

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**Appeal No. 117 of 2006**

**Dated : March 30,2007**

**Present:**

**Hon'ble Mr. Justice Anil Dev Singh, Chairperson  
Hon'ble Mr. A.A. Khan, Technical Member**

N.T.P.C. Limited  
NTPC Bhawan Scope Complex,  
7, Institutional Are, Lodhi Road, New Delhi  
V/s.

-Appellant

1. Transmission Corporation of A.P.  
Vidyut Soudha, Khairatabad,  
Hyderabad – 500 082
2. Tamil Nadu Electricity Board (TNEB)  
800, Anna Salai,  
Chennai – 600 002
3. Karnataka Power Transmission Corporation Limited  
Kaveri Bhawan, K. G. Road, Bangalore – 560 009
4. Kerala State Electricity Board (KSEB)  
Vidut Bhavanam, Pattom  
Thiruvananthapuram – 695 004
5. Government of Pondicherry  
Through its Superintendent Engineer,  
Electricity Department, NSC Bose Salai  
Pondicherry – 605 001
6. Central Electricity Regulatory Commission,  
Through its Secretary,  
7<sup>th</sup> Floor, Core-3, Scope Complex,  
Lodhi Road, New delhi – 110 003

-Respondents

Counsel for Appellant : Mr. M.G. Ramachandran  
Counsel for Respondents : Mr. T. Harish Kumar & Mr. P. Prasanth  
for Resp.2

## JUDGMENT

### (Per Hon'ble Mr. Justice Anil Dev Singh, Chairperson)

This appeal is directed against the order of the Central Electricity Regulatory Commission (for short 'CERC'), dated June 13, 2005, in Petition No. 1 of 2003, whereby the CERC has determined the tariff for generation and sale of electricity of Talcher Super Thermal Power Station Stage-II, for the period August 1, 2003 to March 31, 2004.

2. It is submitted by the learned counsel for the appellant that the Regulations framed by the CERC under Section 58 of the Electricity Regulatory Commission Act, 1998, called Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2001 (for short 'Regulations 2001') and notified on March 26, 2001, are grounded upon operational and financial norms laid down by the CERC by its orders dated January 4, 2000; December 15, 2000 & December 21, 2000. It is submitted that these orders are discriminatory and do not provide the level playing field and are, therefore, illegal. Consequently, it is argued that the tariff order based on these norms is required to be set aside. In fact, the Regulations are being challenged by the appellant in the guise of mounting a challenge against the orders of the CERC dated January 4,

2000; December 15, 2000 and December 21, 2000 on which the Regulations are based.

3. It is not in dispute that the Regulations of 2001 were framed by the Central Electricity Regulatory Commission under Section 58 of the Electricity Regulatory Commission Act, 1998. The power to frame Regulations is a subordinate legislative function conferred on the CERC. In the Judgment of this Tribunal, dated December 6, 2006, rendered in Appeal Nos. 5, 52, 53 etc., of 2006, it has been held that this Tribunal cannot go into the validity of the Regulations in exercise of its appellate power. In this view of the matter, the submission of the learned counsel for the appellant is hereby rejected.

4. It was next contended that the CERC did not follow the correct methodology to compute interest on loan. It was pointed out from the impugned order that the computation of interest on loan was worked out by the CERC with reference to annual repayment amount for the year 2003-04, which in turn was determined as per the methodology followed by the CERC in other cases for the tariff period 2001-04, *which is as follows:*

*Actual repayment during the year X normative net loan at the beginning of the year / actually net loan at the beginning of the year,  
Whichever is higher"*

5. The question has already been decided in Appeal Nos. 96 of 2005 and 81, 82, 83 etc., of 2005, by our orders, dated November 14, 2006 and January 22, 2007, respectively. While allowing these appeals we directed the CERC to adopt normative debt repayment methodology for working out the interest on loan liability. The point being covered is required to be decided in terms of our aforesaid orders dated November 14, 2006 and January 22, 2007.

6. Thus, the CERC needs to follow normative debt repayment methodology for working out the interest on loan for the period in question, in accordance with the Judgment rendered by us in Appeal No. 96 of 2005.

7. In the circumstances, therefore, the matter is required to be remitted to the CERC in the light of the direction that normative debt repayment methodology for working out the interest on loan for the period in question should be followed. We order accordingly. The CERC shall also determine the consequential effect of following normative debt repayment methodology on interest/loan repayment with reference to each generating unit and on the computation of advance against depreciation.

8. In the result, the appeal is allowed to the extent indicated above and the matter is remitted to the CERC with the aforesaid directions.

(Justice Anil Dev Singh)  
Chairperson

( A.A. Khan )  
Technical Member

**Dated the, March 30, 2007**