

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.63/MP/2020

Subject : Petition under Section 79(1)(b) and 79 (1)(f) of the Electricity Act, 2003 for claiming extension of Scheduled Delivery Date on account of force majeure events falling within the scope of Article(s) 3.1, 3.4.3, 4.7 and 9 of the Power Purchase Agreement dated 23.8.2013 read with the addendum dated 10.12.2013 executed between the Petitioner and the Respondent TANGEDCO.

Petitioner : Bharat Aluminium Company Limited

Respondent : TANGEDCO

Date of Hearing : **20.4.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Shri Gopal Jain, Senior Advocate, BALCO
Shri Hemant Singh, Advocate, BALCO
Shri Chetan Garg, Advocate, BALCO
Shri Lakshyajit Singh, Advocate, BALCO
Shri Lavany Pawar, Advocate, BALCO
Ms. Alchi Thapliyal, Advocate, BALCO
Ms. Anusha Nagarajan, Advocate, TANGEDCO
Shri Rahul Ranjan, Advocate, TANGEDCO

Record of Proceedings

During the hearing, the learned Senior counsel for the Petitioner circulated a note of arguments and made detailed oral submissions in the matter. At the request of the learned Senior counsel, the Commission permitted the Petitioner to place on record the note of arguments.

2. The learned counsel for the Respondent, TANGEDCO circulated note of arguments and also submitted that the claim of the Petitioner is hit by delay and laches and is barred by the principle of estoppel, as the request for extension / deferment of the scheduled delivery date was made available on 6.11.2019, much after the commencement of the billing from 1.10.2015 onwards. Relying on the decision of the Commission in Petition No.117/MP/2017, the learned counsel pointed out that the claim of the Petitioner is not maintainable. At the request of the learned counsel, the Commission permitted the Respondent to place on record the note of arguments.

3. In response to the above, the learned Senior counsel for the Petitioner referred to the judgment of the Hon'ble Supreme Court in *A.P Power Coordination Committee vs Lanco Kondapalli Power Ltd. (2016) 3 SCC 468* and submitted that the law of limitation is applicable only to the judicial functions of the Commission in determining the claims and not to its regulatory and administrative functions. He however sought



permission to file written submissions in the matter. The learned counsel for the Respondent also sought permission to file its short-written submissions.

4. At the request of the parties, the Commission permitted the parties to file their written submissions (not exceeding three pages), on or before **15.5.2023**. No extension of time shall be granted for any reason.

5. Subject to the above, Commission reserved order in the matter.

By order of the Commission

**Sd/-
(B. Sreekumar)
Joint Chief (Law)**

