these points further. We have also examined the impugned order and the judgments of this Tribunal in Appeal no. 42

of 2008 and 72 & 141 of 2009 and observed that the said directions were in relation to Faridabad TPS only.

## 40 Summary of our findings:

| Issue | Our findings |
|---|---|
| Whether the appeal is maintainable | The impugned order is appealable and therefore the Appeal is maintainable. |
| Whether the impugned order is in violation of Section 64 and 86 of the Act. | The impugned order is in violation of principles of natural justice and Sections 64 and 86 of the 2003 Act. |
| Interest on Working Capital | As per applicable norms applicable for relevant period.<br><br>Issue decided in favour of the Appellant. |
| Station Heat Rate | As per judgment in Appeal no. 83 of 2011. |
| Return on Equity | As per applicable Regulations<br><br>Issue is decided against the Appellant. |
| Technical Parameters i.e. Auxiliary Consumption and Specific Oil Consumption | Issue dropped by the Appellant during the proceedings. |

41 In the light of our observations above the Appeal is allowed to the extent mentioned above. However, there is no order as to costs.

**(V J Talwar )**
**Technical Member**

**(Justice P S Datta)**
**Judicial Member**

Dated: 18th April, 2012

REPORTABLE/~~NOT REPORTABLE~~