

ETERNITY: LAW APPRISE

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SECURITIES AND EXCHANGE BOARD OF INDIA

SEBI: Disclosures pertaining to Assets under Management

The Securities and Exchange Board of India (“SEBI”), vide Circular no. CIR/IMD/DF/07/2014 dated April 2, 2014 made amendments to its Circular no. CIR/IMD/DF/05/2014 dated March 24, 2014 captioned 'Enhancing disclosures, investor education and awareness campaign, developing alternative distribution channels for Mutual Fund products, etc. In Para A of the aforementioned circular, the term 'Asset under Management' (“AUM”) shall be read as 'Monthly Average Asset under Management' (“Monthly AAUM”). Accordingly, data to be disclosed as per the format at annexure A1 and A2 of the aforesaid circular shall be Monthly AAUM instead of AUM.

SEBI: Change in Investment Conditions/ Restrictions for FII/QFI Investments in Government Debt Securities

SEBI, vide Circular no. CIR/IMD/FIIC/8/2014 dated April 07, 2014 made the following decisions pursuant to the announcements made in the First Bi-monthly Monetary Policy Statement, 2014-15 dated April 1, 2014 by the Reserve Bank of India (“RBI”):

- a. Foreign Institutional Investors (“FII”) and Qualified Foreign Investors (“QFI”) shall henceforth be permitted to invest only in dated government securities having residual maturity of one year or above.
- b. Existing FII/QFI investments in T-Bills shall be allowed to taper off on maturity/sale.



No further purchases in T-Bills shall be permitted. The investment limits vacated at the shorter end shall be available at longer maturities.

- c. The overall Government Debt investment limit for FIIs/QFIs shall remain unchanged at US\$ 30 billion. Accordingly the FII/QFI debt investment limits are as follows:

S. No	Type of Instrument	Cap (USD bn)	Cap (INR Crore)	Remarks
1.	Government Debt	20	99,546	Available on demand. Eligible investors may invest only in dated securities of residual maturity of one year and above, and existing investment in Treasury Bills will be allowed to taper off on maturity/sale
2.	Government Debt	10	54,023	Available on demand for FIIs registered with SEBI as Sovereign Wealth Funds, Multilateral Agencies, Endowment funds, Insurance Funds, Pension Funds and Foreign Central Banks. Eligible investors may invest only in dated securities of residual maturity of one year and above.
3.	Corporate Debt	51	244,323	Available on demand. Eligible investors may invest in Commercial Papers only up to US\$ 2 billion within the limit of US\$ 51 billion
4.	Total	81	397,892	

This Circular shall be effective from April 07, 2014.

SEBI: Margins for USD-INR contracts



SEBI, vide Circular no. CIR/MRD/DP/12/2014 dated April 07, 2014, made partial modifications to its Circular no. CIR/MRD/DP/22/2013 dated July 08, 2013. SEBI, in consultation with the RBI had increased the initial margins and extreme loss margins by 100% for USD-INR contracts in the currency derivatives segment. In partial modification to the aforementioned circular, it has now been decided to restore the margins for USD-INR contracts to pre-July 08, 2013 rates. Accordingly, Stock Exchanges are directed to implement provisions of this circular with effect from April 15, 2014.



SEBI: Corporate Governance in Listed Entities: Amendments to Clause 35B and 49 of the Equity Listing Agreement

SEBI vide Circular no. CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 (“Circular”), made amendments to the master circular No. SEBI/CFD/DIL/CG/2004/12/10 dated October 29, 2004 on Clause 49 of the Equity Listing Agreement.

The Companies Act, 2013 was enacted on August 30, 2013 which provides for a major overhaul in the Corporate Governance norms for all companies. The rules pertaining to Corporate Governance were notified on March 27, 2014. The requirements under the Companies Act, 2013 and the rules notified there under would be applicable for every company or a class of companies (both listed and unlisted) as may be provided therein. The full text of the revised Clause 35B of the Equity Listing Agreement is given in Part-A of the Circular. And that of revised Clause 49 of the Equity Listing Agreement is given in Part -B of the Circular.

