

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4733/2008

POWERGRID CORPORATION OF INDIA LTD.

APPELLANT(S)

VERSUS

NORTH EASTERN ELECTRIC POWER CORPORATION
LTD. & ORS.

RESPONDENT(S)

O R D E R

1. Heard learned counsel for the appellant.
2. The present appeal is filed against the final judgment and order dated 11.03.2008 passed by the Appellate Tribunal for Electricity (for short, 'the Appellate Tribunal') in Appeal No.118 of 2006, whereby the Appellate Tribunal allowed the first appeal filed by Respondent No.1 and set aside the order dated 07.04.2006 passed by the Central Electricity Regulatory Commission/Respondent No.10.
3. The first appeal was filed by Respondent No.1 herein before the Appellate Tribunal under Section 111 of the Electricity Act, 2003 against the order of the Central Electricity Regulatory Commission (for short, 'the Central Commission') whereby the Central Commission had held that respondent No.1, a generating company in the north eastern region, is liable to pay transmission charges at the specified rate on the quantum of electricity delivered for transfer

under unscheduled inter-change, in the peculiar facts and circumstances applicable to the said north-eastern region. The Appellate Tribunal has however held that a generating company injecting excess energy into the north-eastern region grid in excess of that scheduled by the beneficiaries either on account of a bilateral or as unscheduled inter-change charges cannot be called upon to pay transmission charges as it would amount to double charging of the transmission charges. Aggrieved by the said order, the instant appeal has been filed.

4. We have perused the order passed by the Central Commission as well as by the Appellate Tribunal. Various reasons have been given by the Central Commission for arriving at different conclusions in the order. The reasons, *inter alia*, given in paragraphs 11, 12 and 13 have not been specifically adverted to by the Appellate Tribunal. While deciding the appeal the Appellate Tribunal was required to consider the reasons given by the Commission. In the facts and circumstances of the case, we deem it appropriate to set aside the order of the Appellate Tribunal and remit the case to it to consider the case afresh after hearing the parties and decide the appeal, in accordance with law, duly considering the reason given in the order passed by the Central Commission.

5. The appeal is allowed to the aforesaid extent.

6. Pending application(s), if any, shall stand disposed of.

.....J.
[ARUN MISHRA]

.....J.
[VINEET SARAN]

.....J.
[M.R. SHAH]

NEW DELHI;
JANUARY 30, 2020.

ITEM NO.109

COURT NO.3

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

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Date : 30-01-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE VINEET SARAN
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Mr. M.G. Ramachandran, Sr. Adv.
Ms. Ranjitha Ramachandran, Adv.
Mr. Pramod Dayal, AOR
Mr. Nikunj Dayal, Adv.
Ms. Payal Dayal, Adv.

For Respondent(s) Ms. Sharmila Upadhyay, AOR (N.P.)
Mr. T.G. Narayanan Nair, AOR (N.P.)
Mr. Gopal Singh, AOR (N.P.)

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

The appeal is allowed, in terms of the signed order.

(NARENDRA PRASAD)
COURT MASTER

(JAGDISH CHANDER)
COURT MASTER

(Signed order is placed on the file)