

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**Appeal No. 113 of 2009 &
IA No. 213 of 2009**

Dated: 16th November 2009

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. H.L. Bajaj, Technical Member**

**Lupin Ltd. Appellant (s)
Versus
Maharashtra Electricity Regulatory Commission & Ors. ... Respondent (s)**

Counsel for the Appellant/ (s): Mr. Haresh Jagtiani, Sr. Adv., with Mr. Siddesh Bhole
Ms. Ramni Taneja
Ms. Banusri

Counsel for the Respondent (s): Mr. Buddy A. Ranganadhan for MERC
Mr. Varun Agarwal for MSEDCL

ORDER

Heard the learned counsel for the parties.

The Ld. Senior Counsel for the Appellant would submit that the Statement made by the State Commission in para 10 would suffice to redress their grievance in this Appeal, as it is undertaken by the State Commission that for the forthcoming year, this issue will be considered by the State Commission after hearing the parties through public notice and the same may be recorded.

The relevant statement made by the State Commission as pointed out by the learned Senior Counsel for the Appellant is contained in para 10 middle. It is reproduced below:-

“Moreover, the Appellant is not prejudiced in any way by the applicability of the RPS Order dated 16.8.2006. In fact, the renewable purchase obligation specified under the impugned order, have been reduced by a subsequent order dated 7th August 2009 in Case No. 104, 122 and 125 of 2008 in the matter of Petition seeking waiver of RPS under the Commission's Order dated 16.8.2006 in Case No. 6 of 2006 and /or

review thereof. The operative part in this regard contained in the order dated 7th August 2009 is as under:-

“39. Further, considering year-to-year short fall in RE capacity addition the Commission is of the view that it would not be practical to expect that such shortfall can be made good on cumulative basis by the end of FY 2009-10. Hence, the Commission believes that in pursuance of Cl. 2.6.12 of RPS Order (Case 6 of 2006), it would be most appropriate to modify the RPS percentage requirement for FY 2007-08, FY 2008-09 and FY 2009-10 to be lower of (a) RPS target as specified under Cl. 2.6.7 or (b) actual achievement of RPS target in respect of each ‘Eligible Person’.”

In view of the above statement made by the State Commission in its Counter filed in this Appeal, we deem it fit to dispose of this Appeal by recording the same and direct the State Commission to consider this aspect for the forthcoming year after the issue of public notice. Accordingly, the parties are directed to approach the State Commission in the light of this Order. **With these observations this Appeal is disposed of.**

(H.L. Bajaj)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson