

SKV Law Offices Secures Landmark Relief for NTPC with CERC Allowing Additional Capitalisation and Extending Useful Life up to 2029



In a significant regulatory win, SKV Law Offices successfully represented NTPC Limited before the Central Electricity Regulatory Commission (CERC), which, pursuant to remand from the Appellate Tribunal for Electricity (APTEL), has allowed Additional Capital Expenditure (ACE) across six of NTPC's thermal generating stations and extended their useful life up to 31.03.2029. The order marks a critical clarification in the regulatory framework governing post useful life expenditure and reinforces the independent operation of Regulations 14(3) and 16 under the CERC Tariff Regulations, 2014.

These proceedings arise from the landmark judgment of APTEL dated 28.08.2023, whereby the earlier tariff orders of the Commission were set aside and remanded, holding that statutory and non discretionary expenditures admissible under Regulation 14(3) cannot be denied solely on the ground that Special Allowance under Regulation 16 has been availed, subject to the principle of no double recovery. In the remanded proceedings as well, SKV Law Offices successfully represented NTPC, ensuring that the scope of the remand was effectively applied.

In compliance with the remand directions, the CERC, by its Order dated 24.03.2026 in Petition No. 291/GT/2014 & batch matters, examined the claims of NTPC in respect of Rihand, Ramagundam, Farakka, Unchahar, Korba and Vindhyachal generating stations for the tariff period 2014-19. The Commission undertook a detailed issue wise adjudication, including the requirement of determining extended useful life, admissibility of additional capitalisation under Regulation 14(3), and safeguards against double recovery, wherein SKV

Law Offices successfully represented NTPC throughout the proceedings.

On the question of useful life, the Commission held that determination of extended useful life is a mandatory and substantive requirement for allowing depreciation on additional capital expenditure. Based on the Residual Life Assessment (RLA) studies and technical material placed on record, the Commission found that the major equipment of the subject generating stations remains in satisfactory working condition and is fit for continued operation. Accordingly, the useful life of all six generating stations was extended up to 31.03.2029, thereby providing a defined period for recovery of depreciation in a manner consistent with consumer interest under Section 61(d) of the Electricity Act, 2003, a relief secured with SKV Law Offices successfully representing NTPC on this issue.

On the admissibility of Additional Capital Expenditure, the Commission, in line with APTEL's findings, held that Regulation 14(3) operates independently of Regulation 16 and that admissible expenditure cannot be denied merely because Special Allowance has been availed. Upon examining the claims under Regulations 14(3)(ii), (iii) and (iv), the Commission allowed the expenditure reflected in the truing-up petitions which had earlier been disallowed on a projected basis, including items such as ESP modification works, ash dyke raising and ash-related works, Dry Ash Extraction Systems, Continuous Emission Monitoring Systems, inert gas/Halon replacement systems, replacement of MGR sleepers and fire-fighting systems, noting that these were undertaken

to meet statutory environmental, safety and pollution control requirements, an outcome achieved with SKV Law Offices successfully representing NTPC on the scope and interpretation of Regulation 14(3).

In terms of the station-wise allowance of Additional Capital Expenditure for the control period 2014-19 (post decapitalisation and pursuant to APTEL remand), the Commission has allowed the following:

- a. Rihand Super Thermal Power Station Stage-I: approx. Rs. 13,099.57 lakh
- b. Ramagundam STPS, Stage I & II: approx. Rs. 7,096.86 lakh
- c. Farakka Super Thermal Power Station, Stage I & II: approx. Rs. 11,186 lakh
- d. Feroze Gandhi Unchahar Thermal Power Station, Stage-I: approx. Rs. 6,847 lakh
- e. Korba Stage-I & II: approx. Rs. 29,602 lakh
Vindhyachal Stage-I: approx. Rs. 332 lakh

Importantly, on the issue of double recovery, the Commission was satisfied, based on auditor-certified unit-wise and station-wise records furnished by NTPC, that the expenditure claimed under Regulation 14(3) had neither been met from nor adjusted against Special Allowance or O&M expenses, thereby complying with the regulatory prohibition on double recovery. The Commission further directed that depreciation on the admitted additional capital expenditure shall be allowed from the date of capitalisation and spread over the extended useful life up to 31.03.2029, and consequential

revisions be carried out in the capital cost and tariff for the relevant periods, with SKV Law Offices successfully representing NTPC in establishing compliance with the no double recovery principle.

The order marks a decisive shift in the treatment of ageing thermal assets under the regulatory framework, recognising that generating stations may continue to operate beyond the normative useful life and that prudently incurred statutory, environmental and safety-related expenditure cannot be denied tariff recognition solely on account of availing Special Allowance. The decision provides a structured and legally consistent pathway for recovery of such expenditure, balancing cost recovery with consumer protection and tariff stability, and has wider implications for similarly placed generating stations across the sector.

The matter was led by SKV Law Offices, with Mr. Shri Venkatesh, Founding Partner, spearheading the representation, along with Mr. Abhishek Nangia, Counsel, and Mr. Kunal Veer Chopra, Senior Associate before the CERC in the remanded proceedings.