

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 115/MP/2016

- Subject : Petition for determination of excess income tax reimbursed by beneficiaries, accrued on account of calculating income tax on the total profit instead of tax on ROE for the period 2005-09 and subsequently in respect of NLC's Power Station, namely NLC TPSI (600 MW), NLC TPS-II Stage-I (3X210 MW), NLC TPC-II, Stage-II (4X210MW) NLC TPC-I Expansion (2X210 MW under Regulation 10 of Tariff Regulations, 2004) in pursuance of the Commission's order dated 12.5.2015 in Petition No. 65/MP/2013.
- Date of Hearing : **26.4.2018**
- Coram : Shri P. K. Pujari, Chairperson
Shri A. K. Singhal, Member
Shri A. S. Bakshi, Member
Dr. M. K. Iyer, Member
- Petitioner : Tamil Nadu Generation and Distribution Corporation Limited
- Respondents : Neyveli Lignite Corporation Limited (NLC) & Others.
- Parties present : Shri S. Vallinayagam, Advocate, TANGEDCO
Shri G. Umopathy, Advocate TANGEDCO
Shri R. Jayaprakash, TANGEDCO
Ms. Ranjita Ramachandran, Advocate, NLC
Shri A. Ganesan, NLC
Shri S. Varadharajan, NLC

Record of Proceedings

Learned counsel for the petitioner submitted that the tax calculated and collected by NLC from the beneficiaries is not in line with the Article 6.2 of Power Purchase Agreement. NLC has earned super profits during the period 2004-09 due to escalated O&M and excavation of mines more than the Capacity Utilization Factor and passed on the actual tax upon the beneficiaries on the super profits earned. Therefore, the petitioner is not liable to pay for anything contrary to what is agreed to under Article 6.2 of Power Purchase Agreement. Learned counsel further submitted that it is evident from the actual physical performance of NLC mines and thermal stations for the period 2004-09, that the excavation in NLC mines is more than the capacity level of 85%, which has been notified by the Ministry of Coal. Learned counsel requested the Commission to direct NLC to submit the details of income tax in respect of its mines.



2. Learned counsel for NLC submitted that NLC had calculated the income tax reimbursement from the beneficiaries in accordance with the MOC guidelines, duly supported by auditor's certificate. Learned counsel further submitted that NLC has submitted all the documents pertaining to income from the Petitioner and split up details of tax paid on ROE of all its mines and details of tax on profit.

3. The Commission after hearing the parties, directed the Chief (Finance) of the Commission to convene a meeting of Director (Finance) of NLC and Director (Finance) TANGEDCO to resolve the differences and find out an amicable solution to the problem, by 28.5.2018. The Commission directed Chief (Finance) of the Commission to place on record the outcome of the meeting within one week thereafter.

4. The petition shall be listed for hearing on 5.6.2018.

By order of the Commission

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

