

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

IA NO. 1673 OF 2018 IN
DFR NO. 4353 OF 2018

Dated: 30th November, 2018

Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

M/s. Aavanti Solar Energy Private Limited **Appellant(s)**
Versus
Bangalore Electricity Supply Company Limited & Ors. **Respondent(s)**

Counsel for the Appellant(s) : Mr. Prabhuling Navadegi, Sr. Adv.
Mr. Shubhranshu Padhi
Mr. Ashish Yadav

Counsel for the Respondent(s) : Mr. Balaji Srinivasan
Mr. Siddhant Kohli
Mr. Mayank Kshirsagar for R-1

ORDER
IA NO. 1673 OF 2018 – for delay in filing)

Issue notice. Dasti, in addition, is permitted.

ORDER
DFR No. 4353 of 2018

Heard the learned senior counsel for the appellant as well as the respondents. The Impugned Order is dated 18.09.2018 where liquidated damages are directed to be deducted after notice. Apparently in terms of order dated 29.06.2016 KERC directed modifications in terms of page 92 whereby the parties had to enter into suitable supplementary PPA

incorporating the modifications. Such supplementary PPA came to be entered into on 24.08.2017. In fact in terms of order dated 21.08.2018 there was an order to pay 4.36 per unit as interim tariff.

In terms of 3.1 of PPA and 8.5 PPA, the agreement will come into effect from the date of getting concurrence from KERC on the PPA and same shall be referred as the effective date and in terms of 8.5 the developer is required to commission the project within 12 months from effective date. Under these circumstances prima facie we are of the opinion that the project was commissioned within 12 months from the effective date. However, the respondents are at liberty to file objections bringing on record the facts which represent otherwise. Meanwhile the respondents shall not deduct liquidated damages if they are assessed after notice.

Liberty to mention is reserved to the respondents to mention.

List the matter on **03.01.2019**

(Ravindra Kumar Verma)
Technical Member

(Justice Manjula Chellur)
Chairperson

mk/js