

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

COURT-I

IA NO. 1526 OF 2022 IN
APPEAL NO. 336 OF 2019 &
IA NO. 797 OF 2019 & IA NOS. 553 & 554 OF 2022

Dated: 20.01.2023

Present: Hon'ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member

In the matter of:

Coastal Energen Pvt. Limited

.... Appellant(s)

Vs.

Power Grid Corporation of India Limited & Ors.

.... Respondent(s)

Counsel for the Appellant(s) : Mr. Hemant Singh
Mr. Lakshyajit Singh Bagdwal
Mr. Harshit Singh

Counsel for the Respondent(s) : Mr. Parag P. Tripathi, Sr. Adv.
Ms. Suparna Srivastava
Mr. Tushar Mathur
Ms. Astha Jain for R-1

Mr. S. Vallinayagam for R-11

ORDER

IA NO. 1526 OF 2022

(for directions)

Elaborate submissions were put forth by Mr. Parag P. Tripathi, learned Senior Counsel appearing on behalf of the vacate stay Petitioner and submissions in opposition were made in part by Mr. Hemant Singh, learned Counsel for the Appellant. We are however saved the trouble of noting and considering the rival contentions, as Mr. Parag P. Tripathi, learned Senior Counsel, would submit, on instructions, that it would suffice if the 1st Respondent in the Appeal is permitted to withdraw the undertaking given, on their behalf, by the learned Solicitor General as recorded by this Tribunal in its Order in Contempt Petition No. 5 of 2022 dated 22.04.2022, which reads thus:

“This matter arises out of interlocutory Order dated 28.03.2022, the trigger being a letter issued by the first respondent to the bank seeking encashment of bank guarantee. The learned Solicitor General for India representing the first respondent, on instructions, submitted that suitable instructions have been issued to the bank not to make any payment against the communication seeking encashment of the bank guarantee in the case of the petitioner herein. He, however, submitted that similar order as has been referred herein has been passed in other similarly placed appeals forming a batch in all 24 in number but the concession given herein will be restricted to the case of the petitioner alone, the first respondent having been advised to approach this tribunal by appropriate applications in the other matters to seek liberty for invocation of bank guarantee wherever there is cause of action available towards that end.

Be that as it may, in view of the submissions made by the first respondent that the letter to the bank for payment against the bank guarantee is not being pressed any further, the learned senior counsel for the petitioner submits he does not press the contempt petition for any directions.”

Learned Senior Counsel would also refer to the Order of this Tribunal in IA No. 555/2022 in Appeal No. 336 of 2019 and IA No. 797 of 2019, 553 & 554 of 2022 dated 22.04.2022 wherein also the concession made on behalf of the 1st Respondent, has been noted by this Tribunal, which reads thus:

“The matter pertains to Court-I which is presently not functional. It has been listed before us in the context of the captioned application. The trigger for this application was a communication sent by the first respondent to the banker on 07.04.2022 seeking encashment of the bank guarantee which, in the submission of the appellant, is in the teeth of the interlocutory order that has been passed earlier.

The learned senior counsel for the applicant fairly concedes that by subsequent letter dated 15.04.2022, the first respondent has informed the bank asking it to put the previous request for encashment of the bank guarantee on hold.

The learned Solicitor General for India appearing for the first respondent, upon instructions, submits the letter invoking the bank guarantee is not being pressed for any payment by the bank till such time an appropriate order is secured from this Tribunal to which end an application is intended to be filed in near future. In view of this submission, learned senior counsel for the applicant submits he does not press for any further direction on the application at this stage.”

Learned Senior Counsel would also state that a separate interlocutory application is filed, seeking a similar permission, in DFR No. 301 of 2020.

Mr. Hemant Singh, learned Counsel for the Appellant, would fairly state that, since these undertakings were given on behalf of the 1st Respondent by the learned Solicitor General, the Appellant cannot object to any such request for withdrawal, but it may be made clear that, except for grant of permission as sought for in this regard, this Tribunal has not expressed any opinion on the submissions made by learned counsel on either side.

As both the learned Senior Counsel appearing on behalf of the Appellant, and the learned Counsel for the Respondent are ad idem to this limited extent, we permit the 1st Respondent to withdraw the undertaking given by the learned Solicitor General on their behalf (in the orders afore-extracted), and as recorded in IA No. 566 of 2022, in Contempt Petition No. 5 of 2022 and IA No. 565 of 2022 dated 22.04.2022, making it clear that we have not expressed any opinion on the other submissions made by learned Senior Counsel/learned Counsel on either side.

The application (IA No. 1526 of 2022) is, accordingly, closed.

APPEAL NO. 336 OF 2019 &
IA NO. 797 OF 2019 & IA NOS. 553 & 554 OF 2022

This Appeal is already included in the 'List of Finals'. Let it remain included therein, to be taken up from there, in its turn.

(Sandesh Kumar Sharma)
Technical Member

(Justice Ramesh Ranganathan)
Chairperson

tpd/ks/dk