

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2105/2009

ASSAM POWER DISTRIBUTION COMPANY LIMITED APPELLANT(S)
(FORMERLY KNOWN AS ASSAM STATE ELECTRICITY BOARD)

VERSUS

POWER GRID CORPORATION OF INDIA LTD. & ORS. RESPONDENT(S)

O R D E R

This appeal has been preferred by the Assam Power Distribution Company Limited challenging the order passed on 04.01.2008 by the Appellate Tribunal for Electricity at New Delhi.

In view of the order that is proposed to be passed, we need not refer to the antecedent facts in detail. The necessary facts for disposal of this appeal are as follows :

On 09.05.2006, an order was passed by Member Secretary, Central Electricity Regulatory Commission (CERC) in Petition No.3 of 2005 directing the State Electricity Boards to pay the transmission charges to Power Grid Corporation of India Limited (PGCIL) at the rates that were fixed in the order.

The appellant filed a review petition before the CERC. A direction was sought that the Uniform Common Pooled Transmission Tariff (UCPTT) sharing mechanism should be continued as interim arrangement between the

parties and that the Revised Tariff/Sharing should be implemented with prospective effect, i.e. with effect from 01.04.2004.

On 27.12.2006, CERC allowed the review petition filed by the appellant. CERC held that the arrears on account of revised sharing of 35 paise/unit for the period 01.02.2000 to 31.03.2004 shall be recovered by the PGCIL from the Relief Package to be sanctioned by the Central Government for the region and that the revised sharing formula should be implemented from 01.04.2004.

Aggrieved by the said order dated 27.12.2006, PGCIL filed an appeal before the Appellate Tribunal and the said appeal was allowed by an Order dated 04.01.2008. The Appellate Tribunal found that there was an erroneous appreciation of facts by the CERC while disposing of the review petition. The Appellate Tribunal further found that the claim of the respondents cannot be said to be retrospective as the initial application was filed in the year 2000 itself.

During the pendency of this appeal, on instructions, the learned counsel appearing for the appellant did not press the prayer for interim relief. As there was no interim order passed by this Court staying operation of the order passed by the Tribunal, we are informed by the learned senior counsel appearing for the respondents that the amount payable by the appellant has already been collected. In all likelihood the respondents would have

already passed on the amount that has been paid by the appellant to the consumers.

At this point of time, we are not inclined to interfere with the order passed by the Appellate Tribunal. The appeal is dismissed. Pending application(s), if any, shall stand disposed of.

However, the question of law is kept open.

..... J.
(L. NAGESWARA RAO)

..... J.
(B.R. GAVAI)

NEW DELHI
20th APRIL, 2022

ITEM NO.107

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2105/2009

ASSAM POWER DISTRIBUTION COMPANY LIMITED APPELLANT(S)
(FORMERLY KNOWN AS ASSAM STATE ELECTRICITY BOARD)

VERSUS

POWER GRID CORPORATION OF INDIA LTD. & ORS. Respondent(s)
(IA No. 36936/2020 - AMENDMENT IN CAUSE TITLE)

Date : 20-04-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE B.R. GAVAI

For Appellant(s) Mr. Amit Kapur, Adv.
Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Karun Sharma, Adv.
Ms. Anupama Ngangom, Adv.
Mr. Krishna Shree Devee, Adv.
Mr. Saurabh Choudhary, Adv.
Mr. Akshat Jain, Adv.
Mr. Pratyush Singh, Adv.

For Respondent(s) Mr. M.G. Ramachandran, Sr. Adv.
Mr. Pramod Dayal, AOR
Mr. Nikunj Dayal, Adv.
Mr. Shubham Arya, Adv.
Ms. Srishti Khindaria, Adv.
Mr. Ravi Nair, Adv.

Mr. Avijit Mani Tripathi, AOR

UPON hearing the counsel the Court made the following
O R D E R

Application for amendment in cause title is
allowed.

The appeal is dismissed in terms of the signed
order. Pending application(s), if any, shall stand
disposed of.

(Geeta Ahuja)
Court Master

(Anand Prakash)
Court Master

(Signed Order is placed on the file)