

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)**

**APPEAL No. 79 OF 2017**

**Dated: 09<sup>th</sup> March, 2026**

**Present: Hon`ble Ms. Seema Gupta, Officiating Chairperson  
Hon`ble Mr. Virender Bhat, Judicial Member**

**IN THE MATTER OF:**

In the matter of:

HARYANA VIDYUT PRASARAN NIHAM LTD.  
Shakti Bhavan, Sector-6,  
Panchkula, Haryana - 134109

... Appellant(s)

***VERSUS***

1. CENTRAL ELECTRICITY REGULATORY COMMISSION  
*Through Secretary,*  
3<sup>rd</sup> and 4<sup>th</sup> Floor, Chanderlok Building,  
36, Janpath, New Delhi – 110001
2. NTPC Ltd.  
*Through Chairman Managing Director*  
NTPC Bhawan, SCOPE Complex,  
7, Institutional Area, Lodhi Road,  
New Delhi – 110003.
3. POWER GRID CORPORATION OF INDIA LTD.  
*Through Chairman Managing Director*  
B-9, Qutab Institutional Area,  
Katwaria Sarai, New Delhi - 110016
4. GRIDCO Limited  
*Through Chairman Managing Director,*  
Janpath, Bhubneshwar – 751022  
Odissa.

5. CENTRAL TRANSMISSION UTILITY OF INDIA LIMITED

*Through its Chairman,*  
First Floor, Saudamini, Plot No.2,  
Sector-29, Near IFFCO Chowk Metro Station,  
Gurgaon – 122001, Haryana

6. HARYANA STATE LOAD DISPATCH CENTRE

*Through its Director,*  
XEN/LD & PC,  
SLDC Complex, Sewah,  
Panipat – 132103

.... Respondents

Counsel on record for the Appellant(s) : Anand K. Ganesan  
Swapna Seshadri  
for App. 1

Counsel on record for the Respondent(s) : Prerna Priyadarshini  
Priyashree Sharma Ph  
Syed Faraz Alam  
for Res. 2

Suparna Srivastava  
for Res. 3

Raj Kumar Mehta  
Himanshi Andley  
for Res. 4

Alok Shankar  
for Res. 5

**JUDGEMENT**

**PER HON'BLE MRS. SEEMA GUPTA, TECHNICAL MEMBER (ELECTRICITY)**

1. Appeal No. 79 of 2017 has been filed by M/s Haryana Vidyut Prasaran Nigam Limited challenging the order dated 29.06.2016 (“**Impugned Order**”) in Petition No. 135/MP/2014 passed by the Central Electricity Regulatory Commission.

## **DESCRIPTION OF PARTIES**

2. Haryana Vidyut Prasaran Nigam Limited (HVPNL), the Appellant is the state-owned intra-State Transmission entity (STU), and the State Load dispatch Centre (SLDC) in the state of Haryana.

3. **Respondent No.1** is the Central Electricity Regulatory Commission (hereinafter referred as “**Central Commission/CERC**”). **Respondent No.2**, the NTPC Limited is a Government of India undertaking engaged in the business of generation and sale of electricity from its various generating stations in India. **Respondent No.3** is Power Grid Corporation of India Ltd. **Respondent No.4** is GRIDCO Limited, state owned entity for bulk power procurement, transmission and supply of power in Odisha. **Respondent No.5** is Central Transmission Utility of India Limited (CTUIL) and Respondent **No.6** is Haryana State Load Dispatch Centre, engaged in coordinating generation, transmission and distribution in the state of Haryana.

## **FACTUAL MATRIX OF THE CASE:**

4. Respondent No 2- NTPC has a set up a 431.6 MW Faridabad GPS at Faridabad and power generated from this project is supplied to the State of Haryana through 220 kV D/C Faridabad- Samaypur and Faridabad-Palla transmission lines owned, operated and maintained by Central Transmission Utility (CTUIL). Since Faridabad GPS was supplying power only to the State of Haryana, its control area jurisdiction has been vested in the Appellant, which is also discharging the function of SLDC in the State.

5. Subsequently, Respondent No2 – NTPC Ltd had proposed to set up a 5 MW Solar power Project at Faridabad GPS and on 26.04 2011, entered into a

PPA with Respondent No.4 for supply of entire 5 MW power from this Solar Project.

6. On 25.06.2013, Respondent No.2 submitted an application to the CTUIL for grant of connectivity and LTA for 5 MW power from the Solar Project; CTUIL sought the NOC of the Appellant in accordance with Connectivity Regulations for grant of open access. The matter was discussed in various meetings of Northern Region constituents (Standing Committee and NRPC meetings), wherein it was desired that Respondent No. 2 to obtain an NOC from the Appellant since the Faridabad Gas Power Station falls within the control area jurisdiction of the Haryana SLDC, which is the principal generator for the proposed Solar Project and power from Solar project shall be evacuated through the Transmission system of Faridabad GPS.

7. Respondent No. 2 entered into the Connectivity Agreement with the Appellant on 27.03.2014 and the Long-Term Access Agreement on 28.03.2014, and the Appellant granted the requisite No Objection Certificate with the condition that the transmission charges and transmission losses are payable and would be subject to approval of Haryana Electricity Regulatory Commission. On 31.03.2014, the solar project was commissioned and declared under commercial operation, and has been supplying power to Respondent No 6-GRIDCO since then.

8. The Appellant, vide its letter dated 17.06.2014, asked the Respondent No. 2 to deposit the transmission charges along with late payment surcharge in terms of the LTA Agreement, and continued to raise monthly invoices towards transmission charges and SLDC charges upon Respondent No. 2 on a regular basis, which were declined by the Respondent No. 2 on the ground that the

transmission corridor utilised for evacuation of 5 MW solar power constitutes an ISTS system and that the Appellant is not entitled to raise invoices in respect thereof. Respondent No. 2 filed Petition No. 135/MP/2014 before the Central Commission, in which Central Commission passed the order, impugned in the present Appeal, on 29.06.2016 and held that the Solar project of Respondent No 2 is connected to the grid through the transmission system of CTU and BBMB, which are ISTS lines and Appellant is not entitled to collect transmission charges from the Respondent No.2. Being aggrieved by the order dated 29.06.2016, the Appellant preferred the present appeal on 14.12.2016.

