

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 521/MP/2014**

- Subject : Adoption of corporate tax for grossing up Return on Equity for the financial year 2012-13 and to claim Return on Equity with grossed up corporate tax rate for financial year 2012-13 (AY 2013-14), considering the implied disallowance of contribution towards superannuation fund under Section 43B of IT Act in FY 2011-12 and allowance of the same in FY 2012-13.
- Date of hearing : 24.3.2015
- Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member
- Petitioner : Neyveli Lignite Corporation Limited
- Respondents : Tamil Nadu Generation and Distribution Company and others.
- Parties present : Shri M.G. Ramachandran, Advocate, NLC  
Ms. Anushree Bardhan, Advocate, NLC  
Shri Ranjitha Ramachandran , Advocate, NLC  
Shri S. Gnanaprabhakaran, NLC  
Shri K. Muthu, NLC

**Record of Proceedings**

Learned counsel for the petitioner submitted as under:

- (a) The tax allowed under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 is different from the tax determined for the purpose of the Income Tax Act, 1961.
- (b) In the tax assessment proceeding for the assessment year 2012-13, there was disallowance of the provisions made in the accounts of NLC as per Section 43B of the Income Tax, 1961. As a result of said disallowance, the taxable income of NLC increased and during the financial year 2011-12, NLC paid the corporate tax of ₹ 355.69 crore.
- (c) In the subsequent financial year 2012-13, NLC's tax liability was subject to Minimum Alternate Tax under Section 115 JB of the Income Tax

Act, 1961. The tax rate including surcharge and education cess was 20.008%. As a result, the Return of Equity issue got affected by virtue of implementation of MAT.

(d) Learned counsel for the petitioner requested to allow the petitioner the reimbursement of actual tax paid by the petitioner treating the period 2011-12 and 2012-13 cumulatively, namely twice the tax rate admissible to corporate tax subject to maximum of the actual tax paid during the period 2011-12 and 2012-13.

2. None of the respondents was present during the hearing despite notice.
  
3. After hearing the learned counsel for the petitioner, the Commission reserved the order in the petition.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**