The revised Clause 49 would be applicable to all listed companies with effect from October 01, 2014. However, the provisions of Clause 49(VI)(C) as given in Part-B shall be applicable to top 100 listed companies by market capitalization as at the end of the immediate previous financial year.

The provisions of Clause 49(VII) as given in Part-B shall be applicable to all prospective transactions. All existing material related party contracts or arrangements as on the date of this circular which are likely to continue beyond March 31, 2015 shall be placed for approval of the shareholders in the first General Meeting subsequent to October 01, 2014. However, a company may choose to get such contracts approved by the shareholders even before October 01, 2014.

For other listed entities which are not companies, but body corporate or are subject to regulations under other statutes (e.g. banks, financial institutions, insurance companies etc.), the Clause 49 will apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant regulatory authorities. The Clause 49 is not applicable to Mutual Funds.



The revised Clause 35B would be applicable to all listed companies and the modalities would be governed by the provisions of Companies (Management and Administration) Rules, 2014. Circular No. CIR/CFD/DIL/6/2012 dated July 13, 2012 stands amended to that extent.

This Circular will supersede all other earlier circulars issued by SEBI on Clauses 35B and 49 of the Equity Listing Agreement.

The following are *inter alia* the provisions of the revised Clause 35B, which is set out in part A of the Circular:

(i) The Company to provide e-voting facility to its shareholders, in respect of all shareholders' resolutions, to be passed at General Meetings or through postal ballot; and the company continue to enable those shareholders, who do not have access to e-voting facility, to send their assent or dissent in writing on a postal ballot, and the Company shall mention the Internet link of such e-voting platform in the notice to their shareholders

The following are *inter alia* the provisions of the revised Clause 49, which is set out in Part B of the Circular:

A. Rights of the Shareholders

1. The company should seek to protect and facilitate the exercise of shareholders' rights.
2. The company should provide adequate and timely information to shareholders.
3. The company should ensure equitable treatment of all shareholders, including minority and foreign shareholders.

B. Role of stakeholders in Corporate Governance.

It provides that the company should recognize the rights of stakeholders and encourage co-operation between company and the stakeholders.

C. Disclosure and transparency

The company should ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the company.



D. Responsibilities of the Board

1. Disclosure of Information

2. Key functions of the Board

The board should fulfill certain key functions, including reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, etc.; monitoring the effectiveness of the company's governance practices and making changes as needed, aligning key executive and board remuneration with the longer term interests of the company and its shareholders, etc..

3. Other Responsibilities

The Board should provide the strategic guidance to the company, ensure effective monitoring of the management, encourage continuing directors training to ensure that the Board members are kept up to date, apply high ethical standards, exercise objective independent judgment on corporate affairs, etc..

Further, the Circular provides for various aspects about

- A. Board of Directors;
- B. Independent Directors such as appointment and tenure of independent directors, maximum number of directorship, performance evaluation of independent directors, conducting of separate meeting of independent directors, training, etc.;
- C. Non-executive Directors' compensation and disclosures;
- D. Other provisions as to Board and Committees;
- E. Code of Conduct;
- F. Whistle Blower Policy.

The Circular further provides the following:

I. Audit Committee

- A. Qualified and Independent Audit Committee
- B. Meeting of Audit Committee
- C. Powers of Audit Committee
- D. Role of Audit Committee
- E. Review of information by Audit Committee



II. Nomination and Remuneration Committee

III. It also provides for governance of subsidiary companies such as appointment of director on Board, review of financials, etc.

IV. Risk Management

V. Related Party Transactions

VI. Disclosures

Disclosures pertaining to Related Party Transactions, Accounting Treatment , Remuneration of Directors, disclosures of appointment of director to shareholders, resignation of directors, formal letter of appointment issued to independent directors, disclosures in Annual report, disclosure pertaining to application of proceeds from public issues, rights issue, preferential issues, etc.

