

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

**JUDGMENT IN APPEAL NO. 318 OF 2018 &
IA NO. 1137 OF 2018 ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI**

Dated: 5th April, 2019

Present: **Hon'ble Mr. Justice N.K. Patil, Judicial Member**
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

- 1. Clean Max Power Projects Private Limited,**
A Company incorporated under the provisions of
Companies Act, 1956,
Having its registered office at:
33, Ashoka Apartments,
Rungta Lane, Off Napean Sea Road,
Mumbai-400006
Represented by its Authorised Signatory
Mr. Andrew Hines

- 2. Clean Max IPP2 Private Limited,**
A Company incorporated under the provisions of
Companies Act, 1956,
Having its registered office at:
13A, Floor-13, Plot-400
The Peregrine Apartment
Kismat Cinema Prabhadevi,
Mumbai-400025,
Represented by its Authorised Signatory
Mr. Andrew Hines

- 3. Clean Max Photovoltaic Private Limited,**
A Company incorporated under the provisions of
Companies Act, 1956,
Having its registered office at:
13A, Floor-13, Plot-400
The Peregrine Apartment
Kismat Cinema Prabhadevi,
Mumbai-400025,

Represented by its Authorised Signatory
Mr. Andrew Hines

4. Clean Max Mercury Power Private Limited,

A Company incorporated under the provisions of
Companies Act, 1956,

Having its registered office at:

13A, Floor-13, Plot-400

The Peregrine Apartment

Kismat Cinema Prabhadevi,

Mumbai-400025,

Represented by its Authorised Signatory

Mr. Andrew Hines

5. Clean Max Enviro Energy Solutions Private Limited,

A Company incorporated under the provisions of
Companies Act, 1956,

Having its registered office at:

33, Ashoka Apartments,

Rungta Lane, Off Napean Sea Road,

Mumbai-400006

Represented by its Authorised Signatory

Mr. Andrew Hines

6. Bhadra Packaids Pvt. Ltd.

A Company registered under the provisions
of the Companies Act, 1956

Having its Head Office at No.23/14,

II Floor, Jalasambhavi Complex,

1st Main Road, Gandhinagar,

Bangalore- 560009

Represented by its Authorised Signatory

Mr. Madesh Lakshman

7. Charishma Hotels Pvt. Ltd.,

A Company registered under the provisions
of the Companies Act, 1956

Having its Registered Office at

Radisson Blu Bengaluru,

Outer Ring Road,

Sy.No.90/4, Munnekollalu Village,

Marathalli Outer Ring Road,

Bangalore-560037

Represented by its Authorised Signatory

Mr. Andrew Hines

8. Kemwell Biopharma Pvt. Ltd.

A Company registered under the provisions of the Companies Act, 1956

Having its Office at
34th KM, Tumkur Road,
T.Begur, Nelamangala Taluk,
Bangalore-562123

Represented by its Authorised Signatory
Mr. Andrew Hines

9. MLC Estate LLP

A Limited Liability Partnership

Having its Office at,
"The Millenia" Tower A,
14th Floor, 1 & 2 Murphy Road,
Ulsoor, Bangalore-560008

Represented by its Authorised Signatory
Mr. Sanjiv Shanmugam

10. Shree M.T.K. Textiles Pvt. Ltd.

A Company registered under the provisions of the Companies Act, 1956

Having its Registered Administrative Office at
New No.57, DPF Street,
Ramaswamy Layout, Pappanaickenpalayam,
Coimbatore - 641037

Represented by its Authorised Signatory
Mr. Andrew Hines

11. Avon Cycles Ltd.,

A Company registered under the provisions of the Companies Act

Having its Registered Office at
G.T.Road, Ludhiana - 141003

Represented by its Authorised Signatory
Mr. Andrew Hines

12. Avon Ispat and Power Ltd.

A Company registered under the provisions of the Companies Act, 1956

Having its Registered Office at
G.T.Road, Dhandari Kalan,
Ludhiana - 141003

Represented by its Authorised Signatory
Mr. Andrew Hines

13. Lozen Pharma Pvt. Ltd.,

A Company registered under the provisions of the
Companies Act, 1956
Having its Factory at
Raghav Estate, KSSIDC Industrial Estate,
Shiggaon Road, Savanur - 581118
Represented by its Authorised Signatory
Mr. Andrew Hines

