

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

APPEAL No. 436 of 2019 & IA No. 134 of 2025

Dated: 29.08.2025

**Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member
Hon'ble Mr. Virender Bhat, Judicial Member**

IN THE MATTER OF:

Mahan Energen Limited
Through its regulatory Manager,
Adani Corporate House
Shantigram, near Vaishno Devi Circle,
S. G. Highway, Khodiyar,
Gandhinagar – 382421.

... Appellant(s)

Vs.

1. Central Electricity Regulatory Commission (CERC)
Through Secretary,
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi- 110001.
2. Power Grid Corporation of India Limited (PGCIL)
Through Director,
B-9 Qutub Institutional Area,
Katwaria Sarai,
New Delhi-110016.
3. Central Electricity Authority (CEA)
Through Chairperson,
2nd Floor (North), Seva Bhawan,
Ramakrishna Puram,
New Delhi — 110016.
4. Essar Power Transmission Company Limited
Through Director,
Lower Ground Floor,
Hotel Conclave Boutique,
A-20, Kailash Colony, New Delhi-110048.

5. Central Transmission Utility of India Limited,
Through its Director,
Saudamini, Plot No. 2, Sector – 29,
Near IFFCO Chowk Metro Station,
Gurgaon, Haryana – 122001.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Hemant Singh
Mr. Lakshyajit Singh Bagdwal
Mr. Chetan Kumar Garg
Ms. Ankita Bafna
Ms. Supriya Rastogi Agarwal
Mr. Robin Kumar
Ms. Lavanya Panwar
Ms. Alchi Thapliyal
Ms. Sindhuja Rastogi

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

Mr. Alok Shankar for R-5

JUDGEMENT

PER HON'BLE MR. SANDESH KUMAR SHARMA, TECHNICAL MEMBER

1. M/s Mahan Energen Limited has filed the present Appeal challenging the Impugned Order dated 07.10.2019 passed by the Central Electricity Regulatory Commission (in short "Central Commission" or "CERC") in Petition No. 187/MP/2017.

2. The Appellant, Mahan Energen Ltd., is a generating company within the meaning of Section 2(28) of the Electricity Act, 2003, and is incorporated under the Companies Act, 1956. The Appellant has established a 1200 MW (2 x 600 MW) Thermal Power Station near the Village of Bandhora, Post Karsualal, Tehsil Mada, District Singrauli, Madhya Pradesh (hereinafter referred to as the "Generation Project" or "Mahan TPS").

3. The Respondent No. 1, the Central Electricity Regulatory Commission, is a statutory body under Section 76 of the Electricity Act, 2003, and has been vested with the powers to adjudicate disputes under Section 79 of the Electricity Act, 2003, between a generating company and a licensee as defined under the Electricity Act, 2003.

4. The Respondent No. 2, the Power Grid Corporation of India Ltd. (in short “PGCIL”), is a Government company within the meaning of the Companies Act, 1956. In exercise of its power under sub-section (1) of section 38 of the Electricity Act, 2003, the Government of India has declared PGCIL as the Central Transmission Unit (in short “CTU”).

5. The Respondent No. 3, the Central Electricity Authority (in short “CEA”), is the statutory organization constituted under section 70 of the Electricity Act, 2003.

6. The Respondent No. 4 is Essar Power Transmission Company Limited (in short “EPTCL”), a company incorporated under the Companies Act, 1956, and is a Transmission Licensee as per section 2 (73) and section 14 of the Act. The Commission has granted a licence to Respondent No. 4 vide its Letter dated 29.04.2008.

7. The Respondent No. 5 is the Central Transmission Utility of India Limited.

8. The Appellant and the Respondent No. 1 had entered into a Bulk Power Transmission Agreement on 07.01.2009 (in short “BPTA-EPMPL”) for long-term open access to facilitate the evacuation of power from the Appellant’s generation project.

9. The Appellant approached the Commission seeking relief under the provisions of the BPTA-EPMPL on the ground that certain supervening events had occurred, which, according to the Appellant, made it impossible to perform its obligations under the said Agreement, inter alia, seeking exemption from the relinquishment charges.

10. The Commission, by the Impugned Order, held that the events relied upon by the Appellant were not covered under the Force Majeure provisions of the BPTA-EPMPL. Consequently, the Commission declined to grant the relief sought.

11. Thus, being aggrieved by the Impugned Order dated 07.10.2019 passed by the CERC in Petition No. 187/MP/2017, the Appellant has preferred the present Appeal.