VII. CEO/CFO certification

The CEO, i.e. the Managing Director or Manager appointed in terms of the Companies Act, 1956 and the CFO i.e. the whole-time Finance Director or any other person heading the finance shall certify to the Board that they have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief; to the best of their knowledge and belief, no transactions entered into by the company during the year which are fraudulent, illegal or violative of the company's code of conduct, they have indicated to the auditors and the Audit committee about significant changes, etc.

VIII. Report on Corporate Governance

There shall be a separate section on Corporate Governance in the Annual Reports of company, with a detailed compliance report on Corporate Governance.

IX. Compliance

The company shall obtain a certificate from either the auditors or practicing company secretaries regarding compliance of conditions of corporate governance and annex the certificate with the directors' report, which is sent annually to all the shareholders of the company. The same certificate shall also be sent to the Stock Exchanges along with the annual report filed by the company.



MINISTRY OF CORPORATE AFFAIRS

Circular no. 7/2014: Dissemination of Information regarding Provisions of Companies Act, 2013

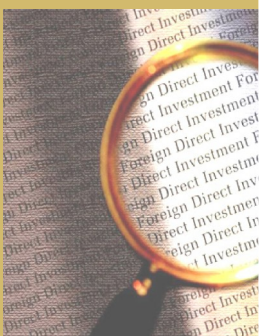
The Ministry of Corporate Affairs (“MCA”) vide [Circular no. 7/2014](#), dated April 1, 2014, disseminates information with regards to the Companies Act, 2013 as notified till date vis-à-vis the corresponding provisions of the Companies Act, 1956.

MCA had already notified 99 sections on September 12, 2013 and this circular further notifies 183 sections with effect from April 1, 2014. The circular also indicates the provisions of the Companies Act, 2013, so notified along with certain corresponding sections of the Companies Act, 1956, which continue to remain in force.

Circular no. 8/2014: Clarification with regard to relevant financial year

MCA vide [Circular no. 8/2014](#), dated April 4, 2014, clarifies the commencement of provisions of the Companies Act, 2013 with regard to maintenance of books of and preparations/adoption/filing of financial statements, auditor’s report, Board’s report and attachments to such statements and reports.

MCA vide the present circular further clarifies that the financial statements (and the documents to be attached thereto), Auditor’s report and Board’s Report in respect of financial years that commenced earlier than April 1, 2014 shall be governed by the relevant provisions/Schedules/rules of the Companies Act, 1956 and that in respect of financial years commencing on or after April 1, 2014, the provisions of the Companies Act, 2013 shall apply.





RESERVE BANK OF INDIA

Clarification on Foreign Direct Investment

RBI vide A.P. (DIR Series) **Circular No.124** dated April 21, 2014 clarified that Direct Investment (“**FDI**”) up to 100 per cent is permitted under automatic route for greenfield investments and FDI up to 100 per cent is permitted under Government approval route for brownfield investments in pharmaceuticals sector.

The extant FDI policy for pharmaceutical sector has since been reviewed and it has now been decided with immediate effect that the existing policy would continue with the condition that ‘non-compete’ clause would not be allowed except in special circumstances with the approval of the Foreign Investment Promotion Board (“**FIPB**”) of the Government of India.

Foreign Direct Investment (FDI) in Limited Liability Partnership (LLP)

RBI vide A.P. (DIR Series) **Circular No.123** dated April 16, 2014 announced that Limited Liability Partnership (“**LLP**”) formed and registered under the Limited Liability Partnership Act, 2008 shall be eligible to accept FDI subject to the conditions given in Annex I thereto.

The instructions issued in this circular shall be effective from May 20, 2011. However, reporting requirement of FDI in LLP shall come into force from the date of issue of instructions by the Reserve Bank in this regard. The LLP which have received foreign investment in terms of FIPB approval between May 20, 2011 to the date of this circular, shall comply with the reporting requirement in respect of FDI within 30 or 60 days, as applicable, from April 16, 2014.