### **SUBMISSIONS URGED ON BEHALF OF APPELLANT**

9. Learned Counsel on behalf of Appellant submitted that despite Respondent No 2 having applied for NOC to the Appellant on 20.03.2014, and having thereafter executed the Connectivity Agreement on 27.03.2014 and LTA Agreement on 28.03.2014, in the petition before CERC made a prayer to declare that the 5 MW solar power project set up by NTPC at a distance of about 12 kms from its existing Faridabad Gas Power Station does not require any No Objection Certificate (“NOC”) from the State utilities or the SLDC. In its Petition before the Central Commission, Respondent No 2 has stated that, having no alternative but to arrange LTA by 31.03.2014, it proceeded to execute the Connectivity Agreement & LTA Agreement and simultaneously, seeking a declaration that both the Agreements be declared *void ab initio* and that no claim or demand of the Appellant be entertained. With regard to contention of Respondent No.2 that grant of NOC or concurrence by the State utility/SLDC is a ministerial act, it is submitted that the requirement to obtain a no objection/concurrence of the State Utility flows directly from the connectivity Regulations, 2009 and the Detailed Procedure framed and notified thereunder. SLDC is expected to apply its mind and cannot be expected to grant NOC in the form of a ministerial act since it

retains its power to not get the NOC or concurrence. In the meeting dated 31.08.2013, the Appellant categorically stated that the Faridabad solar power plant would fall within the jurisdiction of the State of Haryana and in subsequent meeting held on 23.12.2013, a unanimous decision was taken that the solar power plant at Faridabad is an embedded entity within the Haryana State transmission system, and that Long-Term Access to NTPC would be granted only upon submission of a NOC from the concerned State utility in accordance with the Connectivity Regulations, 2009 and the Detailed Procedure framed thereunder.

10. Respondent No.2, without challenging the above decision, applied to the Appellant for grant of NOC on 20.03.2014. Upon examination, it is noted that the Faridabad–Samaypur and Faridabad–Palla transmission lines were being treated as intra-State lines and the evacuation of power was not confined to the Faridabad–Samaypur line alone but also involved the Palla substation, owned by the Appellant, the Palla–Palli 220 kV transmission line, the Palli substation, and the Palli–Samaypur 220 kV transmission line; all these elements formed part of the State transmission network and were being utilised by Respondent No.2 for transfer of power to GRIDCO/ Respondent No.4. Consequently, the fundamental premise advanced by Respondent No.2 that it was using only Respondent Nos.3 & 5 - PGCIL/CTU- owned assets and that no part of the State network was involved is factually incorrect and untenable.

11. It has been specifically stated by the Appellant before CERC that the CTU and NRLDC had also taken an unequivocal stand that the State transmission network was being utilised for evacuation of power, and that the Faridabad–Samaypur and Faridabad–Palla transmission lines had at all times been treated as intra-State lines, since their charges were never recovered through the PoC mechanism. Notwithstanding these clear and consistent positions and the

material placed on record, the Impugned Order passed by the Central Commission declares that only the ISTS network is being used for the evacuation of electricity by NTPC on a completely incorrect basis. In the Impugned Order it has been incorrectly recorded that the Palla substation is owned by BBMB, in which Haryana is a member State.

12. It is further submitted, that the Central Commission in its earlier Order dated 06.05.2011 passed in Petition No. 118 of 2010, while determining the tariff for the Faridabad–Samaypur and Faridabad–Palla transmission lines, had recorded that the transmission charges in respect thereof were payable only by the beneficiary, in terms of Regulations 23 and 33 of the Tariff Regulations, 2009. However, in the Impugned Order, the Central Commission has changed the nature of the transmissions lines and held that these are only ISTS lines despite the fact that it rejected the submission of CTU that the cost of these lines cannot be included in the ISTS for calculation of POC Charges since these transmission lines are akin to the state lines except that they are controlled and operated by PGCIL. To hold in the Impugned Order that these are not intra-state lines but inter-state lines is contrary to both earlier Orders i.e. Orders dated 06.05.2011 and 02.06.2011 passed by the Central Commission itself. Further, it cannot be that for the purpose of recovery of tariff only the state of Haryana will pay for these lines instead of recovery through POC mechanism but when a third party wishes to evacuate its power on these lines, it is treated as inter-state lines with payment to be made only to the CTU.

13. It is submitted that, even as on date, the operation and scheduling of the subject transmission lines, as well as of the Faridabad Gas Power Station and NTPC's solar power plant, are being carried out by the Haryana SLDC. While Respondent No.2 has sought to rely upon other instances where certain transmission lines have been categorized as part of the inter-State transmission

system despite not being included under the PoC regime, such as the Farakka–Durgapur transmission line in the State of West Bengal and the Kayamkulam transmission system in the State of Kerala, the said reliance is wholly misconceived. The determinative issue is whether, where an entity seeks to utilize such lines for evacuation of electricity, it is required to obtain no objection/concurrence and pay the applicable charges to the concerned State utility. For this purpose, the lines are to be treated akin to intra-state lines as was the stand of both NRLDC and the CTU before the Central Commission as well as before this Tribunal.

14. Regarding the contention of Respondent No.2 that the quantum of power involved was limited to 5 MW and that evacuation would occur exclusively via the Faridabad–Samaypur line, without utilisation of the Faridabad–Palla line, in line with the direction of this Tribunal, by Order dated 24.09.2025, SLDC Haryana filed its affidavit on 25.09.2025, illustrating the power flow under all operational scenarios—viz., when only the solar plant is operational, when only the gas power station is operational, when both stations operate, and when neither station operates confirming that, in all scenarios, there is power flow through both transmission lines.

