

**Before The Appellate Tribunal for Electricity
Appellate Jurisdiction, New Delhi**

Appeal No. 169 of 2006,
Interlocutory Application No. 120 of 2006 in Appeal No. 177 of 2005 &
Interlocutory Application No. 186 of 2006 in Appeal No. 225 of 2006

**Present: Hon'ble Mr. Justice E. Padmanabhan, Judicial Member
Hon'ble Mr. H.L. Bajaj, Technical Member**

Appeal No. 169/06:

Kashi Vishwanath Steels Ltd. ... Appellant
Versus

Uttaranchal Electricity Regulatory Commission & Ors. ... Respondents

IA No.120/06 in A.No.177/05:

M/s Poddar Alloys (Pvt.) Ltd. ... Applicant

Versus

Uttaranchal Electricity Regulatory Commission & Another ... Respondents

IA No. 186/06 in A.No.225/06:

Uttaranchal Power Corpn. Ltd. ... Applicant

Versus

Uttaranchal Electricity Regulatory Commission ... Respondent

Counsel for A.No.169/06

For the Appellant : Mr. Amit Bhandari, Advocate
Counsel for the Respondents : Mr. M.G.Ramachandran, Adv.
& Mr. Anand K, Ganesan, Adv.
Mr. P. S. Bhullar, Adv. for UERC

Counsel for IA No.120/06 in A.No.177/05 & IA 186/06 in A.No.225/06:

For the Appellant : Mr. M. L. Lahoty, Advocate,
Mr. Paban K. Sharma, Advocate
and Ms. Poonam Lahoty, Adv.
For the Respondents : Mr. M.G.Ramachandran, Adv.
& Mr. Anand K, Ganesan, Adv.
Mr. P. S. Bhullar, Adv. for UERC

Dated : 21st November, 2006

ORDER

- 1) In respect of IA No. 120/06 and Appeal No. 169/06, the present order is passed.

Cntd...2/-

- 2) When action to punish for contempt was initiated and when it was complained to us that the Uttaranchal Electricity Regulatory Commission has failed to implement the directions issued by this Appellate Tribunal in Appeal No. 124, 125 and 177 of 2005, after hearing both side liberty was given to the said Commission by our order dated 13th October, 2006 to pass appropriate orders by way of implementation of the Judgment in Appeal No. 124, 125 & 177 of 2005. On 14th November, 2006, Mr. P.S.Bhullar, learned counsel appearing for the said Regulatory Commission, while placing a copy of the order of the Commission dated 13th November, 2006, also handed over a copy of the order dated 13th November, 2006 to the counsel appearing in these batch of appeals. Mr.Lahoty, the learned counsel appearing for the appellant in this batch, leading the argument requested time to make his submissions. Accordingly, the matters is listed today for hearing.
- 3) Mr. Lahoty as well as Mr. Amit Bhandari, advocates made their submissions. Mr. P.S.Bhullar, the learned counsel appearing for the Regulatory Commission represented that the Regulatory Commission has passed orders in the manner in which it has understood the Judgment of this Appellate Tribunal. Sufficient time was spent in the hearing and we expressed our displeasure and anguish on the earlier occasion about the way the Regulatory Commission conducted itself.
- 4) We have given our anxious consideration and expressed our anguish with respect to the manner in which the Commission has conducted itself in the implementation of the Judgment rendered by this Appellate Tribunal and ignoring the same, despite specific directions.

Cntd...3/-

Less said is better. Judicial discipline has to be maintained and we restrain ourselves from expressing very strongly with respect to the attitude of the Regulatory Commission in the manner implementation of the Judgment, while at the same time trying to over-reach or get over the judgment of this appellate authority in a calculated design. Attempts to defeat are apparent and the failure to maintain standards of conduct by The Regulatory Commission is equally apparent.

- 5) In our considered view, the failure on the part of the Uttaranchal Electricity Regulatory Commission to implement the directions issued by this Appellate Tribunal, despite Judgment being brought to its notice, deserves to be deprecated. Yet liberty was given to Commission to amend it. However, the Regulatory Commission has not amended itself nor had changed its attitude nor it had kept the minimum standards expected of it.
- 6) An order has since been passed by the Commission on 13th November, 2006. We do not propose to express ourselves on the merits of the said order. Even here also, it is rightly commented that the Commission has not conducted itself properly in a manner expected and in fact, it has made up its mind to overreach the orders of this Appellate Tribunal by a design.
- 7) Hence, once again, we are constrained to deprecate the conduct on the part of the Uttaranchal Regulatory Commission. This will atleast send right signals to the said Commission. If the Commission is to conduct itself in such a fashion, we will be constrained to take a serious view to correct the attitude of the Commission.

Cntd....4/-

- 8) We make it clear that it is open to the appellants to file appeal against the order of the Commission dated 13th November, 2006 and also prosecute the appeals which are already pending on the file of this Appellate Tribunal as against the tariff order.
- 9) We hereby direct Appeal No. 177 of 2005 and 225 of 2006 to be listed along with connected batch of appeals posted on 19th December, 2006 challenging the tariff determination.
- 10) IA No. 120 of 2006 and Appeal No. 169 of 2006 will stand disposed with the present order.

(Mr. H.L. Bajaj)
Technical Member

(Mr. Justice E. Padmanabhan)
Judicial Member