Before the Appellate Tribunal for Electricity (Appellate Jurisdiction)

<u>Appeal No. 263 of 2006</u> (in A.F.R No. 1273 of 2006)

Dated: 22nd November, 2006

Present:	Hon'ble Mr. Justice Anil Dev Singh, Chairperson
	Hon'ble Mr. A.A. Khan, Technical Member

Delhi Transco Ltd. & Anr. Versus	Appellants
C.E.R.C. & Ors.	Respondents
Counsel for the Appellants:	Mr. Pradeep Misra
Counsel for the Respondents:	Mr. M. G. Ramachandran with Mr. Anand K. Ganesan for NTPC

<u>ORDER</u>

In this appeal, the appellant, *inter alia*, challenges the Order of the Central Electricity Regulatory Commission, dated December 12, 2000. This Order was passed by the Central Electricity Regulatory Commission to settle the terms and conditions for determination of tariff. The appellant challenges that part of the aforesaid order which provides that return on equity shall be computed on the paid up and subscribed capital and shall be 16% of such capital. This Order, dated December 12, 2000, was a precursor to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2001(for short 'Regulations'), which have been framed under Section 28 read with Section 55 of the Electricity Regulatory Commission Act, 1998. These Regulations have been published in the Gazette of India on March 26, 2001. The term relating to return on equity has been incorporated in Regulation 3.5.1 (c) of the Regulations. Therefore, it is only under the Regulation 3.5.1 (c) that the return on equity can be calculated for the purposes of fixation of tariff and not on the basis of the order, dated December 12, 2000. The challenge, therefore, can only be to the validity of the aforesaid Regulation.

In Neyveli Lignite Corporation Ltd. Vs. Tamil Nadu Electricity Board and Others (Appeal nos. 114 and 115 of 2005), We have already taken a view that this Tribunal does not have jurisdiction to determine the question relating to the validity of the Regulations.

In the circumstances, therefore, the appeal is dismissed.

(Mr. A. A. Khan) Technical Member (Mr. Justice Anil Dev Singh) Chairperson

Dated: 22nd November, 2006