15. For the sake of argument, without admitting, even if it is assumed that the 5 MW solar generation could be evacuated solely through the line towards Samaypur, even such line must be treated as akin to an intra-State transmission line, and the applicable charges of the Appellant would be payable. When this Tribunal specifically inquired as to why NTPC executed the Connectivity and LTA Agreements with the Appellant on 27.03.2014, Respondent No.2 vaguely attributed the same to coercion; however, such a submission is wholly untenable and must be rejected at the threshold. NTPC was fully aware of the commercial consequences of obtaining connectivity, the requirement to execute the relevant

agreements with HVPNL, and the necessity to commission its generating stations by 31.03.2014. The execution of the Agreements with HVPNL was a conscious commercial decision and cannot, under any circumstances, be construed as coercion.

16. It is submitted that it is a well-settled principle, as enunciated by the Hon'ble Supreme Court in "**Sasan Power Ltd. v. HPPC**"; **2024 (1) SCC 247**, that regulatory Commissions are not empowered to rewrite or alter contracts voluntarily entered into by regulated entities. Accordingly, there is no legal basis for the Central Commission to declare the contract between the Appellant and NTPC as null and void, particularly in circumstances where the said contract is not in conflict with any of the Regulations duly notified by the Central Commission.

17. It is submitted that, at the relevant time when the dispute arose, the monthly charges for use of the Haryana State transmission network were Rs. 2.38 lakhs, while the SLDC charges were Rs. 0.25 lakhs. By virtue of the Impugned Order, these charges have remained stayed for several years. It is, therefore prayed that the Impugned Order be set aside and that Respondent No.2 be directed to pay to the Appellant the charges due under the Connectivity Agreement and the LTA Agreement, together with applicable interest thereon, calculated from 01.04.2014 until the date of actual payment.

## **SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.2**

18. Learned counsel on behalf of the Respondent No.2 submitted that the CERC, in the Impugned Order, has correctly recorded that the solar project is connected to the grid through the ISTS network, and non-inclusion of the concerned transmission lines in the PoC regime does not alter their nature, and

SLDC ought to have granted a NOC to NTPC in terms of Regulation 10(2) of the Connectivity Regulations.

19. In the present case, the contractual path for evacuation of power from NTPC's solar power plant is stated to comprise exclusively of ISTS components. NTPC had, in terms of Regulation 2(1)(b)(i)(e) of the Connectivity Regulations, sought connectivity from PGCIL, the CTU, through the electrical system of the Faridabad Gas Power Project ("FGPP"), which is asserted to form part of the ISTS. The power generated from the solar plant was to be evacuated through the existing two numbers of 220 kV double-circuit transmission lines, claimed to be ISTS lines, with the FGPP switchyard functioning as the pooling sub-station for the solar plant; thus contractual path consists only of ISTS elements, namely the dedicated transmission line from the solar plant to FGPP, the electrical system of FGPP, and its 220 kV switchyard, and that, since no transmission system of HVPNL was envisaged for evacuation of power from the solar plant, no charges could be levied upon NTPC in this regard.

20. It is further submitted that the actual flow of electricity from a particular plant is not the determinative criterion for levy of contractual or statutory transmission charges, since such flow cannot be directed or controlled and is governed by the laws of physics. Reliance is placed on the judgment of the Central Electricity Regulatory Commission dated 08.06.2013 in "**Lanco Anpara Power Limited, Hyderabad v. Uttar Pradesh Power Transmission Corporation Limited, Lucknow**", Petition No. 189/MP/2012, as well as on the subsequent judgment dated 09.03.2018 in "**Kanti Bijlee Utpadan Nigam Limited v. Central Transmission Utility & Ors.**", Petition No. 20/MP/2017.

21. As Faridabad–Samaypur and Faridabad–Palla transmission lines are constructed, owned, and operated by PGCIL-Respondent No.3 and, accordingly, constitute part of the inter-State transmission system under Section 2(36)(iii) of

the Act. It is further undisputed that the Samaypur sub-station forms part of the ISTS by virtue of being a component of the BBMB system in terms of Clause 1.3(iii) of the IEGC, and that the transmission charges for the said assets are determined by the Central Electricity Regulatory Commission upon tariff petitions filed by PGCIL- Respondent No.3. Consequently, since the transmission assets utilised by NTPC's solar power plant for evacuation of power fall squarely within the ambit of ISTS under Section 2(36)(iii) of the Act, they cannot, in law, be treated as part of the intra-State transmission system.

22. It is further submitted that the control area jurisdiction is wholly irrelevant for determining the nature or character of a transmission system. The IEGC, being a regulation framed by the CERC in exercise of powers under Section 79(1)(h) read with Section 178(2)(g) of the Electricity Act, lays down standards and guidelines for secure, reliable, economic, and efficient operation of the national interconnected grid at the State, regional, and national levels, and merely prescribes criteria for determination of control areas. In the present case, since the entire power generated at the FGPP is supplied to the State of Haryana, the control area jurisdiction vests with the Haryana SLDC in terms of Clause 6.4.2(a) of the IEGC, and consequently, metering and energy accounting are carried out by the SLDC, rendering FGPP an intra-State entity for scheduling purposes under Regulation 2(1)(j) of the Connectivity Regulations. In view of the principal generator (FGPP) being an intra state entity, it was decided that the control area for NTPC's Solar Power Plant would also vest with SLDC, thereby, making the later an intra-State entity. The same is borne from the Minutes of 33<sup>rd</sup> Standing Committee Meeting of the Power System Planning of Northern Region. This position is further reinforced by other instances where control area jurisdiction vests with the State Load Despatch Centre despite the transmission system being ISTS, such as the Mundra–Mohindergarh transmission line of Adani Power.

23. It is contended that non-inclusion of a transmission system under the Point of Connection (“PoC”) regime is wholly irrelevant for determining whether such system constitutes an inter-State transmission system. The PoC regime was introduced by the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010; however, no corresponding amendment was ever made to the statutory definition of ISTS under the Electricity Act. It is further relevant that there exist several other instances where transmission lines are categorised as ISTS notwithstanding their non-inclusion in the PoC regime, including the Farakka–Durgapur transmission line in the State of West Bengal and the Kayamkulam transmission system in the State of Kerala.