12. The Appellant has prayed for the following relief before us:

“(i) to set aside the Impugned Order dated 07.10.2019 passed by the Respondent Commission in Petition No. 187/MP/2017;

(ii) to pass such other or further orders as this Hon’ble Tribunal may deem appropriate.”

13. After hearing the contesting parties, the only question that arises for our consideration in the present appeal is as follows:

Whether the claim of CTUIL towards relinquishment compensation, which formed the subject matter of the Impugned Order, subsists in law after the completion of the CIRP of Essar Power (Madhya Pradesh)

Limited and the subsequent dismissal of CTUIL's appeals by the NCLT, NCLAT, and the Hon'ble Supreme Court?

14. By the impugned order, the Commission rejected the plea of Force Majeure raised by the Appellant in regard to the relinquishment of 1100 MW Long Term Open Access (LTA) capacity under the Bulk Power Transmission Agreement (BPTA) dated 07.01.2009 and consequently held the Appellant liable to pay relinquishment compensation to be crystallized in terms of the Commission's earlier order dated 08.03.2015 in Petition No. 92/MP/2015.

15. Pursuant thereto, the Central Transmission Utility of India Limited (CTUIL), vide its communication dated 23.01.2020, determined the relinquishment compensation payable by the Appellant at Rs. 2632.54 Crores.

16. It is important to note that the erstwhile corporate entity, EPMPL, came under the Corporate Insolvency Resolution Process (CIRP) initiated under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC 2016). The proceedings under Section 7 of the IBC filed by ICICI Bank Limited before the National Company Law Tribunal (NCLT), Principal Bench, New Delhi, in C.P. (IB) 863(PB)/2020 were admitted on 29.09.2020, and an Interim Resolution Professional was appointed; thereafter, the insolvency process was initiated.

17. It is important to note that the CERC passed the Impugned Order on 07.10.2019 in Petition No. 187/MP/2017 and directed the Appellant to pay the relinquishment compensation as per Order dated 08.03.2019 in Petition No. 92/MP/2015 passed by the Commission. Thereafter, Central Transmission Utility of India Limited (CTUIL) vide its communication dated 23.01.2020 determined the liability of Rs. 2632.54 Crores on EPMPL, the erstwhile company, which in turn went under CIRP after the passing of the said order.

18. The recovery of Rs. 2632.54 Crores could not be materialized as per the Impugned Order.

19. Accordingly, in the course of the CIRP, CTUIL lodged its claim of Rs. 2632.54 Crores towards relinquishment compensation before the Resolution Professional. CTUIL also applied, being I.A. No. 3015 of 2021, claiming status as an Operational Creditor and seeking admission of the said amount as an operational debt against EPMPL.

20. It is submitted that the CTUIL claimed the amount of Rs. 2632.54 Crores as pending against the erstwhile company, i.e., EPMPL, which went under the CIRP.

21. During the process of CIRP, Adani Power Limited also submitted its proposal before the NCLT for taking over the EPMPL.

22. After considering the matter, NCLT vide order dated 01.11.2021 approved the Resolution Plan submitted by Adani Power Limited (the parent company of the present Appellant) under Section 31 of the IBC, 2016.

23. While dealing with CTUIL's claim, the NCLT recorded that under the approved Resolution Plan, all Operational Creditors, irrespective of their claim amount, were awarded a Nil amount; therefore, the application filed by CTUIL was dismissed as infructuous. Consequently, CTUIL's claim towards relinquishment compensation stood extinguished by virtue of approval of the Resolution Plan.

24. The relevant portion of the order of the NCLT, Principal Bench, New Delhi, in Company Petition No. (IB)863(PB)/2020 dated 01.11.2021 is as follows:

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1A 3015/2021

28. That IA 3015/ 2021 has been filed by Central Transmission Utility of India Limited, claiming to be an Operational Creditor against the RP. That through this IA Central Transmission Utility of india Limited has sought admission of Rs 26,325,400,000 as an Operational Debt.

29. That the necessary of adjudicating the claim of the Operational Creditor in **IA 3015/2021** is not required since all the Operational Creditors, irrespective of their claim amount, are awarded with ‘Nil’ amount in the Resolution Plan. Therefore 1A 3015/2021 is dismissed as infructuous.”

