

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 159 of 2010

Dated : 19th April, 2011

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. V.J. Talwar, Technical Member**

NTPC Ltd. ... Appellant(s)

Versus

C.E.R.C & Ors.Respondent(s)

Counsel for the Appellant(s): Mr. M.G. Ramachandran, Mr. Anand K. Ganesan
Ms. Sneha Venkataramani

JUDGMENT

The following issues have been raised by the Appellant in this Appeal;

- a) Exclusion of part of the capital expenditure validly incurred but pending actual disbursement/payment from the capital cost for the purposes of tariff.
- b) Equating depreciation with normative loan repayment.
- c) Disallowance of cost of maintenance spares;

- d) Impact of de-capitalisation of assets on cumulative repayment of loan.
- e) Consequences of refinancing of loan; and
- f) Admissibility of depreciation up to 90 %

It is submitted by the learned counsel for the Appellant that Issue No.1 is covered and decided in favour of the Appellant by Judgment of this Court in Appeal Nos. 133, 135 etc. of 2008 (***NTPC Vs. CERC& Ors – 2009 ELR (APTEL) 337***), dated 16.03.09 and Appeal Nos. 151 & 152 of 2007 (***NTPC Vs. CERC& Ors – 2008 ELR (APTEL) 916***) dated 10.12.2008.

With regard to Issue No.2, the same is covered and decided in favour of the Appellant by Judgment of this Court in Appeal Nos. 133, 135 etc. of 2008 (***NTPC Vs. CERC& Ors – 2009 ELR (APTEL) 337***), dated 16.03.09 and Appeal Nos. 139, 140 etc. of 2006 dated 13.06.2007.

With regard to Issue No.3, the same is covered and decided in favour of the Appellant by Judgment of this Court in Appeal Nos. 139, 140 etc. of 2006, dated 13.06.07 and Appeal No. 54 of 2009 (***NTPC Vs. CERC & Ors – 2009 ELR (APTEL) 705***), dated 21.08.2009.

With regard to issue No. 4, the same is covered and decided in favour of the Appellant by Judgment of this Court in Appeal Nos. 139, 140 etc. of 2006, dated 13.06.07.

With regard to issue No. 5, the same is covered and decided in favour of the Appellant by Judgment of this Court in Appeal Nos. 139, 140 etc. of 2006, dated 13.06.07.

With regard to issue No. 6, the same is covered and decided in favour of the Appellant by Judgment of this Court in Appeal Nos. 139, 140 etc of 2006 dated 13.06.2007.

We have heard the learned counsel for the Appellant.

Nobody has entered appearance on behalf of the Respondent.

In view of the decision already taken by this Tribunal on these issues, this Appeal is allowed in terms of the Judgments referred to above by the learned counsel for the Appellant.

(V.J. Talwar)
Technical Member

(Justice M. KarpagaVinayagam)
Chairperson

Ts/ks