#### **SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.4**

24. Learned Counsel on behalf of Respondent No 4 submitted that GRIDCO has executed a PPA dated 26.04.2011 with NTPC for procurement of entire Power generated from 5 MW Faridabad Solar PV Power Project located at Faridabad, Haryana to meet Solar Purchase Obligation (SPO) as specified by Odisha Electricity Regulatory Commission (OERC) pooled with equivalent Capacity of Thermal Power from Unallocated Quota of upcoming Coal based Power Projects of NTPC allotted by Ministry of Power, Govt. of India.

25. The 220 kV Faridabad–Samaypur and Faridabad–Palla DC transmission lines, through which power from the 5 MW Solar Power Plant is being evacuated to GRIDCO, Odisha, are built, owned and operated by POWERGRID and are, therefore, required to be treated as part of the inter-State Transmission System and further, the said lines are connected to the 220 kV Palla Sub-station owned, operated and maintained by the Bhakra Beas Management Board (BBMB), whose transmission system has been held to be a deemed ISTS by this Hon’ble

Tribunal in its judgment dated 14.12.2012 in Appeal No. 183 of 2011, a position which also stands reinforced by Regulation 1.3 of the Indian Electricity Grid Code, 2010, expressly providing that the transmission system of BBMB is a deemed ISTS system.

26. The contentions of the Appellant that the CTU transmission lines connected to the Faridabad Gas Power Station are not included in the PoC regime under the CERC Sharing Regulations on the ground that scheduling and accounting of the said lines is being carried out by the Appellant, and that they should therefore be treated as intra-State transmission lines with the beneficiaries being liable to pay the applicable charges and losses, is misconceived and untenable; this issue has been specifically dealt with in paragraphs 16 and 17 of the impugned order, wherein the Appellant's submissions have been rejected.

27. In the 33rd Standing Committee Meeting of Power System Planning of the Northern Region for Connectivity/Long-Term Access held on 23.12.2013, the proposal for grant of connectivity for evacuation of 5 MW power from the Faridabad Solar PV Plant of NTPC through the existing system was accepted, and execution of the requisite LTA Agreement and Transmission Service Agreement was decided; the Minutes of the said meeting also specifically recorded that the 220 kV Faridabad–Samaypur and 220 kV Faridabad–Palla DC lines are ISTS in nature, the further submission of the Appellant that the Solar Power Plant is situated at a distance of 12 km from the Faridabad Gas Power Station, is not within the premises thereof, and is not connected to the ISTS, is wholly misconceived.

28. In terms of Regulation 7(1)(u) and (v) of the CERC Sharing Regulations, 2010, no transmission charges and losses are applicable for drawal of solar power through ISTS lines; consequently, no transmission charges or losses are leviable upon GRIDCO for drawal of 5 MW solar power from Faridabad.

## **SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.5- CTUIL**

29. Learned counsel on behalf of the Respondent No.5 submitted that in terms of Regulation 2(a) read with Regulation 2(c)(i) of the IEGC, 2010, a Central Generating Station connected to the ISTS network may nevertheless be treated as an “intra-State entity” where the entire power generated by such station is allocated to the host State, which position is consistent with the Connectivity Regulations defining an “Intra-State Entity” as a person whose metering and energy accounting are carried out by the State Load Despatch Centre or any other authorised State utility; a conjoint reading of the Connectivity Regulations and the IEGC, 2010 thus makes it clear that the status of an entity as “Intra-State Entity” is not necessarily because the entity is connected to the intra-state grid; an entity connected to the ISTS may also be an intra-state entity due to entire capacity being allocated to the host state or as a corollary an “Intra-State Entity” for the purposes of IEGC, 2010 may be connected to the ISTS network, and accordingly, Faridabad Gas Power Station, being a Central Generating Station whose entire power is allocated to the State of Haryana, is an “intra-State entity”.

30. It is submitted that pursuant to the 3<sup>rd</sup> Amendment to the Connectivity Regulations, a renewable energy generating station of capacity 5 MW and above, set up in an existing generating station, became eligible to apply for grant of connectivity to the ISTS, and an RE generating station with a capacity above 5 MW but less than 50 MW was entitled to seek connectivity to an existing connection point with the ISTS only through the electrical system of the existing generating station; the RE generator contemplated under the said framework for the purposes of seeking connectivity and open access is, therefore, necessarily one developed by a generating company within the existing generating station, with the connectivity being not an independent connectivity but one routed through the system of the existing generating station, and further, Regulation 8

of the Connectivity Regulations was also amended by the 3<sup>rd</sup> Amendment by insertion of a proviso to clause (1), mandating that such RE generating station can seek connectivity only if the existing generating station agrees to act as the “Principal Generator” and, commit through a written agreement, undertakes all operational and commercial responsibilities in respect of the RE generating station.

31. The Power generated from the Faridabad GPS of Respondent No. 2, for the 5 MW solar power project located at the existing generating station, is evacuated through two 220 kV double circuit lines, namely Faridabad–Samaypur and Faridabad–Palla, which are stated to be ISTS lines, and since the entire power generated from the principal generator is allocated to the State of Haryana, its scheduling, dispatch and metering are being carried out by the Haryana SLDC; further, the associated transmission system for Faridabad GPS viz. Faridabad-Palla and Faridabad-Samaypur 220 kV D/c lines are not included in the PoC computation and this arrangement continues to be in place. NRLDC has also confirmed the arrangement and consequently, in terms of the provisions of the IEGC, 2010 read with the Connectivity Regulations, the renewable energy generator of Respondent No. 2 would also qualify as an “intra-State entity” under the operational control and jurisdiction of the Haryana SLDC.