ELECTRICITY

Paschim Gujarat Vij Company Ltd and others VS Gujarat Electricity Regulatory commission and Shaifali Rolls Ltd

In the matter of Paschim Gujarat Vij Company Ltd and others vs Shaifali Rolls Ltd and Others in **Appeal No. 74 of 2013** before the Appellate Tribunal for Electricity (“APTEL”) vide order dated April 4, 2014.

Paschim Gujarat Vij Company Limited, the Appellant, is the Distribution Licensee of electricity in the State of Gujarat whereas; the Respondent is generating company which owns and operates a Captive Power Plant (“CPP”) having an installed capacity of 12 MW.

The Commercial Circular issued by Gujarat Electricity Board (“GEB”) levied Parallel Operating Charges (“POC”) on CPP at 7.5% of demand charges. Further, vide Commercial Circular No. 706, rates were revised ad valorem from 10% to 2.5% with increased capacity of CPP. The Hon’ble Gujarat Electricity Regulatory Commission (“GERC”) quashed the circular and granted liberty to the GEB to approach the Hon’ble GERC for determination of POC. The GEB thereafter approached the Hon’ble GERC for levying POC on CPP units for running parallel with GEB grid. The Hon’ble GERC on June 25, 2004 stated that the petition is maintainable and POC is leviable. However, this order was challenged by way of a Special Civil Application with the Hon’ble High Court of Gujarat. The Hon’ble High Court of Gujarat partly allowed the petition and quashed the Order of maintainability with the direction to Hon’ble GERC to hear the petitions afresh with petition of STU by giving opportunity to appellants on the fixation and levy of grid support charges.

A few other CPP also approached APTEL against the order dated June 25, 2014. M/s Shaifali Rolls Ltd set up a CPP on June 17, 2006 and availed parallel operating facility by submitting an undertaking for payment of POC as per the rates in Circular 706. Gujarat Energy Transmission Corporation Limited (“GETCO”), provided permission to operate a 12 MW CPP and



that; “You shall pay Parallel Operation Charges, Transmission Charges, Open Access Charges and all other charges relating to Parallel Operation as may be decided by Hon’ble GERC applicable from time to time/ as per the prevailing norms of GETCO”

Thereafter, the Hon’ble GERC held that POC is payable from June 1, 2011. Appellant No. 1 raised demand of POC with threat to disconnect for the period from July 2006 to May 2008. Shaifali Rolls Ltd however paid on 20.06.2012 the principal amount and the delayed payment surcharge to the Appellant in the monthly bill dated 20.06.2012. and then challenged such act before Hon’ble GERC. Hon’ble GERC vide its Order dated January 19, 2013 held such recovery as illegal and invalid and directed refund thereof. Aggrieved by the said order of Hon’ble GERC, the Appellant filed an appeal before Hon’ble APTEL. The hon’ble APTEL dismissed the appeal and held that the learned State Commission (GERC) has rightly noted that the Appellants were required to recover the parallel operation charge on monthly basis for the month from July, 2006 to September, 2008 but they had for the first time demanded the parallel operation charge on 16.06.2008 which was for the period of July, 2006 to May, 2008 which was disputed by Shaifali Rolls Limited. It was further held that the learned State Commission (GERC) has not committed any illegality in recording a finding to the effect that since relevant commercial circular no. 706 had already been set aside by the State Commission (GERC) vide its order dated 31.08.2000 in Petition No. 24 of 2000, the action of the Appellants in recovering the parallel operation charges for the period from July, 2006 to June, 2008 was illegal and upheld the directive of the State Commission (GERC) to the Appellants to refund the amount of parallel operation charge along with delayed payment charges, if any.

