

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

**APPEAL NO. 73 OF 2018
&
APPEAL NO. 196 OF 2019**

Dated: **06.10.2022**

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

In the matter of:

APPEAL NO.73 of 2018

IN THE MATTER OF:

MB Power (Madhya Pradesh) Ltd.,
Through Chairperson,
239, Okhla Industrial Estate Phase III,
New Delhi-110020.

... Appellant

Versus

1. Central Electricity Regulatory Commission,
Through its Secretary,
3rd& 4th Floor, Chanderlok Building,
Janpath, New Delhi-110001.
2. Power Grid Corporation of India Limited,
Through Chairman
"Saudamini", Plot No.2, Sector 29,
Near IFFCO Chowk,
Gurgaon (Haryana) – 122001
3. Madhya Pradesh Power Trading Company Limited
Shakti Bhawan, Rampur,
Jabalpur- 482 008.
4. Maharsahtra State Electricity Distribution Company Limited
Through Chairman
Prakashgad, 4th Floor,

Andheri (East), Mumbai-400 052.

5. Gujarat Urja Vikas Nigam Limited
Through Chairman
Sardar Patel Vidyut Bhawan,
Race Course Road,
Vadodra – 390 007.
 6. Electricity Department, Government of Goa,
Through Managing Director,
Vidyut Bhawan, Panaji,
Near Mandvi Hotel,
Goa – 403 001.
 7. Electricity Department of Daman & Diu
Through Executive Engineer,
Administration of Daman & Diu,
Vidyut Bhawan, Near 66/11 KV Kachigam Sub-station,
Somnath-Kachigam Road,
Kachigam, Daman-396210.
 8. Electricity Department of Dadra Nagar Haveli
Through Managing Director,
Administration of Dadra Nagar Haveli
Vidyut Bhawan, Near Secretariat,
Amli, Silvasaal,
Dadra and Nagar Haveli– 396 230.
 9. Chhattisgarh State Electricity Board
Through Chairman
P.O. Sunder Nagar, Dangania, Raipur,
Chhattisgarh – 492 013.
 10. Madhya Pradesh Audyogik Kendra Vikas
Nigam (Indore) Limited
Through Managing Director
3/54, Press Complex, Agra Bombay Road,
Indore-452 008.
- ... Respondents

Counsel for the Appellant (s) : Mr. Sanjay Sen, Sr. Adv.

Mr. Gopal Jain, Sr. Adv.
Mr. Hemant Sahai
Ms. Molshree Bhatnagar
Ms. Nipun Sharma
Mr. Utkarsh Singh
Ms. Shefali Tripathi
Mr. Apoorva Misra
Mr. Nitish Gupta
Mr. Aditya K. Singh
Mr. Shreshth Sharma
Ms. Puja Priyadarshini
Ms. Nived Veerapaneni
Ms. Anukriti Jain
Ms. Jyotsna Khatri
Ms. Parichita Chowdhury
Mr. Sakya Singh Chaudhari
Ms. Samykya Mukku
Mr. Anand Srivastava
Ms. Gayatri Arpan
Mr. Rajeev Lochan
Mr. Abhishek Gupta

Counsel for the Respondent (s) : Mr. M.G. Ramachandran, Sr. Adv.
Ms. Ranjitha Ramachandran
Mr. Shubham Arya
Mr. Ravi Nair
Mr. Nipun Dave
Ms. Poorva Saigal
Mr. Arvind Kumar Dubey
Ms. Anushree Bardhan
Mr. Pulkit Agarwal For Res2

Mr. Nitin Gaur
Mr. Varun K Chopra
Mr. Gurtej Pal Singh For Res3

APPEAL NO.196 of 2019

IN THE MATTER OF:

Central Transmission Utility of India Ltd.,
Through its Chief G.M.(Commercial)

having its registered office at:
B-9, Qutub Institutional Area,
Katwaria Sarai, New Delhi-110016.
And Corporate office at:
“Saudamini”, Plot No.2,
Sector-29, Gurgaon – 122001.

... Appellant

Versus

1. Central Electricity Regulatory Commission,
Through its Secretary,
3rd & 4th Floor, Chanderlok Building,
Janpath, New Delhi-110001.
2. MB Power (Madhya Pradesh) Ltd.,
Through its Authorised Signatory,
Corporate Office:
239, Okhla Industrial Estate Phase III,
New Delhi-110020.
3. Power Grid Corporation of India Limited,
Through its Chief G.M.(Commercial)
having its registered office at:
B-9, Qutub Institutional Area,
Katwaria Sarai, New Delhi-110016.
And Corporate office at:
“Saudamini”, Plot No.2,
Sector-29, Gurgaon – 122001.

