

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

**APPEAL NO.157 OF 2021
AND
APPEAL NO. 163 OF 2021**

Dated: 29.11.2022

**Present: Hon'ble Mr. Justice R.K. Gauba, Officiating Chairperson
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

APPEAL NO.157 OF 2021

In the matter of:

VECTOR GREEN PRAYAGRAJ SOLAR PRIVATE LIMITED
(FORMERLY KNOWN AS RATTAN INDIA SOLAR 2 PRIVATE LTD)

Through its Head Legal Mast Ram Deswal

101, 1st Floor, Naurang Bhawan,

21, Kasturba Gandhi Marg,

New Delhi, Delhi, India 110001

... Appellant(s)

VERSUS

1. CENTRAL ELECTRICITY REGULATORY COMMISSION

Through its Registrar

4th Floor, Chanderlok Building,

36 Janpath, New Delhi - 110001

2. SOLAR ENERGY CORPORATION OF INDIA LIMITED

Represented Through Director (Finance)

D-3, First Floor, A Wing, District Centre,

Saket, New Delhi – 110017.

3. UTTAR PRADESH POWER CORPORATION LIMITED

Through Chairman and Managing Director

Shakti Bhawan, 14 – Ashok Marg,

Lucknow – 2260014.

... Respondent(s)

Counsel for the Appellant (s)

:

Mr. Sujit Ghosh

Ms. Mannat Waraich

Mr. Mohd. Munis Siddique

Mr. Mridul Gupta

Counsel for the Respondent(s) : Mr. Aneesh Bajaj
Ms. Srishti Khindaria for SECI

APPEAL NO.163 OF 2021

In the matter of:

YARROW INFRASTRUCTURE PRIVATE LIMITED

Through its Head Legal Mast Ram Deswal

328-329, 'G' Wing, Kanakia Zillion,

LBS Road, BKC Annex,

Kurla (W), Mumbai - 400070

... Appellant(s)

VERSUS

1. CENTRAL ELECTRICITY REGULATORY COMMISSION
Through its Registrar
4th Floor, Chanderlok Building,
36 Janpath, New Delhi - 110001
2. NTPC LIMITED
Through its Chairman and Managing Director
7, Institutional Area,
Core-7, Scope Complex,
Lodhi Road, New Delhi - 110003
3. BANGALORE ELECTRICITY SUPPLY COMPANY LIMITED
Through Chairman and Managing Director
KR Circle,
Bengaluru – 560001
4. HUBLI ELECTRICITY SUPPLY COMPANY LIMITED
Through Chairman and Managing Director
PB Road, Navnagar,
Hubballi – 580025
5. MANGALORE ELECTRICITY SUPPLY COMPANY LIMITED
Through Chairman and Managing Director
MESCOM Bhavana,
Kavoor Cross Road,
Bejai, Mangaluru – 575004
6. GULBARGA ELECTRICITY SUPPLY COMPANY LIMITED
Through Chairman and Managing Director

Station Road,
Kalaburagi – 585101

7. CHAMUNDERSHWARI ELECTRICITY SUPPLY COMPANY
LIMITED

Through Chairman and Managing Director

No.29, Kaveri Grameena Bank Road,
Hinkal, Vijayanagar, 2nd Stage,
Mysuru – 570019

... Respondent(s)

Counsel for the Appellant (s) : Mr. Sujit Ghosh
Ms. Mannat Waraich
Mr. Mohd. Munis Siddique
Mr. Mridul Gupta

Counsel for the Respondent(s) : Mr. Sakie Jakharia
Ms. Ria Dhiman for R-2

Mr. Anand K. Ganesan for R-3 to R-7

J U D G M E N T (Oral)

PER HON'BLE MR. JUSTICE R.K. GAUBA, OFFICIATING CHAIRPERSON

1. The appellants in the two captioned appeals are generating companies. Each of them is aggrieved by similar orders passed by *Central Electricity Regulatory Commission* (“the Central Commission”) on 25.01.2021 on their respective petitions i.e. 211/MP/2019 and 213/MP/2019, the grievances agitated being on identical grounds relating to denial of appropriate compensation including carrying cost consequent to the imposition of *Goods & Services Tax* (GST) on Operation & Maintenance Expenses and the additional expenditure post commercial operation date.

2. The learned counsel for the appellant submits that the view taken by the Central Commission in the impugned orders is not in accord with the ruling of this Tribunal on the above mentioned issues by judgment dated 15.09.2022 in a batch of appeals – Appeal No. 256 of 2019 & batch (*led by Parampujya Solar Energy Pvt. Ltd. Versus CERC & Ors*). He requested that the impugned orders be set aside and the matters remanded to the Central Commission for reconsideration in light of the

dicta in *Parampujya Solar Energy Pvt. Ltd. Versus CERC & Ors* (supra). He submitted that the relevant provisions of the *Power Purchase Agreements* (PPAs) with the respondents herein are identical to those which were subjected to scrutiny in the case of *Parampujya* (supra).

3. The learned counsel for the respondents, on being asked, submitted that they leave the matter of the request for remit for consideration to this Tribunal, their contention being that even if *Parampujya* were to be applied, the appellants cannot succeed.

4. In the above facts, noticing *prima facie* discord between the impugned view and the ruling in *Parampujya* (supra), we allow the request and set aside the impugned orders of the Central Commission remanding the matters arising out of the petitions on which the same were rendered for fresh hearing and decision in accordance with law, bearing in mind, amongst others, the ruling of the Tribunal in *Parampujya* (supra). All contentions are kept open. For removal of doubts, if any, it is added that nothing in this judgment shall be treated as an expression of opinion by this Tribunal at this stage.

5. The Central Commission is directed to hold the proceedings under remit expeditiously and render fresh decision at an early date.

6. The appeals are disposed of in above terms.

Pronounced in open court on this 29th Day of November, 2022

(Sandesh Kumar Sharma)
Technical Member

pr/vt

(Justice R.K. Gauba)
Officiating Chairperson