M/s. Puri Oil Mills Limited VS Haryana Power Purchase Centre and others in Appeal no. 90 of 2013

In the matter of M/s. Puri Oil Mills Limited (“Appellant”) vs. Haryana Power Purchase Centre and others (“Respondent”) in **Appeal no. 90 of 2013** before the Appellate Tribunal for Electricity (“APTEL”) vide Order dated April 9, 2014.

The Appellant is a generating Company having two small Canal based hydro power plants having capacity of 12MW each.



The Respondent No. 1 Haryana Power Purchase Centre is responsible for procurement of power for the distribution licensees, Respondent No. 2 Uttar Haryana Bijli Vitran Nigam Ltd being the distribution licensee and Respondent No.3 viz; The Haryana Electricity Regulatory Commission (“**State Commission**”). The present Appeal is filed against the impugned order dated April 12, 2012 passed by the State Commission.

A Power Purchase Agreement (“**PPA**”) was entered into between the Respondent no. 1 for sale of energy derived from its two canal based Mini Hydro power projects of 1.4 MW each as per the tariff orders passed by the State Commission on May 15, 2007 and November 6, 2009. The projects after being commissioned in June and September respectively. Later, the Appellant for re- determination of tariff, the filed a petition on June 18, 2011 which was dismissed by the State Commission on the grounds that, the order of the state Commission dated May 15, 2007 which was formed the very basis for signing the PPA could not be reviewed and commitment of sale of entire power generated by the Appellant to the Respondents, third party sale and REC benefits also could not be allowed. Further, another review petition was filed by the Appellant which was also dismissed by the State Commission which gave rise to the current appeal.

In the Appeal the Appellant stated that, the State Commission passed the generic order on tariff of renewable energy projects on May 15, 2007, whereas; there was no such canal based mini hydro power project under construction in the entire state from where the data could be obtained. Even during the construction of the projects the capital cost of the project increased due to unforeseen additional costs for reasons such as the conditions laid by the State Irrigation Department for repair of canal, etc. The inherent deficiency in canal lining as admitted by the State Irrigation rose the costs. O&M expenses were also escalated. The State Commission in its order dated May 15, 2007 provided for a levy of wheeling charges @ 2% of the energy fed in the grid whereas; the Appellant being direct beneficiary of power, the levying of transmission charges is unjustified.

The Hon’ble APTEL on the basis of their findings on the considerations before them, held that,

There is no merit for re-determination of the tariff of the Appellant’s mini hydro power plants and claim of the Appellant for third party sale/REC. and that the Respondent no. 1 has wrongly levied wheeling charges @ 2% from the Appellant whereas no wheeling charges were leviable for supply of energy by the Appellant to the distribution licensees. Hence, the Respondent No.1 is directed to refund the amount deducted from the bills to the Ap-



pellant towards wheeling charges within 45 days of communication of this order. Any delay beyond 45 days shall attract interest of 12% per anum.

Indian Wind Energy Association vs Gujarat Electricity Regulatory Commission & Others in Appeal no. 24 of 2013

In the matter of Indian Wind Energy Association (“**Appellant**”) vs. Gujarat Electricity Regulatory Commission, (“**Respondent**”) & Others in **Appeal no. 24 of 2013** before the Hon’ble APTEL vide Order dated April 25, 2014.

Indian Wind Energy Association, the Appellant, is association of wind energy generators and Gujarat Electricity Regulatory Commission, the (“**State Commission/GERC**”) is Respondent No 1, Gujarat Energy Development Agency (“**GEDA**”) the agency for development of renewable energy sources in the state is Respondent No 2, Gujarat Urja Vikas Nigam Ltd. (“**GUVNL**”) the holding electricity company and procurer of bulk power on behalf of the distribution licensees is the Respondent No. 3 and Respondent no. 4 to 14 are the distribution licensees.

