

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

**Appeal No. 52 of 2012**  
**Appeal No.67 of 2012**  
**Appeal No. 68 of 2012**  
**Appeal No. 69 of 2012**

**Dated : 7<sup>th</sup> October, 2013**

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

**Appeal No. 52 of 2012**

**M/s Ferro Alloys Corporation Ltd. ... Appellant(s)**

**Versus**

**Orissa Electricity Regulatory Commission & Ors. ... Respondent(s)**

**Appeal No.67 of 2012**

**M/s Tata Steel Ltd. ... Appellant(s)**

**Versus**

**Orissa Electricity Regulatory Commission & Anr. .... Respondent(s)**

**Appeal No. 68 of 2012**

**M/s OCL India Ltd. ... Appellant(s)**

**Versus**

**Orissa Electricity Regulatory Commission & Anr. .... Respondent(s)**

**Appeal No.69 of 2012**

**M/s Balasore Alloys Ltd. ... Appellant(s)**

**Versus**

**Orissa Electricity Regulatory  
Commission & Anr.**

.... **Respondent(s)**

**Counsel for the Appellant(s) : Mr. P.P. Mohanty**

**Counsel for the Respondent(s) : Mr. Prashanto Chandra Sen  
for R-1  
Mr. Buddy A. Ranganadhan  
Mr. Hasan Murtaza for R-2**

### **ORDER**

We have taken up the matter in the Chamber of the Chairperson.

The Learned Counsel for the State Commission submits that as against the order dated 23.09.2013 passed by this Tribunal directing the State Commission to appear and to show cause, the Commission has filed the Writ Petition under Section 226 and 227 of the Constitution of India before the High Court of Odisha and the High Court of Odisha while disposing of the said Writ Petition permitted the Chairman as well as the Member of Board to file an application before the Tribunal seeking for the extension of time to enable them to file an Appeal in the Hon'ble Supreme Court and accordingly, the Chairman as well as the Members of the Commission have filed these Applications along with Affidavit seeking extension of time to file the Appeal in the Supreme Court.

We have heard the Learned Counsel for State Commission and perused the Order of the High Court dated 3.10.2013, the same is as follows:-

*“On perusal of the Electricity Act, 2013 and in particular, Section 125 thereof, since the petitioner-Commission has an efficacious effective remedy by way of an appeal before the Hon’ble Supreme Court, we do not intend to exercise the writ jurisdiction in the matter.*

*.....we direct the Chairperson and the Member of Board of the Odisha Electricity Regulatory Commission to appear before the Tribunal on 07.10.2013. We remain confident that if any application is filed by the petitioner-Commission before the Appellate Tribunal seeking suitable adjournment in order to enable it to approach the Hon’ble Apex Court, the Appellate Tribunal will consider the same and pass necessary orders thereon”*

Both as per the Order of this Tribunal dated 23.9.2013 and the order of the High Court dated 3.10.2013, Chairperson and the Member of the Commission were directed to appear on 7.10.2013 before this Tribunal in the Chamber of Chairperson and seek for extension of time. But, either the Chairman or the Member has not appeared today and they simply filed the extension Application.

When this was pointed out, the Learned Counsel for the State Commission submits that Commission has no intention to violate the orders of this Tribunal or High Court and if some other date is given for appearance by the Chairman or Members of the State Commission, either one of them will appear to seek for extension of time to enable them to file an Appeal before the Hon’ble Supreme Court.

In view of the above statement made by the Learned Counsel for the Commission, we direct either the Chairman or any Member of the Commission to appear before this Tribunal in the Chamber of Chairperson on **01.11.2013** for seeking adjournment or extension of time to enable them to file an Appeal in the Hon'ble Supreme Court. Accordingly ordered. Post his matter on **1.11.2013 at 2.30 p.m.** in the Chamber of Chairperson.

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

**(Rakesh Nath)**  
**Technical Member**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**

mk/vs