

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

**DFR NO. 3477 OF 2017**

**Dated: 16<sup>th</sup> October, 2017**

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson**  
**Hon'ble Mr. I.J. Kapoor, Technical Member**

**In the matter of:**

**ESSAR POWER GUJARAT LTD. ... Appellant(s)**

**Vs.**

**C.E.R.C. & Anr. .... Respondent(s)**

Counsel for the Appellant(s) : Mr. Sanjay Sen, Sr. Adv.  
Mr. Sakya Singha Chaudhuri  
Mr. Anand Kr. Shrivastava  
Mr. Shivam Sinha  
Ms. Molshree  
Ms. Shruti Verma

Counsel for the Respondent(s) : Ms. Swapna Seshadri for R.2/PGCIL

**ORDER**

**(MENTIONED IN THE COURT)**

Learned counsel for the appellant shall serve copy of the appeal as well as the stay application on counsel for Respondent No.2. Reply, if any, may be filed on or before 23.10.2017 after serving copy on the other side.

The appellant approached the Delhi High Court on 13.10.2017 on the assumption that this Tribunal was not sitting on that day. In the circumstances, the Delhi High Court has given interim relief to the appellant till 17.10.2017 by restraining Respondent No.2 from making any payment against the bank guarantee dated 09.02.2011. Since the appropriate remedy for the appellant is to approach this Tribunal and since the interim relief is granted till 17.10.2017, the appellant has approached this Tribunal. In the circumstances, without prejudice to the

rights and contentions of Respondent No.2, we continue the interim protection granted by the Delhi High Court till the next date of hearing i.e. 23/10/2017 from 17.10.2017. The parties may inform the Delhi High Court accordingly.

We must however make it clear that the statement made before the Delhi High Court that the bench of this Tribunal was not available on 13.10.2017 for judicial work is not correct. The Members were very much available till 1.30 p.m. However, the Registry informs us that this appeal was not filed on 13.10.2017. It was filed only today. Learned counsel for the appellant has undertaken to cure the defects by tomorrow.

List the matter on **23.10.2017**. Notice be issued to Respondent No1, returnable on 23.10.2017. Dasti, in addition, is permitted.

**(I. J. Kapoor)**  
**Technical Member**  
*ts/tpd*

**(Justice Ranjana P. Desai)**  
**Chairperson**