

COURT - I
Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

APPEAL No. 18 of 2013 &
I.A.No. 38 of 2013

Dated : 8th February, 2013

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

Power Company of Karnataka Ltd. & Ors. ... Appellant(s)

Versus

**Central Electricity Regulatory
Commission & Ors.**

... Respondent(s)

Counsel for the Appellant(s) : Mr. M.G. Ramachandran &
Ms. Swapna Seshadri
Counsel for the Respondent(s) : Mr. Nikhil Nayyar for R-1
Mr. J.J. Bhatt, Sr. Adv.,
Mr. L. Vishwanathan &
Mr. Aditya Chopra
Mr. Narendar Naik &
Mr. Abhimanyu Ghosh for R-2
Mr. Rohit Rao for R.3

ORDER

We have heard the learned counsel for the parties, who argued the matter at length in I.A. No. 38 of 2013 seeking for the interim relief.

The learned counsel for the Appellant stated that payment of arrears on account of granting of provisional tariff as decided by the Central Commission from the date of commercial operation of Unit No. 1 i.e. 11.11.2010, would cause a heavy burden on the Appellant.

The learned Senior counsel for Respondent no. 2 expressed difficulties experienced by them in sustaining the operation of the plant and to meet their debt obligations. However, he suggested that the Tribunal could grant payment of arrears from the date the Tariff Petition was filed i.e. from 14.12.2011 instead of the date of commercial operation of Unit No. 1 i.e. 11.11.2010.

The learned counsel for the Appellant in order to show the *bona fide* suggested that this Tribunal may even direct the Appellant to pay the same provisional tariff in respect of Unit No.2, though the provisional Order has not yet been passed in respect of the same with effect from 1.9.2012 instead of paying the provisional tariff from the commercial operation date.

Having regard to the peculiar facts and circumstances of the case, we deem it appropriate to modify the Order to the effect that the Appellant will pay the provisional tariff as decided by the Central Commission in the impugned order with effect from 01.09.2012 to the Respondent no. 2 in respect of Unit Nos. 1 and 2 till the final determination of tariff by the Central Commission for these Units.

The amount of arrears, which are to be paid from 01.09.2012, as directed, is to be paid by the Appellant in **four equal installments** by the end of every month. The first installment would be paid **on or before 28.02.2013.**

With these directions, the I.A. is disposed of.

As both the learned counsel have agreed to make the arguments in the main Appeal, post the Appeal for final disposal on **18.03.2013**.

It is noticed that Respondent No.2 has already filed the reply both in respect of I.A. and also the main Appeal.

Therefore, the learned counsel for the Appellant is at liberty to file the Rejoinder on or before 28.02.2013 after serving copy on the other side.

In the mean time, the Central Commission may go on with the proceedings for final determination of tariff of both Unit 1 and Unit 2. Both the parties shall cooperate with the Central Commission for the conduct of the said proceedings.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Ts/vs