

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

I.A. No. 240 of 2010 in Appeal No. 153 of 2009

Dated : September 30, 2010

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam,
Chairperson.
Hon'ble Mr. Rakesh Nath, Technical Member**

In the matter of:

North Delhi Power Limited

.....Appellants

Vs

Delhi Electricity Regulatory Commission

.....Respondent

**Counsel for Appellant(s): Mr. Amit Kapur, advocate
Ms. Poonam Verma, adv.
Mr. Ajay Kapoor,
Mr. Anurag Bansal,
Mr. Dhiraj Bengani for NDPL**

Counsel for Respondent(s): None

ORDER

Per Hon'ble Shri Rakesh Nath, Technical Member:

1. North Delhi Power Limited, the Appellant/Applicant has filed this application seeking clarification and/ or modification of this Tribunal's Judgment dated 30.07.2010 in Appeal No. 153 of 2009.

- The Appellant/Applicant had preferred Appeal No. 153 of 2009 challenging findings of the State Commission in Tariff order dated 28.05.2009. In the judgment dated 30.07.2010 this Tribunal had allowed claims of the Appellant/ Applicant except in the issue of charges incurred by the Appellant/Applicant in providing Letter of Credit in favour of various generating companies and other entities with whom power procurement arrangements were tied up.
2. The Appellant/Applicant has now submitted the documents relating to Power Purchase Agreement dated 08.05.2008 and 10.06.2008 with NTPC, a Central generating company, and Aravali Power Company Pvt. Ltd. respectively indicating mandatory condition of opening of LC. These documents were not submitted earlier before the Tribunal.
 3. We have closely examined the matter. This Tribunal had held that opening of LC is essential pre-requisite for claiming a rebate of 2% and is not a pre-requisite for rebate of 1% which is available when payment is made within a month and that the LC charges have to be borne by the Appellant as they are taking the benefit of rebate over and above 1%. Now the Appellant/Applicant on the basis of additional documents submitted before the Tribunal states that as per the PPA signed with NTPC and Aravali Power Company Pvt.

- Ltd. on 08.05.2008 and 10.06.2008 respectively, opening of LC is a mandatory condition irrespective of rebate.
4. According to CERC Tariff Regulations applicable to generating companies and transmission licensees, a rebate of 2% is allowed if payment of bills is made through Letter of Credit on presentation. However, if payment is made by a mode other than LC within a period of one month of presentation of bill, a rebate of 1% is allowed. This Tribunal had decided the matter considering the CERC Regulations. The PPAs dated 08.05.2008 and 10.06.2008 submitted now by the Appellant/Applicant also indicate in para 6.7 and 6.16 respectively that rebate and surcharge as applicable on payment of bills as per CERC Regulations or any other rebate scheme as may be offered by the generating company and agreed by the Appellant shall be applicable. The mandatory condition in the PPAs for opening of LC will not make any modification in our finding regarding bearing of LC charges by the Appellant/Applicant.
 5. It has also been confirmed by the learned counsel for the Appellant during the hearing that the LC charges are much less than the additional rebate of 1%.

6. In view of above, we feel that no clarification/modification is required to be issued in the judgment.
7. Accordingly the IA is dismissed at the admission stage itself. No cost.
8. Pronounced in the open court on this 30th day of September, 2010.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

INDEX : REPORTABLE / NON-REPORTABLE.

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