

## HON'BLE APTEL WHILE DISTINGUISHING THE CERC TARIFF REGULATIONS 2009 AND 2014 HELD THAT ADDITIONAL CAPITALISATION CAN BE CLAIMED EVEN IF A GENCO IS AVAILING SPECIAL ALLOWANCE



SKV Law Offices successfully represented National Thermal Power Corporation Limited (“NTPC”) in Appeal 304 of 2016 and batch titled as NTPC Ltd. v. CERC & Ors. before the Hon’ble Appellate Tribunal for Electricity (“Hon’ble APTEL”).

NTPC had approached the Hon’ble APTEL against the Order (s) passed by the Central Electricity Regulatory Commission (“CERC”) wherein, the CERC while disallowing the Additional Capitalisation claimed by NTPC, held that Additional Capitalisation cannot be claimed by a Generating Station, who has attained its useful life of 25 years and directed that the Additional Capitalisation Expenditure be met by Special Allowance.

The Hon’ble APTEL held that CERC on the premise that NTPC is entitled to Special Allowance could not have refused to allow the expenditure as per Regulation 14 (3) of the Tariff Regulations, 2014.

The Hon’ble APTEL after considering the interplay between Additional Capitalisation and Special Allowance, allowed the Appeals filed by NTPC and held that the claims under Additional Capitalisation are distinct in nature and can be claimed even if the Generating Station has claimed Special Allowance.

In addition to the above, the Hon’ble APTEL observed that the CERC Tariff Regulations, 2009 are not *pari-materia* to CERC Tariff Regulations 2014, since several provisions of the Tariff Regulations, 2014 including Regulation 14(3) and its provisos, have undergone a substantial change from the earlier Tariff Regulations, 2009. Therefore, the Hon’ble APTEL held the Judgments passed in the context of Tariff Regulations, 2009 shall not be applicable upon the present appeals which are in the context of Tariff Regulations, 2014.

NTPC was advised and represented by SKV Law Offices, with the team comprising of Mr. Shri Venkatesh, Managing Partner, Mr. Anant Singh Ubeja, Senior Associate and Mr. Kartikay Trivedi, Associate.

The Judgment can be accessed [here](#).