... Respondents

Counsel for the Appellant (s) : Ms. Suparna Srivastava
Ms. Soumya Singh
Ms. Astha Jain

Counsel for the Respondent (s) : Mr. Basava Prabhu Patil, Sr. Adv.
Mr. Hemant Sahai
Ms. Rachita Herimath
Mr. Geet Ahuja
Mr. Shreshth Sharma
Ms. Molshree Bhatnagar
Ms. Nipun Sharma

Mr. Utkarsh Singh
Ms. Shefali Tripathi
Mr. Nitish Gupta
Mr. Aditya K. Singh
Ms. Puja Priyadarshini
Mr. Nived Veerapaneni for R-2

J U D G M E N T

PER HON'BLE MR.SANDESH KUMAR SHARMA, TECHNCIAL MEMBER

1. M/s MB Power (Madhya Pradesh) Limited (for short "Generator" or "MBPL"), the Appellant in the first captioned Appeal i.e. Appeal No. 73 of 2018 (in short "Appeal-73") is a Generating Company, has filed the Appeal-73 against the order passed by Central Electricity Regulatory Commission (hereinafter referred to as "Central Commission" or "CERC") on 15.12.2017 in Petition 141/TT/2015 (in short "Impugned Order-141").

2. Separately, the Central Transmission Utility of India Limited (for short "CTU"), the Appellant in the second captioned Appeal i.e. Appeal No. 196 of 2019 (in short "Appeal-196") aggrieved by order dated 10.5.2019 (in short "Impugned Order-96") passed by CERC in Petition No.96/MP/2018, filed the second captioned appeal i.e. Appeal-196.

3. The Generator, MBPL has challenged the Impugned Order-141 on account of direction to pay IDC and IEDC charges for the period 08.08.2014 to 24.02.2015 and transmission charges for the period 25.02.2015 to 19.05.2015 to CTU whereas CTU has challenged the Impugned Order-96 assailing the direction of the Central Commission to pay reverse transmission

charges for the period 20.05.2015 to 26.08.2015 to MBPL, return of the Bank Guarantee (BG) of Rs. 60 crores along with bank charges towards extension of validity period of the BG.

4. Considering that the two Appeals are arising out of dispute between the Generator and the CTU in lieu to the agreements signed between the two, the two Appeals are taken up for adjudication together.

Description of Parties

5. The MB Power (Madhya Pradesh) Limited (MBPL), the Appellant in the first captioned Appeal and 2nd Respondent in the second captioned Appeal, is a generating company within meaning of sub-section (28) of Section 2 of the Electricity Act, 2003 and has established a 1200 MW (2x600 MW) coal based thermal power project in Anuppur district in Madhya Pradesh.

6. The Central Transmission Utility (CTU) has been carved out of the Power Grid Corporation of India Ltd. ("PGCIL") along with the functions directly related to the dispute herein and the change of name of the Respondent and Appellant in the two captioned Appeals has been allowed from PGCIL to CTU as the Respondent in the first captioned Appeal and Appellant in the second captioned Appeal, has been entrusted with the functions of ensuring development of an efficient, coordinated and economic system of Inter-State Transmission lines for smooth flow of electricity from

generating stations to the load centers and providing non-discriminatory open access to generators and licensees on payment of transmission charges.

7. It is noted here that during the period of dispute the function of CTU was vested with PGCIL, accordingly the correspondences made and referred by the Generator were addressed to PGCIL, however, after the filing of the appeal, the CTU was carved out from PGCIL.

8. The Central Electricity Regulatory Commission, Respondent No. 1 is a statutory body under Section 76 of the Electricity Act, 2003 and has been vested with the powers to adjudicate disputes under Section 79 of the Electricity Act, 2003 between a generating company and a licensee as defined under the Electricity Act, 2003.

9. PGCIL, Respondent no. 3 in the second captioned Appeal, is a government company within the meaning of Companies Act, 1956. In exercise of its power under sub-section (1) of Section 38 of the Electricity Act, 2003, the Government of India has declared PGCIL to act as Central Transmission Utility (hereinafter referred to as "CTU") before bifurcation into PGCIL and CTU.

10. Respondent nos. 3 to 10 in the first captioned Appeal are the beneficiaries of the Generator.