The issues for filing the appeal were that; the State Commission issued GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 specifying the Renewable Purchase Obligation (“**RPO**”) to the distribution licensees and other obligated entities in the State. The Regulations specified the RPO Regulations separately for wind, biomass/ baggase and others and solar. Suo- moto proceedings were initiated by the State Commission and notices were issued regarding compliance of the RPO Regulations. In the Order dated August 17, 2012, the State Commission revised the RPO targets for FY 2010-11 from the levels prescribed in the RPO Regulations and also ordered to carry forward the shortfall in procurement of renewable energy during FY 2011-12 to FY 2012-13. In addition, the excess of solar energy by the distribution licensees during FY 2012-13 being allowed to be adjusted against the fulfilment of Non-solar RPO for that financial year despite the Renewable Energy Certificates (“**REC**”) being available which is not in consonance with the RPO Regulations.



Also, the State Commission did not take any action against GUVNL and other licensees for carrying forward RPO targets while relaxing/carrying forward the RPO targets and also for not processing REC's in FY 2011-12. However, the State Commission has allowed the excess solar energy procured by the distribution licensees to be used to fulfil the shortfall in non-solar RPO though the regulations do not permit the same. The Hon'ble APTEL held that the present case is the first suo motu review of compliance of the RPO obligations after notification of the RPO Regulations and the fact that there was no specific regulation for public notice for such reviews and hence, the absence of public notice in the suo motu proceeding cannot be construed illegal. However, in the proceedings before the State Commission either suo motu or on a petition by a party, regarding review of RPOs in which consequential directions for relaxation or carry forward of RPO or creation of regulatory fund are given, public notice inviting suggestions and objections of the stakeholders is necessary. It was further held that there is no infirmity in the State Commission revising the RPO for FY 2010-11 by exercising its power under Regulation 4.2 of the RPO Regulations, 2010, in view of the reasons beyond the control of the distribution licensees. Further there is no infirmity in the distribution licensee setting priority to procure renewable energy by entering into PPAs with the renewable energy generators to meet their RPO targets when the State is endowed with adequate renewable energy sources. However, if the distribution licensees are not able to make arrangements to procure adequate renewable energy to meet the RPO targets, then they have to resort to alternate mechanism of REC specified in the Regulations to meet the shortfall in RPO. The Hon'ble APTEL observed that the aspect of availability of REC during FY 2011-12 has not been dealt with by the State Commission properly as on one hand, it decided that the GUVNL and its subsidiary distribution licensees haven't put any efforts to purchase REC and on the other hand it held that adequate REC were not available. No reason was given to come to conclusion that adequate REC were not available.

It was further held that as FY 2011-12 and 2012-13 are over and the following year 2013-14 is also over carry forward of REC cannot be reversed. Creating of Regulatory fund for non-adherence to REC at this belated stage will also not serve any purpose. The Regulatory fund has also to be used partly for purchase of REC and partly for development of transmission infrastructure for evacuation of power for the renewable energy generators. By carry forward of the shortfall during 2011-12 to 2012-13 the objective of meeting the RPO obligation will be met. The Hon'ble APTEL did not reverse the decision of the State Commission



regarding carry forward of shortfall in RPO during FY 2011-12, however, gave some guidelines to the State Commission as laid down in Appeal no. 24 of 2013 & IA no. 39 of 2013 for future. Further, the Hon'ble APTEL did not find any infirmity in the State Commission exercising its powers under Regulation 4.2 for adjustment of excess solar energy procured against non-solar RPO in the circumstances of the present case.

T.N. Generation and Distribution Corporation Limited Vs PPN power Gen. Co. Pvt. Ltd in Civil Appeal No. 4126 Of 2013

In the matter of T.N. Generation and Distribution Corporation Limited ("**Appellant**") vs. PPN power Gen. Co. Pvt. Ltd ("**Respondent**") in **Appeal no. 4126 of 2013** before the Supreme Court of India vide Order dated April 4, 2014.

