

NOTICE

Subject:- Implementation of APTEL Judgment dated 12 May, 2008 passed in Appeal No. 3 of 2008 Appeal filed by Reliance Energy Ltd. against the Order dated 12 December, 2007 passed in MERC Case No. 7 of 2002 (Petition filed by TPC seeking payment of dues from REL for supply of energy in terms of Principles of Agreement dated January 31, 1998 as entered into between the parties.) and Order dated 23 July, 2019 passed by Supreme Court in Appeal No's 4161 and 4423 of 2008, against the ATE Order dated 12 May, 2008 passed in Appeal No. 3 of 2008.
- **Case No. 07 of 2002**

Subject:- Miscellaneous Application filed by The Tata Power Company Limited on 14 October, 2019 in MERC Case No 7 of 2002 (Petition filed by TPC seeking payment of dues from REL for supply of energy in terms of Principles of Agreement dated January 31, 1998 as entered into between the parties.)
- **MA No. 39 of 2019 in Case No. 07 of 2002**

1. On 12 May, 2008 the Hon'ble APTEL has passed a Judgment in Appeal No. 3 of 2008. appeal against the Order dated 12 December, 2007 passed in MERC Case No. 7 of 2002, the tribunal has directed as under :-

"51.

ii) The issue relating to 'take or pay' shall be examined afresh after giving opportunity to the parties of hearing"

2. On 23 July, 2019 the Hon'ble Supreme Court has passed an Order in Appeal No's 4161 and 4423 of 2008, appeal against the Hon'ble ATE Order dated 12 May, 2008 passed in Appeal No. 3 of 2008 against the MERC Case No. 7 of 2002 the Hon'ble Supreme Court has passed an Order as under :-

".....

It is made clear that since Issue No. 2 had been remanded, No adverse observation made against appellant shall come in the way while agitating the issue before the concerned authorities.

....."

The prayers of the Applicant in Miscellaneous Application are as under:-

(i) *Take cognisance of the Hon'ble Appellate Tribunal's order dated 12 May 2008 and the Hon'ble Supreme Court's order dated 23 July 2019,*

(ii) *Issue notice to the Respondent, for a hearing on the 'take or pay' issue,*

(iii) *Allow the Petitioner leave to refer to and rely upon the records of the present proceedings during the course of the aforesaid hearing,*

(iv) *Grant the Petitioner liberty to file additional affidavit/s and documents to apprise this Hon'ble Commission about all facts and circumstances relevant to the issue of 'take or pay'.*

(v) *Pass any other order/s this Hon'ble Commission may deem fit.*

2. I am directed to communicate that for implementation of the ATE's Judgment dated 12 May, 2008 passed in Appeal No. 3 of 2008 and on MA No. 39 of 2019 in Case MA. No. 7 of 2002 the hearing in the above matter will be held on **Wednesday, 20 November, 2019 at 10.00 hrs** in the office of the Commission at 13th floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai - 400 005.

3. The Petitioner The Tata Power Company Limited and Respondent Adani Electricity Mumbai Ltd. [Reliance Energy Limited (formerly known as BSES Ltd.)] are directed to submit the say, if any immediately on affidavit in 1+6 copies to the Commission with documents, if any, with a copy to the Petitioner and Respondent.

4. The Respondent is directed to file say to the said Application if any with a copy to the Applicant.

5. The Parties are directed to file their Petition and submissions in MS -Word file and PDF version as far as possible and to file 1+6 copies of all relevant documents/citations produced during the proceedings.

Sd/-
(R. S. Sonawane)
Dy. Director (Legal)

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Applicant

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Respondent