

CERC DOES NOT HAVE JURISDICTION TO ENTERTAIN A NON-TARIFF DISPUTE UNDER SECTION 79(1)(F) OF THE ELECTRICITY ACT



The Central Electricity Regulatory Commission (“CERC”) has passed an Order dated 20.01.2024 in the Petition filed by Punjab State Power Corporation Limited (“PSPCL”) under Section 79(1)(f) read with Section 79(1)(a) and (b) of the Electricity Act, 2003 (“the Act”), against NTPC Ltd. (“NTPC”).

PSPCL, in the Petition, had sought adjudication of disputes under the Power Purchase Agreement dated 11.12.2010 (“PPA”) entered between PSPCL and NTPC for development coal-based Gidderbaha Thermal Power Project. The Power Project was envisaged to be developed by a Special Purpose Vehicle (“SPV”) i.e., Gidderbaha Power Limited (“GPL”), incorporated as a wholly-owned subsidiary of PSPCL. However, the Power Project could not be developed due to non-availability of coal linkage and pending final allotment of land.

The dispute concerned the reimbursement of charges by NTPC to PSPCL for the expenses it incurred on GPL. CERC, before deciding the said issue raised by PSPCL, delved into the maintainability of the said Petition filed under Section 79(1)(f) of the Act and held that the dispute raised by PSPCL is purely a contractual dispute, unconnected with the CERC’s ‘power to regulate’ under Section 79 of the Act.

CERC noted that the language of Section 79(1)(f) of the Act does not envisage adjudication of contractual disputes that are not connected with the regulation of tariff or the regulation of inter-state transmission of electricity.

In view of the same, CERC dismissed the Petition filed by PSPCL on the grounds of maintainability as it does not have the jurisdiction to adjudicate the dispute under Section 79(1)(f) of the Act. It was observed that PSPCL may avail other legal remedies available in law.

Our Managing Partner, Mr. Shri Venkatesh, assisted by Mr. Ashutosh Srivastava, Counsel, Mr. Nihal Bhardwaj, Associate, and Mr. Kartikay Trivedi, Associate, represented NTPC in the aforesaid proceedings.

The Order dated 20.01.2024 can be accessed [here](#).