

COURT-I

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

APPEAL NO. 201 OF 2016

Dated: 7th September, 2017

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

In the matter of:

**Gujarat Energy Transmission Corporation Ltd. Appellant(s)
Vs.
Gujarat Electricity Regulatory Commission & Ors. Respondent(s)**

Counsel for the Appellant(s) : Mr. Anand K. Ganesan
Ms. Anushree Bardhan
Mr. Shubham Arya

Counsel for the Respondent(s) : Ms. Suparna Srivastava
Ms. Sanjna Dua for R-1

ORDER

The appellant, Gujarat Energy Transmission Corporation Limited, has challenged in this appeal Order dated 31.03.2016 passed by the Gujarat Electricity Regulatory Commission (**the State Commission**) in Petition No. 1545 of 2015.

We have heard Mr. Anand K. Ganesan, learned counsel for the appellant and Ms. Suparna Srivastava, learned counsel for respondent No.1.

In the instant appeal the appellant has raised issues related to the truing up of financials for the period 2014-15. Following are the said issues:

- a) *“Computation of approved Annual Revenue Requirements for FY 2014-15.*
- b) *Computation of depreciation;*
- c) *Treatment of depreciation and deferred income;*
- d) *Repayment of loan;*
- e) *Computation of interest on working capital;*
- f) *Computation of Operation and Maintenance (O & M) Expenses;*
- g) *Not considering the contributions made by the appellant under Corporate Social Responsibility.”*

So far as issues from ‘b to g’ mentioned here-in-above are concerned, some of them are decided against the appellant and some of them are decided in favour of the appellant vide Judgment dated 21.07.2016 in Appeal No. 108 of 2013. The correct position is described in the submissions of the appellant as under:

S. No	Issues raised in the present Appeal	Implication of the judgment dated 21.07.2016	Relevant Paragraphs of the judgment dated 21.07.2016
1.	ISSUE B: In computing the depreciation admissible, the State Commission has wrongly proceeded on the basis of the quantum shown in the Depreciation Reserve Fund	Allowed in favour of the Appellant	Paragraphs 11.1 to 11.9 and 11.11 (Pages 19 to 28 of the Compilation) “11.9 After going through the submissions, we observe that the

	<p>instead of calculating the depreciation on the Gross Fixed Assets as per the provisions of law</p>	<p>methodology followed by the State Commission is different i.e. Commission considered the asset value as per the depreciation reserve account, whereas the Regulation says that the depreciation as per the original asset value has to be considered at the time of commissioning of the asset. Consequently, finding in the Impugned Order is liable to be quashed and is quashed and we direct the State Commission to recompute the depreciation as per the MYT Tariff Regulations.</p> <p>.....</p> <p><i>We direct the State Commission to recompute the depreciation and reexamine the deferred income utilized for creation of assets. Thus, in our opinion, the State Commission has not computed the depreciation for the FY 2011-12 to 2015-16, based on gross fixed assets value, the Commission has considered the asset value as per the depreciation reserve account. Thus, deviating methodology adopted in the MYT Tariff Order dated 31.03.2011. Hence, we direct the State Commission to recompute the</i></p>
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			<p><i>depreciation based on the asset value as considered in the MYT Tariff Order while truing-up of the Tariff Orders. Further, we direct the State Commission to re-examine with respect to deferred income and portion of the grants as per the Accounting Standard and recommendation of CAG. If necessary, the MYT Regulation has to be suitably amended. Thus, we decide these issues (Issue Nos. 1&2) in favour of the Appellant and the Impugned Orders are to be modified accordingly"</i></p>
2.	<p>ISSUE C: The State Commission has considered the Government Grants, Subsidies and Consumer Contribution as deferred income on the basis of written down value method while depreciation has been allowed on straight line method. The above has lead to a mismatch of the amount of income considered on year-on-year basis as compared to the depreciation amount allowed</p>	<p>Allowed in favour of the Appellant</p>	<p>Para 11.11(Pages 26-28 of the Compilation)</p> <p><i>"We direct the State Commission to re-compute the depreciation and reexamine the deferred income utilized for creation of assets. Thus, in our opinion, the State Commission has not computed the depreciation for the FY 2011-12 to 2015-16, based on gross fixed assets value, the Commission has considered the asset value as per the depreciation reserve account. Thus, deviating methodology adopted in the MYT Tariff Order dated 31.03.2011. Hence, we</i></p>

			<p><i>direct the State Commission to re-compute the depreciation based on the asset value as considered in the MYT Tariff Order while truing-up of the Tariff Orders. Further, we direct the State Commission to re-examine with respect to deferred income and portion of the grants as per the Accounting Standard and recommendation of CAG. If necessary, the MYT Regulation has to be suitably amended. Thus, we decide these issues (Issue Nos. 1&2) in favour of the Appellant and the Impugned Orders are to be modified accordingly "</i></p>
3.	<p>ISSUE D: The State Commission in calculating the deemed repayment of loan being equivalent to depreciation has taken into account only the quantum of normative loan and not the actual loan to be serviced by the Appellant and thereby resulting in a reduced cash flow for the Appellant to service the loan</p>	<p>Decided against the Appellant</p>	<p>Paras 15.1 and 15.2(Pages 31 to 33 of the Compilation)</p>
4.	<p>ISSUE E: The State Commission while computing the working capital requirement and interest to be allowed, has not</p>	<p>Allowed in favour of the Appellant</p>	<p>Para 19.1 to 19.4 (Pages 35-36 of the Compilation) <i>"19.4 In view of the above, the State</i></p>

	considered the value of the maintenance spares to be escalated at 6% over the historical cost from the date of the commercial operation as provided in the MYT Regulations 2011.		<i>Commission is directed to follow their own regulations stating that maintenance spares at 1% of the historical cost escalated at 6% from the date of commercial operation while computing the interest on working capital for the transmission business. Thus, we do not agree with the decision of the State Commission and accordingly, the issue is decided in favour of the Appellant. The State Commission is directed to re-compute interest on working capital as per the MYT Regulations, 2011.</i>
5.	ISSUE F: The State Commission has made adjustments in the Revenue Requirements of the Appellant of an amount of Rs 223.37 crores of capitalisation of certain expenditure claimed by the Appellant relating to the implementation of the capital projects, despite the determination of revenue requirements including Operation & Maintenance Expenses on normative basis.	Decided against the Appellant	Paras 27.1 to 27.5 (Page 44-47 of the Compilation)
6.	ISSUE G: The State Commission has not considered an amount of Rs 1.88 crores contributed	Decided against the Appellant.	Paras 31.1 to 31.2 (Pages 48-49 of the Compilation)

	by the Appellant under the Corporate Social Responsibility as expenditure to be allowed in the revenue requirements.		
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So far as issue 'a' mentioned here-in-above i.e., Computation of approved Annual Revenue Requirements for FY 2014-15 is concerned, there appears to be a computational error. In view of the same, we feel that this is a fit case where so far as the said issue is concerned the matter needs to be remanded to the State Commission with a direction to the State Commission to hear the parties afresh and pass a reasoned order. Order accordingly. The whole exercise be conducted as early as possible and preferably within a period of three months from the date of receipt of this order by the State Commission.

The appeal is disposed of in the afore-stated terms. Pending IAs shall stand disposed of.

(I. J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

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