

Court-II

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

A.No. 39 of 2016 and A.No. 119 of 2013 & IA Nos. 187 of 2013 and 147 of 2015

Dated : 21st March, 2016

**Present : Hon'ble Mr. Justice Surendra Kumar, Judicial Member
Hon'ble Mr. T. Munikrishnaiah, Technical Member**

In the matter of:

A.No. 39 of 2016

**Madhya Pradesh Power Management Co. Ltd. ...Appellant(s)
Versus
Central Electricity Regulatory Commission & Ors. ...Respondent(s)**

Counsel for the Appellant : Mr. Rishabh Donnel Singh

Counsel for the Respondent(s) : Ms. Divya Chaturvedi with
Ms. Shikha Pandey for R.2 & 3
Mr. Anand K. Ganesan,
Mr. Sandeep Rajpurohit and
Ms. Neha Garg for R.5

A.No. 119 of 2013 & IA Nos. 187 of 2013 and 147 of 2015

**Chhattisgarh State Power Distribution Co. Ltd. ...Appellant(s)
Versus
Central Electricity Regulatory Commission & Ors. ...Respondent(s)**

Counsel for the Appellant : Ms. Suparna Srivastava

Counsel for the Respondent(s) : Mr. M.S.Ramalingam for R.1
Ms. Divya Chaturvedi and
Ms. Shikha Pandey for R.2 & 3
Mr. Anand K. Ganesan for R.4

J U D G M E N T

Both these appeals, being Appeal Nos. 39 of 2016 and 119 of 2013, have been filed by the respective appellants, against the order dated 26.09.2012 (***Impugned Order***), under Section 111 of the Electricity Act, 2003, Passed by the Central Electricity Regulatory Commission (in short hereinafter referred to

as the '**Central Commission**') in Petition No.135/TT/2012 on the Petitions filed under Sections 61, 62 and 86(1)(a) of the Electricity Act, 2003 and CERC (Terms and Conditions of Tariff) Regulations 2009 (hereinafter referred as the '**Tariff Regulations 2009**') for approval of annual fixed cost and determination of tariff for the transmission business for the FYs 2011-12, 2012-13 and 2013-14.

- 2) By the Impugned Order, the learned Central Commission, after prudence check, has determined the provisional annual transmission charges for the period 2009-14. The Impugned Order has been made applicable on pro rata basis for the period 09.05.2011 till 31.03.2014. The Impugned Order further provides that the provisional transmission charges allowed in the Impugned Order shall be subject to the adjustments as per Regulation 5 of the Tariff Regulations 2009. Since both these appeals emanate from the same Impugned Order, they have been heard together.
- 3) We have heard the respective counsel for the parties and gone through the Impugned Order. It is admittedly the case of the appellant(s), of each appeal, that the respective appeals have been filed against the Impugned provisional tariff order.
- 4) It has been reported by the learned counsel for the parties that the final tariff order in the same matter has been pronounced on 18.12.2015. Thus the legal position is, after the filing of the instant appeals, against the aforesaid provisional tariff order, the said Petitions have been decided by pronouncement of the final tariff order of the Central Commission. It has also been candidly admitted by the learned counsel appearing for the rival parties, that the aggrieved parties are filing appeal against the final tariff order today itself. Apprehension of the contesting parties is that, though, the instant appeals cannot survive after passing of the final order in the matter but the consequences of the Impugned provisional tariff order may cause some prejudice or grievance to any of the parties. With the consent of rival parties, we deem it proper to grant liberty to

them to raise all the grievances raised in the instant appeals, during hearing of the appeals, which are to be filed against the final tariff order. In this light, ***we dispose of these instant appeals*** finding that these appeals have become infructuous and cannot legally survive after the passing of the final tariff order.

No order as to costs.

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

sh/kt