

Before the Appellate Tribunal for Electricity  
Appellate Jurisdiction  
New Delhi

**IA No. 134 Of 2007 in Appeal No. 265 of 2006**

Dated this the 10<sup>th</sup> day of September, 2007

Present : **Hon'ble Mr. H. L. Bajaj, Technical Member**  
**:Hon'ble Ms. Justice Manju Goel, Judicial Member**

North Delhi Power Ltd. ....Applicant(s)

Vesus

Delhi Electricity Regulatory Commission & Ors. ....Respondent(s)

Counsel for the Appellant : Mr. Amit Kapoor Advocate  
with Mr. Approva Mishra, Ajit Lala &  
Mr. Alok Shankar Advocate

Counsel for the Respondent : Mr. K.N. Bhatt, Sr. Advocate.  
Mr. S.B. Upadhyay, Sr. Advocate  
Mr. S.M. Sharma, Advocate,  
For Resp. No. 1 (DERC)  
Mr. K.N. Verma, Jt. Director (Law)  
Mr. V.P. Singh & Mr. Ankit Berry  
Advocate for BRPL & BYPL.

**JUDGMENT**

1. North Delhi Power Limited (NDPL), the appellant in Appeal No. 265 of 2006 seeks clarification of the judgment of this Tribunal dated 23.05.2007 by which three appeals being No. 265, 266 and 267 of 2006 were decided. Judgment in question stands reported in the Energy Law Report at 2007 APTEL 193. The three appeals challenged the tariff orders of the Delhi Electricity Regulatory Commission (DERC) dated 22.09.2006, which had denied certain

- claims of the appellant while deciding their Annual Revenue Requirement (ARR) while fixing the tariff. The objections to the Orders of the Commission were dealt with under the following heads namely (i) depreciation (ii) under achievement and over achievement in respect of AT&C losses (iii) prior period adjustment in transfer of stores/R&M expanses (iv) capital expenditure (v) second truing up (vi) payment for contractual employees (vii) service tax (viii) reactive energy charges and (ix) interest.
2. The facts and figures of Appeal No. 267 were referred to for analyzing the disputing claims of the three appellants and the Commission. The Tribunal said that the directions in Appeal No. 267 of 2006 be read as directions *mutatis mutandis*, in Appeal Nos. 265 of 2006 and 266 of 2006.

The applicant seeks clarification in respect of the following issues:

- i) Second truing up
  - ii) Recovery of VSS cost
  - iii) R&M expenses
  - iv) Capital expenditure.
3. The relevant findings of this Tribunal under these heads have been extracted in the application under consideration. In any case all the parties have received copies of the judgment and the same also stands reported as mentioned above. At the time of hearing of the application, it became clear that there is no ambiguity in the judgment rendered by this Tribunal.
4. The parties, particularly the applicant NDPL, fully understood the import of the judgment. Accordingly, it is not necessary to clarify

the judgment to NDPL. In fact, it appeared to us that NDPL filed this application under the apprehension that the Commission has not properly followed the import of the judgment. Since the judgment is clear and un-ambiguous, it will not be proper for us to hold that the Commission requires any clarification. Nor does the Commission ask for any clarification.

5. The applicant expressed fears that the Commission would not implement the directions of this Tribunal. This apprehension is dispelled by Shri K.N. Bhatt, Sr. Advocate appearing for the Commission by his statement that notwithstanding what has been stated in the counter affidavit filed on behalf of the Commission, it will implement the judgment in letter and spirit to the best of its understanding. We need not say any thing more.
6. We may add, however, that Mr. V.P. Singh Advocate appearing on behalf of BSES, appellant in Appeal No. 267 of 2006 said that approval of capital expenditure projects was held up and the Commission needed to expedite the grant of approval on those projects. We hope the Commission will look into the grievance and will do the needful.
7. The application stands disposed of.

Pronounced in open court on the 10<sup>th</sup> Day of September, 2007.

(Mr. H.L. Bajaj)  
Technical Member

(Mrs. Justice Manju Goel)  
Judicial Member