32. It is pertinent to note that the CERC Connectivity Regulations, 2009 prescribe distinct eligibility criteria for grant of connectivity and LTA, inasmuch as under Regulation 2(b)(i)(f) a renewable energy generator having an installed capacity between 5 MW and 50 MW developed in an existing generating station is eligible to seek connectivity, whereas under Regulation 2(b)(ii) all generating stations are entitled to apply for long-term access, and accordingly, pursuant to the LTA application filed by NTPC in June 2013 for the RE generator, Respondent No.2 also furnished a letter dated 01.08.2013 agreeing to act as the principal

generator for the small solar plant at Faridabad; thereafter, the applications for grant of connectivity and LTA were deliberated at length in the Connectivity/LTA Meeting with Northern Region constituents held on 31.08.2013, wherein with respect to the 5 MW connectivity of subject solar project, it was specifically recorded that power from Faridabad (430 MW) was already being evacuated through two 220 kV double circuit lines with available margin for an additional 5 MW, that no new transmission system was envisaged for the said long-term access, and that no constraint was anticipated in transfer of power to the Eastern Region.

33. In the said meeting, POSOCO informed that the entire power from the Faridabad CCPP generating station is allocated to the State of Haryana and is being scheduled by Haryana and, therefore, the proposed Faridabad Solar PV generating station would also fall within the purview of the State Load Despatch Centre; in response thereto, NTPC stated that since the Faridabad CCPP switchyard is a central sector generating station, the switchyard may be treated as that of an ISGS, however the issue could not be resolved in the aforesaid meeting,

34. The applications for grant of connectivity and long-term access were processed strictly in accordance with the Connectivity Regulations and the Detailed Procedure framed by the Central Transmission Utility under Regulation 27(1) thereof, pursuant to which the Appellant was informed by letter dated 20.02.2014 and the Connection Agreement was thereafter executed between the Appellant and Respondent No. 2 on 27.03.2014 ; notwithstanding that the 5 MW solar generating station commissioned at the Faridabad Gas Power Station is connected to the ISTS network, since the principal generator is an intra-State entity, the solar generator has also been treated as an intra-State entity and its applications for connectivity and open access were accordingly processed strictly

in terms of the Connectivity Regulations and the Detailed Procedure, wherein FORMAT-LTA-3, forming part of the Detailed Procedure, prescribes the format for issuance of the NOC by the State Transmission Utility, including specification of applicable State Transmission Losses and State Transmission Charges.

## **DISCUSSION AND ANALYSIS**

35. Heard Ms Swapna Seshadri, learned Counsel on behalf of the Appellant, Ms Prerna Priyadarshini, learned counsel on behalf of Respondent No 2-NTPC Ltd., Mr Raj Kumar Mehta, learned counsel on behalf of Respondent No 4 , Mr Alok Shankar learned Counsel on behalf of Respondent No 5- CTUIL, and perused the documents and written submissions made by the parties. The Appellant is aggrieved by the Impugned Order, inter alia, on the ground that it erroneously holds that no part of State Transmission system is used and only ISTS network is being used for the evacuation of power from Respondent No 2 – solar project, and Appellant is not entitled to recover transmission charges from the Respondent No 2, as well as incorrectly recording the submissions of the HVPNL by stating that Palla substation is owned by BBMB.

36. In the Impugned Order, Central commission has framed following five issues.

*“(1) Whether the transmission lines connecting Faridabad Gas Power Generating Station to Palla and Samaypur are ISTS lines or State lines?*

*(2) Whether the transmission charges and losses should be payable in respect of generation from 5 MW Solar Plant?*

*(3) Whether condition of seeking connectivity to existing connection point with ISTS through electrical system of generating station in terms of Regulation 2(1)(b)(i) (e) of the Connectivity Regulations is satisfied in the present case?*

*(4) Whether SLDC, Haryana was correct in insisting that the petitioner should seek the LTA and connectivity from the STU as per HERC Regulations.*

*(5) What should be the treatment of Connectivity and Long Term Open Access Agreement entered into by the petitioner with HVPNL?”*

37. Under Issue No 1, the Central commission, under the submissions of HVPNL has noted that 220 kV D/C lines from Faridabad-Samaypur and Faridabad -Palla transmission lines are connected to Palla substation which is stated to be owned by BBMB and referring to this Tribunal judgement dated 14.12.2012 in Appeal No 183 of 2011, that BBMB lines and substations form part of ISTS, held that Solar project is connected to the grid through the transmission system of CTU and BBMB which are ISTS lines and therefore the contention of HVPNL that the solar project of the NTPC is connected through intra-State lines does not have merit and is accordingly rejected.

38. Under Issue No 2, it has been reiterated that Palla substation is owned and operated by BBMB, which is part of inter-state Transmission system and Respondent No 2 is not using any part of the intra-State Transmission System for supply of power from Solar project to Odisha and, accordingly, the solar project is exempted from the payment of transmission charges and losses in terms of Regulation 7(1)(u) and (v) of the sharing Regulations.

39. Under the issue No 3, it has been held that Solar project is connected with a dedicated line to Faridabad GPS and that such line cannot be termed as intra-State line to be regulated as per provisions of HERC Regulations. Solar Project is covered under Regulation 2(1)(b)(i)(e) read with proviso to clause (1) of the Regulation 8 of the Connectivity Regulations and eligible for grant of LTA and connectivity under the said Regulations.

40. Under the issue No 4, it has been held that merely because SLDC is undertaking the scheduling and metering of the generating station and since no part of Intra-state Transmission system is being used, Respondent No 2- NTPC should not be asked to obtain LTA and Connectivity to the system of STU and connectivity agreement and LTA Agreement entered into by NTPC with the Appellant have no legal basis. SLDC was asked to provide fresh NOC from the perspective of metering and scheduling to enable NTPC to enter into LTA and connectivity agreement with CTU as per connectivity Regulations.

41. Under the issue No 5, it has been held that connection and LTA agreement entered between NTPC and the Appellant are *non-est* in law and cannot be given effect to.

All the issues framed in the Impugned Order have been decided against the Appellant.

42. The observation of CERC in the Impugned Order that Palla substation is owned by BBMB has been strongly refuted by the Appellant and as such it is an established fact, not disputed by Respondents that Palla substation is owned and operated by the Appellant as also submitted by them in their written submissions before CERC that *“the 220 kV transmission system at Palla, which is an integral part of evacuation facility is from gas generating station of NTPC is owned and operated by the Respondent No 2 (HVPNL)”*. Therefore, CERC has erred in its observations that Palla substation is owned and operated by BBMB and the same is factually incorrect and the said observation in the Impugned Order cannot be sustained and is accordingly, set aside.

