

COURT-II

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

IA NOS. 232 OF 2019 & 233 OF 2019

**IN
DFR NO. 4481 OF 2018**

Dated: 2nd April, 2019

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

In the matter of:

**Indowind Energy Limited
"Kothari Building"
4th Floor 114 MG Road
Nungambakkam, Chennai- 600034 Appellant (s)**

Versus

- 1. Karnataka Electricity Regulatory
Commission
No. 16, C-1, Millers Bed Area
Vasanth Nagar, Bengaluru-560052 Respondent No.1**
- 2. Bangalore Electricity Supply Company
Limited
K.R. Road, Bengaluru-560001 Respondent No.2**
- 3. Hubli Electricity Supply Company
Limited
P.B. Road, Navanagar
Hubballi-580025 Respondent No.3**
- 4. State of Karnataka
Department of Energy
VikasaSoudha
Dr. Ambedkar Veedhi
Bengaluru-560001 Respondent No.4**

**Counsel for the Appellant (s) : Mr. Anantha Narayana M.G.
Mr. Shridhar Prabhu**

Counsel for the Respondent (s) :

ORDER

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

1. **The Appellant has presented the instant Appeal seeking the following reliefs:**
 - a. Call for records from the 1st Respondent – KERC;
 - b. Set aside the Order dated 09th January, 2018, passed by the 1st Respondent – KERC in O.P. No. 90 of 2016 and O.P. No. 100 of 2016;
 - c. Issue an order or direction to 4th Respondent directing it to issue a direction under section 108 of the Electricity Act, 2003 provide the Banking arrangement to the Petitioner on a Wind Year basis with a grace period of one month as mandated under Clause 6.2.1 of the Agreement dated 17th April, 2010.
 - d. Grant cost of the Appeal;
 - e. Pass such other order/s as deemed fit under the facts and circumstances of the present case.

2. **The Appellant has presented this Appeal for considering the following Questions of Law:**
 - I. Whether the alteration of Banking period and introduction of TOD Banking norms would tantamount to alteration of tariff?
 - II. Whether KERC can alter the tariff within same financial year without any justifiable grounds?
 - III. Whether opportunity of hearing and principles of natural justice are essential components of adjudication?

3. In the instant Appeal, Indowind Energy Limited (in short, the “Appellant”) is questioning the legality and validity of the Impugned Order dated 09th January, 2018 passed by the Karnataka Electricity Regulatory Commission, Bengaluru in OP No. 90 of 2016 and OP No. 100 of 2016.

4. The learned counsel Mr. Anantha Narayana M.G. appearing for the Appellant at the outset submitted that in view of the judgment/order dated 29th March, 2019 passed by this Tribunal in Appeal No. 42 of 2018 & IA No. 214 of 2018 in the matter of M/s. Fortune Five Hydel Projects Pvt. Ltd Vs. Karnataka Electricity Regulatory Commission & Ors. and connected matters, the instant Appeal filed by the Appellant may kindly be numbered and disposed of.
5. The submissions made by the learned counsel appearing for the Appellant, as stated supra, are placed on record.
6. In view of the judgment/order dated 29th March, 2019 passed by this Tribunal in Appeal No. 42 of 2018 & IA No. 214 of 2018 in the matter of M/s. Fortune Five Hydel Projects Pvt. Ltd Vs. Karnataka Electricity Regulatory Commission & Ors. and connected matters, the Registry is directed to number the Appeal. The instant Appeal filed by the Appellant is hereby disposed of in terms of above judgment/order dated 29th March, 2019 in Appeal No. 42 of 2018 & IA No. 214 of 2018.
7. In view of the disposal of the above case being DFR No. 4481 of 2018, the relief sought in the IA Nos. 232 and 233 of 2019 do not survive for consideration and accordingly stand disposed of.

(Ravindra Kumar Verma)
Technical Member
mk/ss

(Justice N.K. Patil)
Judicial Member