

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. \_\_\_\_\_ OF 2023  
(@ Diary No. 30049 of 2023)

ADANI ELECTRICITY MUMBAI LIMITED DISTRIBUTION

APPELLANT(S)

VERSUS

TATA POWER COMPANY LIMITED & ANR.

RESPONDENT(S)

**O R D E R**

Permission to file the appeal is granted.

I.A. no. 149796/2023 for impleadment/intervention is allowed. Maharashtra State Electricity Transmission Company Limited and Maharashtra State Load Despatch Centre are impleaded as respondent nos. 3 and 4 respectively, to the present appeal. Cause title of the appeal will be amended accordingly.

During the course of hearing, various pleas and contentions have been raised by the appellant - Adani Electricity Mumbai Limited-Distribution<sup>1</sup> and respondent no. 1 - Tata Power Company Limited<sup>2</sup>. Our attention is drawn to paragraph 92 of the impugned judgment/order and the factum that AEMLD was not heard. There is doubt and debate whether the impugned judgment/order has the effect of staying the truing up as directed. According to AEMLD, directions pertaining to the truing up have also been stayed, which is disputed by TPCL, as there is no challenge to truing up. The challenge made by TPCL, it is stated, is to the alleged failure to

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<sup>1</sup> for short, "AEMLD"

<sup>2</sup> for short, "TPCL"

account for revenue surplus and power purchase from outside.

The contention of AEMLD is that in case the impugned interim order is allowed to continue and operate, there would be large scale migration of consumers from them to TPCL in view of the difference in tariff, fixed and applicable to consumers drawing electricity from AEMLD viz., TPCL.

The learned counsel appearing for the Maharashtra Electricity Regulatory Commission<sup>3</sup> (respondent no. 2) has submitted that it would have been appropriate if the Appellate Tribunal for Electricity<sup>4</sup> had heard AEMLD and Brihanmumbai Electric Supply and Transport<sup>5</sup>. She also suggested that the statutory authorities should have been heard.

It is apparent that the pleas and contentions raised before us, do not find mention and examination in the impugned judgment/order.

In these circumstances, we deem it appropriate to permit AEMLD to move an application before the appellate tribunal within ten days from today, raising all pleas and contentions. The Appellate Tribunal may also hear the BEST, if deemed necessary. TPCL and others may file their response/reply to the application. All pleas and contentions by the parties would be examined by the appellate Tribunal in accordance with law. It is informed that the matter is fixed for hearing before the appellate Tribunal on 16.10.2023. If the application is filed in terms this order, the same can be fixed for hearing on 16.10.2023. We clarify that we

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<sup>3</sup> for short, "MERC"

<sup>4</sup> for short, "appellate tribunal"

<sup>5</sup> for short, "BEST"

have not expressed any opinion on the merits.

We deem it also appropriate to record, that AEMLD has not challenged and has accepted the findings in the impugned order on the flaws and defects in the MERC's order dated 31.03.2023. The issue raised relates to the direction in the appeal of TPCL, that as an interim measure MERC's order dated 30.03.2020 will apply.

Parties have liberty to challenge the impugned judgment/order, if required and necessary, post the decision of the application.

Recording the aforesaid, the appeal is disposed of.

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

.....J.  
(SANJIV KHANNA)

.....J.  
(S.V.N. BHATTI)

NEW DELHI;  
AUGUST 14, 2023.

ITEM NO.37

COURT NO.3

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**CIVIL APPEAL Diary No. 30049/2023**

(Arising out of impugned final judgment and order dated 13-07-2023 in IA No. 732/2023 in Appeal No. 369/2023 passed by the Appellate Tribunal for Electricity at New Delhi)

ADANI ELECTRICITY MUMBAI LIMITED DISTRIBUTION

APPELLANT(S)

VERSUS

TATA POWER COMPANY LIMITED &amp; ANR.

RESPONDENT(S)

(IA No. 148851/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 149796/2023 - INTERVENTION/IMPLEADMENT, IA No. 149885/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 148849/2023 - PERMISSION TO FILE APPEAL and IA No. 148852/2023 - STAY APPLICATION)

Date : 14-08-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s)

Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Shyam Divan, Sr. Adv.  
Mr. Maninder Singh, Sr. Adv.  
Mr. Sanjay Sen, Sr. Adv.  
Ms. Deepa Chawan, Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Hemant Singh, Adv.  
Mr. Ramanauj Kumar, Adv.  
Mr. Biju Mattam, Adv.  
Mr. Arshit Anand, Adv.  
Mr. Shashwat Singh, Adv.  
Mr. Mridul Chakravarty, Adv.  
Mr. Lakshayajit Singh Bagdwal, Adv.  
Mr. Harshit Singh, Adv.  
Ms. Priyal Modi, Adv.  
Ms. Ruchi Patil, Adv.  
Mr. E.C. Agrawala, AOR

For Respondent(s)

Mr. C.S. Vaidyanathan, Sr. Adv.  
Mr. Vikas Singh, Sr. Adv.  
Mr. Basava Prabhu Patil, Sr. Adv.  
Mr. Vainkatesh, Adv.  
Mr. Ashutosh K Srivastava, Adv.

Mr. Bharat Gangadharan, Adv.  
Mr. Nihal Bhardwaj, Adv.  
Mr. Aashwyn Singh, Adv.  
Mr. Shivam Kumar, Adv.  
Mr. Nitin Saluja, AOR

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

Permission to file the appeal is granted.

I.A. no. 149796/2023 for impleadment/intervention is allowed. Maharashtra State Electricity Transmission Company Limited and Maharashtra State Load Despatch Centre are impleaded as respondent nos. 3 and 4 respectively, to the present appeal. Cause title of the appeal will be amended accordingly.

The appeal is disposed of in terms of the signed order.

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

(DEEPAK GUGLANI)  
AR-cum-PS

(R.S. NARAYANAN)  
ASSISTANT REGISTRAR

(signed order is placed on the file)