43. With regard to the character of 220 kV Faridabad -Samaypur and Faridabad -Palla lines whether inter-State or Intra State, following is observed from the previous orders of Central Commission.

- a) Central commission vide its order dated 06.05.2011, in Petition No 118/2010 for determining the Transmission tariff for 220 kV Farabad - Samaypur and Faridabad- Palla lines for evacuation of power from Faridabad GPS has held that transmission charges shall be recoverable on monthly basis and shall be shared by the respondents in accordance with Regulation 33 of the 2009 Regulations.
- b) Subsequently CERC in its order dated 02.06.2011, in the matter of removal of difficulties for giving effect to CERC (Sharing of inter-State charges and losses) Regulation 2010 (hereinafter referred as “**Sharing Regulation 2010**”), commonly referred as sharing of inter-State transmission charges through POC mechanism, has held as under with regard to inclusion of above referred 220 kV lines under POC mechanism

**“(B) Sharing of Transmission charges for dedicated Lines owned by CTU**

*6. CTU has pointed out that certain assets of POWERGRID such as Faridabad-Palla, Kayamkulam transmission system etc., are used for evacuation of power from Central Generating Station for consumption within the State. Even though these transmission lines are dedicated to a particular State, nevertheless they should be included in the Inter-State Transmission System (ISTS) for the purpose of calculation of PoC charges as they are part of the ISTS in accordance with Section 2(36)(iii) of the Electricity Act 2003 (the Act). It has been submitted that any asset owned by the CTU shall be a part of the ISTS and their charges should be considered for the purpose of computation of PoC charges. However, the Implementing Agency has not included the same for the calculation of the PoC charges.*

*7. We have examined the suggestion of the CTU. Though the definition of Inter-State Transmission System" in Section 2(36)(iii) of the Electricity Act, 2003 includes "the transmission of electricity within the territory of a State on a system built, owned, operated maintained or controlled by Central Transmission Utility". The tariff of such lines owned by Powergrid for evacuation of power from a power station dedicated to any particular*

*state is presently being borne only by the State concerned. These transmission lines are akin to the state lines except that it is owned, controlled and operated by Powergrid. Since the transmission charges of these lines are not shared by any other State, we are of the view that the existing arrangement should continue under the Sharing Regulations also.*

.....”

44. From the above, it is noted that though these are inter-State transmission lines in accordance with section 2(36) (iii) of the Electricity Act 2003, which provides that “ *inter State Transmission system includes the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by Central Transmission System*” being owned, operated and maintained by CTU, these lines are considered akin to State lines even by Central commission and since the transmission charges of these lines were not shared by any other State, the existing arrangement was permitted to continue meaning thereby that transmission charges for these lines were not to be included under POC mechanism and shall continue to be paid by Haryana State Utility alone. Thus, it was a special dispensation vide CERC order dated 02.06.2011 for not including the transmission charges for these lines in the POC mechanism and entire charges paid by Haryana State Utility outside POC mechanism. However, considering the definition of inter-state Transmission lines as per Electricity Act, these lines qualify to be the inter-State transmission Lines.

45. In terms of Regulation 2(a) read along with Regulation 2(c)(i) of the IEGC, 2010, a Central Generating Station connected to the ISTS network shall be treated as “intra-State entity” in case the entire power generated by such station is allocated to the host State, and accordingly the Faridabad GPS is being treated as intra-State, whose power is being scheduled by Haryana SLDC. We also take note that in terms 3<sup>rd</sup> Amendment to the CERC ( Grant of connectivity, Long Term Access and Medium Term Open Access in inter-State Transmission and

Related matters) Regulations 2013 (**“ Connectivity Regulations 2013”**), a RE generating station of capacity above 5 MW but less than 50 MW was entitled to seek connectivity to an existing connection point with the ISTS through the electrical system of the existing generating station, subject to the condition that existing generating station agrees to act as the “Principal Generator”, relevant extract is reproduced below :

2. *Amendment to Regulation 2: The following provisions shall be added after sub-clause (b) (i)(d) of clause (1) of Regulation 2 of the Principal Regulations, namely:*

*"(e) Any renewable energy generating station of 5 MW capacity and above but less than 50 MW capacity developed by a generating company in its existing generating station of the description referred to in sub-clauses (b)(i)(a) to (c) of this clause and seeking connectivity to the existing connection point with inter-State Transmission System through the electrical system of the generating station."*

3. *Amendment to Regulation 8:- The following proviso shall be added after second proviso to Clause (1) of Regulation 8 of the Principal Regulations, namely:*

*"Provided further that the application by the applicant defined under Regulation 2(1) (b)(i) (e) shall be considered by CTU only if the existing generating station agrees to act as the "Principal Generator" on behalf of the renewable energy generating station(s) seeking connectivity through the electrical system of the generating station and formalizes a written agreement/arrangement among them to undertake all operational and commercial responsibilities for the renewable energy generating station(s) in following the provisions of the Indian Electricity Grid Code and all other regulations of the Commission, such as grid security, scheduling and dispatch, collection and payment/adjustment of Transmission charges, UI charges, congestion and other charges etc., and submit a copy of the agreement to the CTU, alongwith the application for connectivity, with copy to the respective RLDC in whose control area it is located."*

46. Accordingly, in terms of the aforesaid regulatory provisions, the 5 MW Solar project became entitled to seek connectivity from an existing connection point and since principal generator i.e Faridabad GPS is treated as intra-State entity,

the subject Solar project was also treated as intra-State Entity as discussed in the meeting dated 23.12.2013. As per detailed procedure approved by CERC under the Connectivity Regulations, in case an intra-State entity is applying for LTA to the inter-State Transmission System, concurrence of concerned State Transmission Utility is required and Format of such an NOC is also provided as Format LTA 3 in the approved procedure. As noted in the Minutes of meeting dated 23.12.2013, it was decided that respondent No 2-NTPC shall have to submit NOC from the concerned State Entity, relevant extract of the Minutes is reproduced below.