14. Renaissance Advisory Services Pvt. Ltd.,

A Company registered under the provisions of the
Companies Act, 1956
Having its Registered Office at
19/3, Sujata Building,
Ranisati Marg, Malad East,
Mumbai - 400097
Represented by its Authorised Signatory
Mr. Andrew Hines

15. Shree Anantnath Real Estate Pvt. Ltd.,

A Company registered under the provisions of the
Companies Act, 1956
Having its Registered Office at
19, Steelyard House,
ST Road, Iron Market,
Masjid Bunder, Mumbai – 400009
Represented by its Authorised Signatory
Mr. Andrew Hines

16. Abhishta Solar Pvt. Ltd.

A Company registered under the provisions of the
Companies Act, 2013
Having its Registered Office at
4E and 5E, Industrial Estate,
Vaishnavi Sarovar,
Opp. Gujarathi Samaj,
Apt. No.402 & 403,
D-Block, Yadavgi, Mysore-570020
Represented by its Authorised Signatory
Mr. Andrew Hines

17. Umiya Holding Pvt. Ltd.

A Company registered under the provisions of the Companies Act, 2013
Having its Registered Office at
#29/3, H.M.Strafford,
2nd Floor, 7th Cross Road,
Vasanthnagar, Bangalore-560052
Represented by its Authorised Signatory
Mr. Andrew Hines

18. Creamline Dairy

A Company incorporated under the provisions of Companies Act, 1956,
Having its registered office at:
#6-3-1238/B/21, Asif Avenue,
Raj Bhavan Road,
Somajiguda, Hyderabad-500082
Represented by its Authorised Signatory
Mr. Sunil Kumar Srivastava

19. Sonu Handicraft

A Partnership Firm
Having its office at:
E - 218, 3rd Phase, RIISO Industrial Area,
Boranada, Jodhpur-342012
Represented by its Authorised Signatory
Mr. Andrew Hines

20. Sharma Industries

A Partnership Firm,
Having its branch office at:
C-10/15, India Exposition Mart Limited,
Plot No. 25,27,28,29, Knowledge Park-II,
Greater Noida-201308
Represented by its Authorised Signatory
Mr. Andrew Hines

21. Ravindra K Reshamwala

A Partnership Firm,
Having its office at:
7/A, PIL Court, 111 Maharishi Karve Road,
Mumbai-400020
Represented by its Authorised Signatory
Mr. Andrew Hines

22. Clover Buildcorp

A Company incorporated under the provisions of
Companies Act, 1956,
Having its office at:
2nd Floor, D-Wing, 234/240,
Clover Center 7, Moledina Road,
Pune-411001
Represented by its Authorised Signatory
Mr. Andrew Hines

23. Mr. Sunil Sharma

Proprietor of Sushil Udyog
Having its office at:
F-25. 66, 67, MIA, Phase 1st
Basni, Jodhpur-342005

24. Bora Agro Foods

A Partnership Firm
Having its office at:
Samrat House, 1st floor, 39D,
2/6, Shankar Sheth Road,
Pune-411037
Represented by its Authorised Signatory
Mr. Andrew Hines

25. SVAS Investments Private Limited

A Company incorporated under the provisions of
Companies Act, 1956,
Having its office at:
Plot No. 822 A,
Road No. 40, Jubilee Hills,
Hyderabad-500033
Represented by its Authorised Signatory
Mr. Andrew Hines

.....Appellants

VERSUS

1.

- 1. Bangalore Electricity Supply Company Limited,**
A Company registered under the

provisions of the Companies Act, 1956,
Through its Managing Director,
Having its registered office at
K.R. Road, Bangalore, Karnataka – 560001

2. Gulbarga Electricity Supply Company Ltd.

A Company registered under the
provisions of Companies Act, 1956
Through its Managing Director,
Having its registered office at
Station Road, Kalaburagi
Karnataka-585101

3. Chamundeshwari Electricity Supply Corporation Limited,

Through its Managing Director,
No.29, Kaveri Grameena Bank Road,
Hinkal Vijayanagar, 2nd Stage,
Mysuru, Karnataka-570019

