COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

ORDER ON DFR NO. 1439 OF 2018 AND IA NOS. 748 & 749 OF 2018 ON THE FILE OFTHE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

Dated : 11th July, 2018

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of:

National Solar Energy Federation of India
702, Chiranjiv Tower,
43- Nehru Place
New Delhi-110 019
(Through : Authorized Representative) ……. Appellant(s)

Versus

1. **Karnataka Electricity Regulatory Commission**
No.9/2 6th & 7th Floor, Mahalakshmi Chambers,
M.G. Road, Bengaluru,
Karnataka 560 001
(Through its Secretary) ……. Respondent(s)

Counsel for the Appellant (s)	:	Mr. Prabhuling Navadgi, Sr. Adv. Mr. Hemant Singh Mr. Tushar Srivastava Mr. Shariq Ahmed
Counsel for the Respondent(s)	:	---

In the instant Appeal, being DFR No. 1439 of 2018, the Appellant most humbly prays for the following reliefs:

a) Set aside Impugned Order dated 12.04.2015, passed by the Karnataka Electricity Regulatory Commission in Petition No. S/03/1;

b) Direct that the tariff, with respect to the power purchase agreements executed by the solar power developers with the distribution licensees of the State of Karnataka for the control period FY 2013-14 to 2017-18, can only be considered as provided in the order dated 10.10.2013; and pass such other and further order or orders as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the present case and in the interest of justice.

Presented this Appeal for considering the following Questions of Law:

A. Whether the Ld. Commission was correct in modifying/reducing the control period, as well as the tariff, determined in the order dated 10.10.2013 which was for a period of 5 years?

B. Whether the Impugned Order has been passed in violation of the provisions of Section 62(4) of the Electricity Act, 2003?

C. Whether Regulation 9 of the KERC RE Regulations, 2011 have been misinterpreted by the Ld. Commission?

D. Whether the Ld. Commission could have added words or modify the express language of Regulation 9 of the KERC RE Regulations, 2011?

E. Whether Regulation 9 of the KERC RE Regulations are only a reiteration of the powers available under Sections 86(1)(a) and (b), and whether the above Regulation can be invoked to intrude/modify/reduce the control period mid-way?

F. Whether a control period provided in a tariff order can be modified/reduced, along with tariff, mid-way within the said period?

G. Whether the Impugned Order is non-est and nullity as there was no jurisdiction with the Ld. Commission to subsequently modify/reduce the control period as well as tariff, once the same was already determined by a prior order?

H. Whether the Ld. Commission can curtail the promotion and incentivization provided to the renewable/solar generators as per Sections 61(h) and 86(1)(e), when there is no such power available under the Electricity Act, 2003?

I. Whether regulatory powers can only be utilized by the Commissions for promoting renewable/ solar energy, and not otherwise as has been done in the present case?

J. Whether any inherent or regulatory powers are available for Commissions to mid-way modify/reduce the control period as well as tariff?

K. Whether the Ld. Commission violated the doctrine of legitimate expectation in revising the tariff order dated 10.10.2017?

O R D E R

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

We have heard the learned senior counsel, Mr. Prabhuling Navadgi, appearing for the Appellant for quite some time. During the course of the hearing, he submitted that, the instant Appeal, being DFR No. 1439 of 2018, and IA Nos. 748 of 2018 & 749 of 2018, may be dismissed as withdrawn reserving liberty to the Appellant to redress his grievance before the appropriate Legal Forum as envisaged under the relevant provision of the Electricity Act, 2003 and all the grounds urged in the instant memo of appeal may kindly be left open.

2. Submissions made by the learned senior counsel appearing for the Appellant, as stated above, are placed on record.

3. The Registry is directed to number the Appeal.

4. In view of the aforementioned submissions made by the learned senior counsel appearing for the Appellant, the instant appeal is dismissed as withdrawn reserving liberty to the Appellant to redress his grievances before the appropriate Legal Forum as envisaged under the relevant provisions of the Electricity Act, 2003 and all the contentions urged by the Appellant in the instant memo of appeal are left open.

ORDER ON
IA NOS. 748 & 749 OF 2018

5. In view of the instant Appeal on the file of the Appellate Tribunal for Electricity, New Delhi has been dismissed as withdrawn, on account of which, reliefs sought in IA Nos. 748 of 2018 & 749 of 2018 do not survive for consideration and hence, disposed of having become infructuous.

6. Order accordingly.

(S.D. Dubey)
Technical Member

(Justice N.K. Patil)
Judicial Member

js/vt