

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

COURT-II

**APPEAL NO. 91 OF 2020 &
IA NOS. 2064 OF 2019 & 1550 OF 2020
APPEAL NO. 145 OF 2021
AND
IA NO.1129 OF 2022 IN
DFR 292 OF 2022**

Dated: **01.08.2022**

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

**APPEAL NO. 91 OF 2020 &
IA NOS. 2064 OF 2019 & 1550 OF 2020**

In the matter of:

Tamil Nadu Generation and Distribution Corporation Limited **Appellant (s)**

Vs.

Central Electricity Regulatory Commission & Anr. **Respondent(s)**

Counsel for the Appellant (s) : Mr. Basava Prabhu Patil, Sr. Adv.
Ms. Anusha Nagarajan
Mr. Geet Ahuja
Mr. Rahul Ranjan

Counsel for the Respondent (s) : Mr. Gopal Jain, Sr. Adv.
Mr. Deepak Khurana
Mr. Vineet Tayal
Mr. Ashwini Tak for R-2

APPEAL NO. 145 OF 2021

In the matter of:

Tamil Nadu Generation and Distribution Corporation Limited **Appellant (s)**

Vs.

Central Electricity Regulatory Commission & Anr. **Respondent(s)**

Counsel for the Appellant (s) : Ms. Anusha Nagarajan
Mr. Rahul Ranjan

Counsel for the Respondent (s) : Mr. Anand Ganesan
Ms. Kriti Soni for R-2

**IA NO.1129 OF 2022 IN
DFR 292 OF 2022**

In the matter of:

KSK Mahanadi Power Company Limited

.... Appellant (s)

Vs.

Central Electricity Regulatory Commission & Anr.

.... Respondent(s)

Counsel for the Appellant (s) : Mr. Anand Ganesan
Ms. Kriti Soni

Counsel for the Respondent (s) : Ms. Anusha Nagarajan
Mr. Rahul Ranjan for R-2

ORDER

The final hearing on the first two captioned appeals had commenced on 19.07.2022 and has continued till date. At the hearing today, it was mentioned that the second respondent in the second captioned appeal i.e *KSK Mahanadi Power Company Limited* has filed another appeal it being DFR no.292 of 2022, the said appeal involving the same set of parties including the Central Commission and Tamil Nadu Generation & Distribution Corporation Limited impleaded as first and second respondents, being now listed on the board of the Registrar on 05.09.2022 by virtue of our order dated 22.07.2022. It is brought to our notice that the said newly instituted above mentioned appeal is also directed against the order dated 30.08.2021 which was passed on review petition no.7/RP/2020 it being directed against the Commission's original order dated 23.07.2019 in petition no.222/MP/2017 which is the subject matter of appeal no. 145 of 2021 (second above captioned appeal). The questions of law raised in the said fresh appeal have a bearing on the questions which are under consideration in the first two captioned appeals and *vice versa*. Since they arise out of common background, it is desirable that the newly instituted appeal i.e. DFR 292 of 2022 is also taken up alongside the two appeals which are part heard.

In the foregoing facts and circumstances, on our directions, the new appeal i.e. DFR 292 of 2022 has been placed before us by supplementary cause list which has been issued. We cancel the date 05.09.2022 fixed earlier in the matter and recall our order placing the said matter before the Registrar.

We have heard the learned counsel for the respondents on the application (IA no.1129 of 2022 - for condonation of delay in filing the

appeal). The learned counsel fairly agree that there is no need for any formal reply to be filed. The appellant *KSK Mahanadi Power Company Limited* could not raise issues in the appeal since the matter to that extent was under consideration in review jurisdiction before the Central Commission all this while. The appellant is facing proceedings under Insolvency and Bankruptcy Code and under directions of the National Company Law Tribunal (NCLT) is undergoing CIRP process. Having regard to these facts, we condone the delay.

The matter presently registered as DFR 292 of 2022 shall now be registered as appeal. The said appeal is clubbed and made part of the batch of appeal no.91 of 2020 and appeal no.145 of 2021, which are part heard. The *Vakalatnama* may be formally filed by the learned counsel for the respondents for record.

**IA NO.2064 OF 2019 - (For interim relief) &
IA NO.1550 OF 2020- (For directions)
IN APPEAL NO.91 OF 2020**

Since the main appeal has been taken up for final hearing, these applications are not pressed by the respective parties and are disposed of accordingly.

**APPEAL NO. 91 OF 2020
APPEAL NO. 145 OF 2021
AND
DFR 292 OF 2022
(To be numbered as appeal)**

Given the fact that the issues raised by the third captioned appeal are primarily questions of law, necessary pleadings as to the background facts being admittedly available on the file of appeal no.145 of 2021, we dispense with the necessity of reply to be filed.

Further heard on the three captioned appeals.

Judgment is reserved.

The parties would have the liberty to file updated written submissions within three days.

(Sandesh Kumar Sharma)
Technical Member

(Justice R.K. Gauba)
Officiating Chairperson

pr/tp