

COURT- 1

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

APL No. 283 OF 2019 & IA No. 1229 OF 2019

Dated: 3rd October, 2019

Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson

Hon'ble Mr. Ravindra Kumar Verma, Technical
Member(electricity)

In the matter of:

| | | |
|--|------|----------------------|
| DNH Power Distribution Company Limited | | Appellant(s) |
| Versus | | |
| Central Electricity Regulatory Commission | | Respondent(s) |

Counsel for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri

Counsel for the Respondent(s) : Amit Kapur for R2
Vishrov Mukerjee for R2
Anup Jain
S. Rama for R3

ORDER

Heard both counsel. The Impugned Order pertains to payment of dues in respect of change in law claims right from April, 2013 till date which was the subject matter of Appeal No. 111 of 2017. This Appeal came to be disposed of on 14.08.2018 directing the Respondent Commission to consider change in law claims in terms of Energy Watch Dog case.

There seems to be some controversy pertaining to plea taken by this Appellant that the law laid down in Energy Watch Dog does not apply because of Presidential Directives dated 03.04.2012. According to Appellant though such plea was raised it was never addressed till date by any of the authorities. However, Respondent's counsel Mr. Amit Kapur submits that there was no such specific arguments addressed which came up for consideration either in the appeal referred to above disposed of on 14.08.2018 or at the time of Impugned

Order. Be as it may, the fact remains Respondent Generator has received notice of NPA dated 09.08.2019 from lenders asking them to regularise the account because of non-payment of dues.

According to appellant the PPA in question comes to an end in June, 2020. Admittedly the monthly consumption charges is about 40 Crores per month. Upto June, 2020 it would be about 320 Crores. Therefore, ultimately if Appellant succeeds in the Appeal, the payments, if any, directed to be paid by the Appellant can be adjusted from the future consumption charges. This means this Appeal has to be heard on merits and disposed of which definitely cannot be before 4th October, 2019. The matter will be heard immediately on reopening after Pooja vacation. Meanwhile we direct the Appellant to pay 50 % of Rs.126.03 Crores (that is Rs. 63.015 Crores) within two weeks from today (towards change in law compensation and carrying costs subject matter of Impugned Order.

Meanwhile parties are directed to file reply to the main Appeal and also written submissions on merits with advance copy. Appellant also can file rejoinder, if any.

List the matter on **24.10.2019.**

Ravindra Kumar Verma
Technical Member(electricity)

Justice Manjula Chellur
Chairperson

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