

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.310 /2009 (Suo-motu)

**Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member**

Date of Hearing: 16.2.2010

Date of Order: 23.2.2010

In the matter of

Remittance of Congestion Revenue by Indian Energy Exchange

And

In the matter of

Indian Energy Exchange Ltd. New DelhiRespondent

The Following were present:

Shri Sanjay Sen, Advocate, IEX
Shri Akilesh Awasthy, IEX.

O R D E R

The Commission, vide its earlier order dated 11.1.2010 directed the respondent to show cause as to why penalty under section 142 of Electricity Act ,2003 be not imposed on it for non-compliance of directions of the Commission with regard to transferring congestion revenue to NLDC account. The respondent has filed its reply under affidavit dated 20.1.2010

2. During the hearing, the learned counsel for the respondent submitted that the delay in transferring the congestion revenue was not deliberate or willful. He attributed the delay to lack of clarity relating to the treatment of the fund, applicability of TDS on the congestion amount and its accounting entries. He emphasized that since the amount was large, the above issues needed careful consideration.

3. The learned counsel added that the respondent had been fully complying with the directions of the Commission by transferring the congestion revenue to NLDC regularly. He pointed out that the respondent has also transferred the dividend earned by it on congestion revenue for the time period the amount was retained by it. Learned counsel, further submitted that certain legal issues with regard to treating the communication as direction of the Commission and the applicability of mens rea to the proceedings have also been raised by them in the written submission. However the respondent had no intention to pursue them further, he added.

4. On behalf of the respondent the counsel pleaded for a considerate view keeping in mind the complete compliance with the Commissions' directions and an undertaking to ensure regular and prompt payments with respect to congestion revenue.

5. Though the explanation furnished by the respondent is not fully satisfactory, as the remittance was done in parts and not in lumpsum, in the light of the respondent's payment of the congestion revenue as also the dividend earned there from and particularly the undertaking to make regular payments of congestion revenue on daily basis, we direct that the present proceedings under section 142 be closed and the respondent be discharged from the show cause notice issued vide our order dated 11.1.2010. We further direct that the respondent shall continue to maintain the congestion revenue (whenever it arises) in a separate account and transfer the same in accordance with the applicable regulations.

Sd/= **[V. S. Verma]**
Member

Sd/= **[S. Jayaraman]**
Member

Sd/= **[Dr. Pramod Deo]**
Chairperson