25. Aggrieved by the said Order of NCLT, CTUIL challenged the decision, inter alia, by filing an appeal before the National Company Law Appellate Tribunal (in short “NCLAT”), being Company Appeal (AT) (Insolvency) No. 25 of 2022.

26. The NCLAT, by its judgment dated 07.05.2024, dismissed the appeal, upholding the order of the NCLT.

27. The relevant portion of the judgment of NCLAT, Principal Bench, New Delhi, in Company Appeal (AT) (Ins) No. 25 of 2022 dated 07.05.2024 is as follows:

“27. The facts are not much in dispute and the only issue is about the treatment meted out to the operational creditors in the resolution plan which has been approved by the Adjudicating Authority. As per the chart (Supra), as against the admitted claim of the secured financial creditors of Rs. 120,129,831,567/- the

amount provided in the resolution plan is Rs. 2500 Cr. which is only to the extent of 20.098 %, therefore, the claim of the unsecured creditors or operational creditors has rightly been provided as Nil because the amount which has been offered in the resolution plan is to be first appropriated towards the CIRP costs and dues owed to the secured financial creditors and then nothing would come to the kitty of the operational creditors, therefore, even the unsecured creditors have also been given as NIL.

28. As regards admitting the claim of the Appellant as contingent against Rs. 1 is concerned, this is not in dispute that the claim is based upon an order of the statutory authority against which an appeal is pending and it is not crystallised as such so far, thus in view of the decision of the Hon'ble Supreme Court in the case of Essar Steel India Ltd. Committee of Creditors Vs. Satish Kumar Gupta & Ors. (2020) 8 SCC 531 in which it has been held that "we therefore hold that this part of the impugned order judgment deserves to be set aside on the ground that the resolution professional was correct in only admitting the claim at a notional value of Rs. 1 due to the pendency of disputes with regard to these claims."

29. Thus, in view of the aforesaid discussion, we do not find any merit in the present appeal and the same is hereby dismissed though without any order as to costs."

28. Thereafter, CTUIL preferred Civil Appeal No. 7798 of 2024 before the Hon'ble Supreme Court, which was also dismissed by the Hon'ble Supreme Court vide order dated 29.07.2024.

29. The relevant portion of the order of the Hon'ble Supreme Court in Civil Appeal No. 7798 of 2024 dated 29.07.2024 is as follows:

“ **ORDER**

1 We find no reason to interfere with the order of the National Company Law Appellate Tribunal dated 7 May 2024 in Company Appeal (AT)(Insolvency) No 25 of 2022 since no substantial question of law is involved in the appeal.

2 The appeal is accordingly dismissed.

3 Pending application, if any, stands disposed of.”

30. Thus, the proceedings attained finality, and CTUIL's claim stood conclusively rejected and extinguished.

31. Under Section 31 of the IBC, 2016, once a Resolution Plan is approved, it binds all stakeholders, including statutory authorities and creditors. In the facts of the present case, it is evident that the very claim towards relinquishment compensation, which is the subject matter of this Appeal, was submitted by CTUIL in the CIRP proceedings, considered by the Resolution Professional, and thereafter rejected by the NCLT in view of the approved Resolution Plan awarding Nil to all Operational Creditors.

32. This rejection, having been successively affirmed by the NCLAT and finally by the Hon'ble Supreme Court, extinguishes the claim in its entirety.

33. Accordingly, we are of the considered view that the claim for relinquishment compensation sought to be fastened upon the Appellant no longer survives as a matter of law in view of the express extinguishment of such claims under the IBC framework as upheld by the concurrent orders of the NCLT (01.11.2021), NCLAT (07.05.2024) and Hon'ble Supreme Court (29.07.2024).

34. Consequently, the Impugned Order of the CERC fastening liability for relinquishment charges no longer survives and stands decided as infructuous; inter alia, there remains no subsisting claim of CTUIL against the Appellant with respect to relinquishment compensation.

ORDER

For the foregoing reasons as stated above, the captioned Appeal No. 436 of 2019 is disposed of in the above terms, declaring the claim of CTUIL as having been rendered infructuous, and the relinquishment compensation against the Appellant stands extinguished in law.

The Captioned Appeal and pending IAs, if any, are disposed of in the above terms.

PRONOUNCED IN THE OPEN COURT ON THIS 29th DAY OF AUGUST, 2025.

(Virender Bhat)
Judicial Member

(Sandesh Kumar Sharma)
Technical Member

REPORTABLE / NON-REPORTABLE

pr/mkj/kks