*“1.6. COO. CTU stated that existing Faridabad generation is a NTPC generation, and entire power is allocated to Haryana and power from Faridabad generation project is being scheduled by Haryana, It was deliberated that as the load generator is an infra state entity therefore the Faridabad Solar PV would also be the intra state entity. Accordingly, NTPC shall have to submit the NOC from state utility as per the approved Detailed Procedure on grant of Connectivity Long term Access & Medium-term Open Access.*

*1.7. POWERGRID stated that as per Detailed Procedures of Central Transmission Utility under Regulation 27(1) of the Central Electricity Regulatory Commission (Grant of Connectivity. Long-term Access and Medium-term Open Access in inter State Transmission and related matters) Regulations, 2009%.*

*"In case an Intra-State entity is applying for LTA, concurrence of concerned State Transmission Utilities of states having injection and drawl points shall be obtained in advance in the prescribed format [FORMAT-LTA 3) and attached with the application"*

47. In terms of the decision taken in the referred meeting, Respondent No 2-NTPC applied for NOC from Haryana Utility, which was granted by Haryana SLDC on 28.03.2014, for a period of 25 years w.e.f. 28.03.2014, which states the applicability of State Transmission charges and losses. It is also brought to our notice that Respondent No 2 has signed Connectivity and Long-Term Access



8. Validity Period : From : << Date >> To: <<Date >>

9. Transmission losses (besides Regional Transmission losses)

	Whether Applicable or not (Yes/No)	(%) loss
State Transmission losses		
Distribution Licensees losses		
Any other losses		

10. Transmission charges (besides Regional Transmission charges)

	Whether Applicable or not (Yes/No)	Rate (Rs./MWh)
State Transmission losses		
Distribution Licensees losses		
Any other charges		

Declaration:

It is hereby certified that:

a) We have "No Objection" to seeking and availing Open Access by <<Name of Entity>>, through ISTS upto the MW ceiling as specified above, in accordance with applicable regulations of CERC/<<State>> ERC.

**b) We have the required infrastructure for energy metering and time block wise accounting in place. The State/ Distribution licensee network has the required transfer capability for transfer of power as per specified ceiling.**

**c) The Transmission Charges for the use of State/Distribution Licensee network and Operating Charges for the State Load Despatch Centers shall be directly settled by Power Exchange with us.**

d) The State Utility designated for the purpose of collection/disbursement of UI charges shall be responsible for timely payment of State"s composite dues into the Regional Pool Account.

e) Any mismatch between the Scheduled and Actual drawal/injection for the intra-State Entity shall be determined by us and will be covered in the intra-State UI accounting scheme, or as applicable.

f) The Reactive Energy Charges shall be governed by the Regulations applicable within the State.

g) *We shall disburse the Transmission Charges for use of the State/Distribution Licensee Network to the State Transmission Utility /Distribution Licensee directly.*

h) *We shall inform the total import and export capability of the State as a whole to all concerned. Attempt shall be made to declare this in advance through our website.*

i) *Any change in the contents of the NOC shall be conveyed to the party to whom NOC was given, atleast 180 days prior to the day of transaction. In such cases, the RLDC(s)/NLDC shall also be informed simultaneously.*

*Signature  
Name  
Designation  
(Authorized Signatory of STU)”*

49. It is clear from the above that in the NOC from State Utility for Intra-State entity seeking LTA on inter-State network, as per declaration b) and c) of the prescribed format, the State Utility has to declare that they have required transfer capability for transfer of power and they may specify the charges for use of State / Distribution licensee network. It is noted that the NOC provided by Haryana Utility to Respondent No 2 does mention about the applicability of Transmission Charges and losses for transfer of power from Solar power project of NTPC, which was treated as an intra-State entity. Respondent No 2 has agreed with the decision of their Solar project being treated as intra-State entity and applied for NOC from State Utility. In the Impugned Order, requirement of obtaining an NOC from State Utility has not been disputed and/or held to be against the Connectivity Regulations, however, CERC, without referring to any specific provision in the regulation, has limited the scope of such an NOC of State Utility from the perspective of scheduling and metering. Even during the course of hearing also before this Tribunal, no specific provision of the Regulations has been brought to our notice, which limits the scope of NOC from State Utility for intra-State entity to only in reference to metering and scheduling. Thus, we are of the view that such an observation in the Impugned Order is in the teeth of applicable Regulations and is, therefore, unsustainable in law and liable to be interfered with.

50. As per the approved procedure under the Connectivity Regulations, 2009, any intra-State entity applying for LTA in Inter-State Transmission system shall have to get the NOC from the State Utility and abide by its condition including the payment of applicable intra-State transmission charges and losses. No averments have been made by Respondent No 2, that there is exemption for Solar projects for payment of intra-state Transmission charges for Haryana State on similar lines as exemption of charges for inter-State transmission charges. Furthermore, it is also a fact that any other intra State entity in the Haryana State applying for LTA to inter-State network is obligated to obtain the requisite NOC from the State Utility and to pay the applicable intra-State transmission charges. In our view, any entity cannot be permitted to take advantage of one Regulation, in getting connectivity/LTA from the existing generation for its 5 MW solar project, which led the solar project being held to be an intra-State Entity and then seek exemptions from the provisions of other Regulations applicable for intra- State entity seeking LTA on inter-State Transmission system.

