

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Competition Appeal (AT) No. 01 of 2018

IN THE MATTER OF:

Tata Power Delhi Distribution Ltd.

...Appellant

Vs.

Competition Commission of India and Anr.

...Respondents

Present: **For Appellant:- Mr. Vikas Singh, Senior Advocate with Mr. Amitabh Kumar, Mr. Anupam Varma, Ms. Vibha Dhawan, Mr. Rahul, Ms. Dikhsa Rai and Mr. Samir Agrawal, Advocates.**
 Mr. Anurag Bansal and Ms. Anukriti Jain, Advocates for TPD.
 For Respondents:- Mr. MG Ramachandran and Ms. Poorva Saigal, Advocates for Respondent No.2 (NTPC)

O R D E R

27.02.2018— The grievance of the Appellant is that in view of the composite 'Power Purchase Agreement' entered into between the 'Informant' (Appellant herein) and an 'Opposite Party' (NTPC Limited), there is no provision for exit of the Appellant even on failure of NTPC to supply power as per its demand. Therefore, according to the Respondent (NTPC) non-inclusion of exit clause amounts to abuse of dominant position by the Respondent (NTPC). It is also submitted that the Central Government cannot grant any relief and it was within the domain of the Competition Commission of India to enquire into the matter after investigation by the Director General.

Contd/-.....

Admit.

2nd Respondent is present. Pleading is complete. Though, the notice has been delivered to the Competition Commission of India, they have not appeared. The Appellant may hand over a copy of the paper book along with the copy of this order to the Secretary, Competition Commission of India, who is allowed to file reply affidavit, if any, in the meantime.

Post the matter for hearing on 26th March, 2018.

In the meantime, it will be open to the Respondent (NTPC) to file an affidavit giving the details of plants for which it is not in a position to complete the project and may allow the Appellant to exit from such project.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/gc