4. Karnataka Electricity Regulation Commission,

Through its Chairman
No. 16, C-1, Millers Bed Area,
Vasanth Nagar,
Bengaluru, Karnataka – 560001

5. Karnataka Power Transmission Corporation Limited,

Through its Managing Director,
28, Race Course Road,
Bangalore, Karnataka – 560009

6. Hubli Electricity Supply Company Limited

A Company registered under the
provisions of Companies Act, 1956
Through its Managing Director
P.B. Road, Navanagar,
Hubballi, Karnataka-580025

7. Managalore Electricity Supply Company Limited

A Company registered under the
provisions of Companies Act, 1956
Through its Managing Director
MESCOM Bhavana,
Kavoor Cross Road, Bejai,
Mangaluru, Karnataka-575004

.... Respondents

Counsel for the Appellant(s) : Mr. C. Muralidhara
Counsel for the Respondent(s): Mr. Balaji Srinivasan
Ms. Sumana Naganand
Ms. Pallavi Sengupta for R-2, R-5 & R-7

J U D G M E N T

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

1. In the instant Appeal, the Appellant, Clean Max Power Projects Private Limited & Ors., Mumbai, is questioning the legality, validity and propriety of the common order passed by Karnataka Electricity Regulatory Commission, Bengaluru (1st Respondent herein) dated 09.01.2018 in OP No. 100/2016 and OP No. 47 of 2017.
2. The Appellant has sought the following reliefs in Appeal No. 318 of 2018:
 - a. That this Tribunal may be pleased to allow the present Appeal and set aside the Impugned order dated 09.01.2018 passed in OP No. 90/2015, 100/2016, 104/2016, 47/2017 and 130/2017 in terms of the grounds raised in Para 9 above;
 - b. For such further or other relief as circumstances and nature of the case may require;
3. We have heard the learned counsel, Mr. C. Muralidhara, appearing for the Appellant and the learned counsel, Mr. Balaji Srinivasan, appearing for the Respondent Nos.1, 5 & 7.
4. The learned counsel for the Appellant and the learned counsel for the Respondent Nos. 1, 5 & 7, at the outset, fairly submitted that, the

instant appeal filed by the Appellant may kindly be disposed of following the Judgment and Order dated 29.03.2019 passed in Appeal No. 42 of 2018 & IA No. 214 of 2018 and connected cases (M/s Fortune Five Hydel Projects Pvt. Ltd, vs Karnataka Electricity Regulatory Commission & Ors.) and in terms and for the reasons stated therein in the interest of justice and equity.

5. Submissions of the learned counsel appearing for the Appellant and the Respondent Nos. 1, 5 & 7, as stated supra, are placed on record.
6. In the light of the submissions of the counsel appearing for the Appellant and the Respondent Nos. 1, 5 & 7 and having regard to the facts and circumstances of the case in hand, it is just and proper to pass an appropriate order to meet the ends of justice as requested by the learned counsel for both the parties in the interest of justice and equity.

ORDER

Having regard to the facts and circumstances of the case, as stated above, the instant appeal filed by the Appellant is allowed.

The common impugned Order dated 09.01.2018 in Petition Nos. 90/2015, 100/2016, 104/2016, 47/2017 and 130/2017 on the file of the Karnataka Electricity Regulatory Commission (1st Respondent herein) is

hereby set aside so far it relates the prayers sought by the Appellant in the instant appeal.

The matter stands remitted back to the first Respondent, KERC with the direction to pass the appropriate order in the light of the observations made in the preceding paragraphs of the Judgment dated 29.03.2019 passed in Appeal No. 42 of 2018 & IA No. 214 of 2018 and connected cases (M/s Fortune Five Hydel Projects Pvt. Ltd, vs Karnataka Electricity Regulatory Commission & Ors.), in accordance with law as expeditiously as possible at any rate within six months.

The Appellant and the Respondents herein are directed to appear before the first Respondent, KERC personally or through their counsel without notice on 29.04.2019.

IA NO. 1137 of 2018

In view of the Appeal No. 318 of 2018 on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, on account of which, the reliefs sought in IA No. 1137 of 2018 does not survive for consideration and, hence, stands disposed of.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member
mk/bn

(Justice N.K. Patil)
Judicial Member