51. As per CERC Connectivity Regulations 2009, the nodal agency for grant of connectivity, long term access and medium-term open access to the inter-State transmission system shall be the Central Transmission Utility. Since Respondent No 2, has sought connectivity & LTA to the inter-State Transmission system for its Solar project, it is the CTUIL which is the nodal agency for grant of connectivity. As already noted above, under the connectivity Regulations 2009, there is only a requirement to seek NOC from the concerned State Utility for applying to LTA to the inter-State Transmission system and thus the insistence of grant of connectivity and LTA by the Appellant and subsequently signing of connectivity and LTA with Respondent – NTPC is not in accordance with the applicable regulations. It is a settled position of law that regulations framed under a statute have the force of law and prevail over any contractual arrangement between

parties. The Constitution Bench of the Supreme Court in ***PTC India Ltd. v. Central Electricity Regulatory Commission, (2010) 4 SCC 603***, has held that regulations constitute subordinate legislation and can override even existing contracts, and that all contracts must be aligned with such regulations. The Supreme Court has further held that where performance of an agreement is possible except by disobedience of law, such an agreement is void under Section 23 of the Indian Contract Act, 1872 (***Union of India v. Col. L.S.N. Murthy, (2012) 1 SCC 718, paras 16; Lachoo Mal v. Radhey Shyam, (1971) 1 SCC 619, para 10***). Accordingly, any agreement or contractual clause entered into in contravention of binding statutory regulations, having force of law, is overridden by such regulations, is void and unenforceable to that extent, and is liable to be treated as void ab initio and *non-est* in the eyes of law. Accordingly, the judgement of Supreme Court in “***Sasan Power Ltd. v. HPPC***” **2024 (1) SCC 247**, relied upon by the Appellant has no application in the present case. We, therefore, do not find any error in the observation of CERC under Issue Nos 4 & 5 of the Impugned Order that LTA and Connectivity Agreement signed by the Appellant and Respondent No 2 have no legal basis and the same is accordingly upheld.

52. It is an admitted position that as per Regulation 7 (1) (u) & (v) of CERC Sharing Regulations, 2010, no Transmission Charges and Losses are applicable for drawl of Solar Power, relevant extract of the same is mentioned as under:

*“(u) No transmission charges for the use of ISTS network shall be charged to solar based generation. This shall be applicable for the useful life of the projects commissioned in next three years.*

*“(v) No transmission losses for the use of ISTS network shall be attributed to solar based generation. This shall be applicable for the useful life of the projects commissioned in next three years.”*

53. We would however like to add here that it is not as if no transmission charges are involved for use of inter-State transmission charges by the Solar project, but as a special regulatory dispensation and with a view to promote Solar generation, these projects have been exempted for payment of inter-State transmission charges, which are then paid by other beneficiaries of inter-State transmission system under POC mechanism, thus in common parlance, socialising such charges amongst beneficiaries of inter-state transmission system. Present case represents a very typical situation, in-spite of Faridabad-Samaypur and Faridabad Palla 220 kV transmission lines, forming part of the dedicated transmission system of Faridabad GPS, are inter-State transmission lines in terms of Electricity Act 2003, however, have not been included in the POC mechanism and are being treated akin to intra-State lines and entire transmission charges are paid by State Utility/Appellant. As per present scheme of things, in case of utilisation of inter-State lines, the Solar projects are exempted from paying the inter-State Transmission Charges, however such charges are socialised on all the beneficiaries of inter-State Transmission charges. Extending the similar provisions to present case would mean that socialising of inter-State transmission charges of the referred 220 kV lines shall be only on Haryana Utility, as the entire charges for these 220 kV lines, which are used for evacuation of power from the Solar Project of Respondent No 2, are borne by them outside the POC mechanism. However, non-inclusion of transmission charges of these lines in POC mechanism is not an issue before us in the present Appeal and such a mechanism is under implementation in terms of CERC order dated 02.06.2011, after implementation of POC mechanism and has been accepted by the Appellant. We are accordingly not required to deliberate this issue in the present appeal.

54. In regard to the utilisation of intra-State transmission System as contended by the Appellant, there are only two 220 kV lines ( Faridabad-Samaypur & Faridabad-Palla) from Faridabad GPS, for evacuation of power from the referred 5 MW Solar project also and by the data submitted by SLDC, there is power flow on both these 220 kV lines in all the scenarios in which Faridabad -Samaypur 220 kV line is terminated in BBMB system ( the inter-state Transmission) and Faridabad - Palla line is terminated in Palla substation which is owned and operated by the Appellant and beyond Palla also, it is the intra- State Transmission system of the Appellant. Considering these facts, we are not in agreement with the observation of the Central Commission in the Impugned Order that no intra-State Transmission system has been used, presumably such an observation is based on the wrong premise that both the lines emanating from Faridabad, which is used for evacuation of power from Faridabad solar project, are terminating into samaypur / Palla substations which are BBMB substations, which is part of inter-State Transmission system.

55. Accordingly, in our considered view, Respondent No 2 solar project, having considered to be an intra State Entity, which is not held otherwise in the Impugned Order, is no different and is liable for the payment of applicable intra-State transmission & other applicable charges in terms of applicable Regulation. The observation/ finding of Central Commission that NOC from state utility is required only from metering and scheduling perspective cannot be sustained being contrary to the Regulations and is liable to be and is hereby set aside. It is also noted that the CTU, both in the standing committee meetings as well as in written submission have unequivocally submitted that NTPC Solar project has been treated as intra State Entity and requisite NOC from State Entity has been sought for grant of LTA on inter-state transmission system in terms of Connectivity Regulations and approved detailed procedure.

56. We do not consider it necessary to examine the judgments of the Central Electricity Regulatory Commission in *Lanco Anpara Power Limited, Hyderabad v. Uttar Pradesh Power Transmission Corporation Limited, Lucknow* and *Kanti Bijlee Utpadan Nigam Limited v. Central Transmission Utility & Ors.*, relied upon by Respondent No. 2, inasmuch as this Tribunal is bound only by the judgments of the superior courts and not by the decisions of the Central Commission.

## **CONCLUSION**

57. In view of above deliberations, the Impugned Order, other than the observation with regard to LTA and Connectivity Agreements signed by the Appellant and Respondent No 2 having no legal basis, is hereby set aside and we hold that the Appellant is entitled to receive transmission charges and losses for the State Transmission system since commissioning of the Solar project. In above terms, the captioned Appeal is partly allowed and all the pending applications, if any, stand disposed of accordingly.

**PRONOUNCED IN THE OPEN COURT ON THIS 09<sup>TH</sup> DAY OF MARCH, 2026.**

**(Virender Bhat)**  
**Judicial Member**

**(Seema Gupta)**  
**Officiating Chairperson**

**REPORTABLE / ~~NON-REPORTABLE~~**