1. This statutory appeal was filed the Appellant against the Respondent in respect of the final judgment and order dated February 22, 2013 passed by the Hon'ble APTEL.
2. Aggrieved by the directions of the State Commission vide order dated June 17, 2011, the Appellant filed Appeal No. 176 of 2011 before the APTEL. In the appeal filed before APTEL, the Appellant *inter alia* raised the issue of jurisdiction of the State Commission under section 86(1)(f) of the Electricity Act, 2003 (the "EA 2003").
3. It was observed that Section 86(1)(f) of EA 2003 specifically confers jurisdiction on the State Commission to refer the dispute. It was observed that the State Commission is required to exercise its discretion reasonably and not arbitrarily. In the present case, the State Commission upon consideration of the entire matter has exercised its discretion in the matter on whether to adjudicate the dispute or to refer a particular dispute to arbitration. It was further observed that the APTEL exercises jurisdiction over the State Commission by way of a First Appeal. Therefore, it is the bounden duty of the APTEL to examine as to whether all the decisions rendered by the State Commission suffer from the vice of arbitrariness, unreasonableness or perversity. This would be apart from examining as to whether the State Commission has exercised powers in accordance with the statutory provisions contained in EA 2003.



4. The Hon'ble Supreme Court further noted that the adjudicatory functions generally ought not to be conducted by the State Commission in the absence of a judicial member, especially in relation to disputes which are not fairly related to tariff fixation or the advisory and recommendatory functions of the State Commission. The Hon'ble Supreme Court accepted the submissions of the Appellant that the tribunal such as State Commission in deciding a lis, between the Appellant and the Respondent discharges judicial functions and exercises judicial power to the State. It exercises judicial functions of far-reaching effect. Therefore, the Hon'ble Supreme Court noted that it must have essential trapping of the Court and this can only be achieved by the presence of one or more judicial members in the State Commission which is called upon to decide complicated contractual or civil issues which would normally have been decided by a civil court. The Hon'ble Supreme Court further opined that the State Government of Tamil Nadu ought to make necessary appointment in terms of Section 84(2) of EA 2003 and consider the desirability and feasibility for making appointments of any person as the Chairperson from amongst persons who is or has been a Judge of a High Court.

The appeal was however, dismissed on the grounds that the issue of jurisdiction to be ought to have been raised by the Appellant at the relevant time.

Uttarakhand Power Corporation Limited Vs Uttarakhand Renewable Energy Development Agency before the Uttarakhand Electricity Regulatory Commission dated April 23, 2014

In the matter of Uttarakhand Power Corporation Limited ("**Petitioner**") Vs Uttarakhand Renewable Energy Development Agency ("**Respondent**") before the Hon'ble Uttarakhand Electricity Regulatory Commission ("**Hon'ble Commission**") dated [April 23, 2014](#)

1. The Petitioner vide its present Application requested the Hon'ble Commission for reconsideration/review of the Order dated January 22, 2014 wherein, a penalty was



imposed for non-compliance of RE Regulations, 2010 & RPO Regulations, 2010 and non-compliance of directions issued vide the Hon'ble Commission's Order dated September 11, 2013.

2. The Hon'ble Commission held a motion-hearing on the Petition filed by the Petitioner and during the hearing, Petitioner's representative could not justify the ground/s for reviewing of the Order as requested by it under the aforesaid Petition. However, it informed that it would make compliance of unmet RPO in four equal monthly installments by July, 2014.
3. It was held that the Review Petition filed by UPCL against Hon'ble Commission's Order dated January 22, 2014 did not qualify under any of the grounds for review under the Code of Civil Procedure, 1908 ("**CPC**") as neither any new facts were advanced nor any error apparent was mentioned.
4. As the Petitioner failed to substantiate any ground for review in its Petition or during hearing as required by CPC, the Hon'ble Commission held that the Petition is not maintainable and therefore dismissed the Petition with directions to the Petitioner to deposit the said penalty of Rs. 20,000/- within one week from date of the Order to avoid initiation of proceedings u/s 170 of the Electricity Act, 2003 for recovery. It was further charged additional penalty of Rs. 2,000/- per day in respect of non compliance of procurement of RECs.

End of Newsletter



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Warm Regards,
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