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Remand And The Duty Of Fresh Decision: Supreme Court Clarification

AUTHOR Dinesh Gupta, Aryaveer Khanna

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Introduction

The Hon'ble Supreme Court in the case of RattanIndia Power Limited vs Maharashtra State Electricity Distribution Company and Anr. 2025 INSC 1502 decided on 10th December 2025, addresses critical questions concerning the scope of remand proceedings, appellate finality, and the computation of carrying costs and late payment surcharge rates. The court clarified a foundational procedural principle of remands finding that a remand for a fresh consideration does not freeze the legal position as on the date of the remand. This judgement assumes importance in regulatory and commercial adjudication.

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Factual Background

The appellant Rattan India Power Limited (RPL) is in a long-term Power Purchase Agreement (PPA) to supply power to the respondent Maharashtra State Electricity Distribution Company Limited (MSEDCL) for capacities 450 MW and 750 MW. During the course of these PPAs, RPL was impacted by several Change in Law events which had increased its operational and statutory costs.

RPL approached the Maharashtra Electricity Regulatory Commission (MERC) regarding compensation for these Change in Law events and the carrying cost from the date of occurrence of the events. MERC allowed the compensation but denied the carrying cost at the Late Payment Surcharge (LPS) rate and limited interest to the simple interest basis for computing the carrying cost.

RPL challenged the MERC order, on the grounds of the denial of the carrying cost before the Appellant Tribunal for Electricity (APTEL). By its order dated 18th October 2022, APTEL partly allowed the appeal, and the matter was remanded to enable MERC to compute and direct payment of Carrying Cost to RPL at LPS rates. Following the remand, MERC awarded the carrying cost but confined the interest to simple interest basis on the working capital norms. RPL appealed this decision to the APTEL, by the impugned order, granted carrying costs at the LPS rate but did not state anything about it in its order. This limited denial led to the appeal in the Supreme Court. MSEDCL did not file any cross appeal challenging the grant of carrying cost at the LPS rate.

Issues

1. Whether the remand order dated 18th October 2022, mandated payment of carrying cost at the LPS rate and whether such direction had attained finality.
2. Whether a respondent can challenge an operative part of an appellate order without filing a cross appeal.
3. Whether interference is warranted under Article 136 of the Constitution of India.
4. Whether payment of carrying cost at the LPS rate necessarily includes compounding of interest as per the LPS provision in the PPA.

Parties' Submissions

The appellant contended that the carrying cost is an essential component of restitution and must be granted in a manner that restores the party to same economic position if the Change in Law event had not occurred. It was argued that as per the provisions of the PPA, it explicitly provides for LPS with monthly compounding, awarding carrying cost at the LPS rate without compounding, defeats the principle of full restitution. Reliance was placed on prior Supreme court decisions recognising compounding as an intrinsic feature of carrying cost.

The respondent contended that as the remand order did not explicitly direct for the compounding of interest and that RPL had not initially claimed compounding interest before MERC. They also contended that as RPL meets its working capital requirements from internal sources only, therefore carrying costs as per MYT regulations is already on the higher side and would overcompensate RPL. It was further submitted that LPS serves the purpose of ensuring timely payment and it cannot be equated with carrying costs, in the absence of express direction.

Supreme Court's Analysis

The Supreme Court in their judgement found that, in the impugned order held that since the remand order dated 18th October 2022, had gained finality directing that computation of compensation and it was held categorically by the Supreme Court that a remand order does not render the law as static. Finding that when a Court or Appellate Tribunal remands a matter to the subordinate court for a fresh decision, it does not mean that the court is bound by the past decisions and cannot look further, even if in the interim, the law has changed or developed. Such a direction must be given its due consideration unless the law on the subject, which is binding upon the court and requires otherwise as per the current framework and judicial pronouncements of the law. The lis of the case is said to still be active during the remand period and hence it is the duty of the court to take notice in the change of law and to keep in mind the legal diaspora regarding the issues of the case and will have to follow the law which holds the field of the day on which it decides the matter.

The court held that the failure of MSEDCL to file the cross appeal under against the portion of APTEL's order granting the use of carrying costs at the LPS rate had decisive consequences. In the absence of cross appeal, the order attained finality and could not be reopened or indirectly challenged in the appellant's appeal. Accordingly, the court treated the grant of carrying cost at the LPS rate as final and unassailable.

The Supreme Court held that no interference was warranted under Article 136 as although the court possesses wide discretionary power under Article 136, these powers are not to be exercised routinely. In the absence of exceptional circumstances or manifest injustice, the Court declined to interfere with the Appellate Tribunal's findings.

The Supreme Court held that the payment of carrying cost at the LPS rate does not automatically or mechanically entail compounding of interest, even though the LPS clause in the PPA provides for interest with monthly rests. The court further clarified that compounding is not an invariable consequence of applying the LPS rate and the whether the use of compounding is required is dependent on the facts of the case. The court relied on the earlier decision of Uttar Haryana Bijli Vitran Nigam Ltd. vs Adani Power (Mundra) Ltd. (2023) 2 SCC 624, where the compounding interest was awarded because the factual matrix demonstrated that the generator had itself incurred financing costs with monthly rests. In contrast, in the present case APTEL had denied compounding not on factual matrix but on the erroneous assumption that the remand order barred such consideration. Since the remand order did not conclusively decide the issue of compounding, and the lis of the case remained open, the Supreme Court held APTEL be required to independently examine whether compounding was necessary to effectuate restitution.

Holding

The Supreme Court partly allowed the appeal and set aside the findings of APTEL, regarding to the facts where it denied compounding of interest on the ground of being constrained by the remand order. It held that the remand order did not freeze the legal position and that APTEL was required to decide the issue in accordance with the law as it stood at the time of adjudication. Hence, the matter was remanded to APTEL for a fresh determination on the issue of compounding of interest, based on facts and prevailing legal principles. The grant of carrying cost at the LPS rate was left undisturbed, having attained finality.

Significance

This judgement by the Hon'ble Supreme Court is significant in reaffirming that remand proceedings are a continuation of the original lis and not a mechanical exercise confined to past legal assumptions. The Supreme Court prevents remand orders from becoming instruments that perpetuate outdated or incomplete legal positions. This clarification comes as an important feature of the regulatory and commercial disputes, where legal principles frequently evolve through judicial interpretation. This decision strikes a careful balance between contractual interpretation and restitutionary justice.

Conclusion

This decision in the case of Rattan India Power Limited vs Maharashtra State Electricity Distribution Company Limited and Anr. 2025 INSC 1502, reinforces a fundamental yet overlooked principle of adjudication that justice cannot be administered from a frozen legal landscape. The Supreme Court ensures that adjudicatory bodies remain responsive to binding legal developments and do not perpetuate outdated interpretations under the guise of procedural compliance. It also makes clear that parties who fail to challenge adverse operative findings through cross-appeals cannot later seek to reopen them indirectly and adopts a nuanced approach to restitution by declining to presume compounding of interest solely from the application of the LPS rate, while leaving room for factual determination where full economic restoration so requires.

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