

HSA Advocates represented Tata Power Delhi Distribution Ltd. against Sasan's claim of recovery of INR 1050 cr

The Hon'ble Supreme Court vide judgment dated 08.12.2016 allowed the batch of Appeals filed by various electricity distribution companies against the Learned Appellate Tribunal for Electricity (APTEL's) order dated 31.03.2016 , wherein the APTEL had upheld 31.03.2013 as the date of commercial operation (COD) of Unit-III, Sasan Ultra Mega Power Plant (Sasan UMPP). HSA Advocates team led by Mr. Sakya Singha Chaudhuri (Partner) and assisted by Mr. Anand Shrivastava (Senior Associate), acted as the legal advisor to Tata Power Delhi Distribution Limited (TPDDL). The present dispute had arisen in the year 2013 when Sasan UMPP declared COD of its Unit-III on 31.03.2013 on the basis of certificate obtained from independent engineer, without achieving the requisite performance parameters provided under power purchase agreement (PPA).

New Delhi, Delhi, December 13, 2016 /[India PRwire](#)/ -- The Hon'ble Supreme Court vide judgment dated 08.12.2016 allowed the batch of Appeals filed by various electricity distribution companies against the Learned Appellate Tribunal for Electricity (APTEL's) order dated 31.03.2016 , wherein the APTEL had upheld 31.03.2013 as the date of commercial operation (COD) of Unit-III, Sasan Ultra Mega Power Plant (Sasan UMPP). HSA Advocates team led by Mr. Sakya Singha Chaudhuri (Partner) and assisted by Mr. Anand Shrivastava (Senior Associate), acted as the legal advisor to Tata Power Delhi Distribution Limited (TPDDL).

The present dispute had arisen in the year 2013 when Sasan UMPP declared COD of its Unit-III on 31.03.2013 on the basis of certificate obtained from independent engineer, without achieving the requisite performance parameters provided under power purchase agreement (PPA). However, such declaration of COD was rejected by the Central Electricity Regulatory Commission (CERC) vide order dated 08.08.2014. Aggrieved by such order of CERC, Sasan had challenged the same before the APTEL, wherein APTEL had set aside the CERC order, holding that the distribution companies had waived off their right to seek performance test in terms of the PPA. Thereafter, APTEL's order was challenged by the distribution companies including TPDDL, before the Hon'ble Supreme Court on various issues, inter-alia, the issue as to whether a party to a contract can waive its right, when such right also affects the public interest.

The Hon'ble Court in its judgment dated 08.12.2016 held that "if there is any element of public interest involved, the court steps in to thwart any waiver which may be contrary to such public interest". The Hon'ble Court further held that APTEL is wholly incorrect in accepting the case of waiver put by Sasan UMPP and it is equally incorrect in absolving the independent engineer and therefore, set aside the judgment of the Learned Appellate Tribunal and reinstated the order dated 08.08.2014 of the CERC.

As a result of the judgment of the Learned Supreme Court, Sasan UMPP will have to return an amount of approximately INR 1050 crores and carrying cost to the distribution companies, including TPDDL. The Hon'ble Supreme Court vide judgment dated 08.12.2016 allowed the batch of Appeals filed by various electricity distribution companies against the Learned Appellate Tribunal for Electricity (APTEL's) order dated 31.03.2016 , wherein the APTEL had upheld 31.03.2013 as the date of commercial operation (COD) of Unit-III, Sasan Ultra Mega Power Plant (Sasan UMPP). HSA Advocates team led by Mr. Sakya Singha Chaudhuri (Partner) and assisted by Mr. Anand Shrivastava (Senior Associate), acted as the legal advisor to Tata Power Delhi Distribution Limited (TPDDL).

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For more information, please contact:

Minakshi

Manager Corporate Communications

(L) 66387000

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