

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram :**

- 1. Shri. Ashok Basu, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri A.H. Jung, Member**

**Review Petition No. 49/2006  
in  
Petition No. 175/2004**

**In the matter of**

Review of order dated 9.5.2006 in Petition No.175/2004, for approval of tariff in respect of Rangit Hydroelectric Project, for the period 1.4.2004 to 31.3.2009.

And in the matter of

National Hydroelectric Power Corporation Limited.

**.....Petitioner**

**Vs**

1. West Bengal State Electricity Board, Kolkata
2. Damodar Valley Corporation, Kolkata
3. Jharkhand State Electricity Board, Jharkhand
4. Bihar State Electricity Board, Patna
5. Department of Power, Govt of Sikkim, Gangtok

**...Respondents**

**The following were present**

1. Shri S.D. Tripathi, NHPC
2. Shri Prashant Kaul, NHPC
3. Shri P.Kumar, NHPC
4. Shri S.K.Meena, NHPC
5. Shri R.S.Batra, NHPC
6. Shri R.P.Goyal, NHPC.
7. Shri. Naveen Samriya, NHPC
8. Shri T.K Mohanty, NHPC
9. Shri Ansuman Ray, NHPC
10. Shri C.Vinod, NHPC

**ORDER  
(DATE OF HEARING : 28.12.2006)**

This application has been filed by the petitioner, National Hydroelectric Power Corporation Ltd, (NHPC), a generating company, for review of order dated 9.5.2006 in Petition No.175/2004, determining the tariff in respect of Rangit Hydroelectric Project, for the period 1.4.2004 to 31.3.2009.

2. The petitioner has contended that there are certain fundamental errors in the said order dated 9.5.2006 and accordingly has sought review of the order on certain aspects, discussed in the succeeding paras.

### **INTEREST ON LOAN**

3. The Commission in its order dated 9.5.2006 held that when depreciation recovered in a year exceeded the amount of repayment during that year, the entire amount of depreciation was to be considered as repayment of loan for computation of interest on loan component of tariff. According to the petitioner, the conclusion arrived at by the Commission in this regard is in derogation of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2004 (hereinafter referred to as “the 2004 regulations”).

4. We have considered the submission made by the petitioner. The Commission in the order dated 9.5.2006 in Petition No.197/2004 after elaborate discussion of the historical background, the provisions of the 2004 regulations, including the regulations relied upon by the petitioner, as discussed in paras 8 to 22 of the said order dated 9.5.2006 concluded that the entire amount of depreciation was considered as repayment of loan for tariff computation when depreciation recovered in a year was more than the amount of repayment during that year. This methodology has been applied uniformly in all cases of tariff determination for the period 2004-09, including Rangit Hydroelectric Project.

5. While the petitioner laid much stress on the Commission having deviated from its own Regulation in the above respect, we find that in this particular case, there is no such deviation. As per the submissions of the petitioner, there is zero loan

repayment during the year 2005-06. Thus, it is a case of moratorium, for which situation the Regulation clearly provides that depreciation amount for the year should be taken as the loan repayment, for the purpose of tariff. This is exactly what the Commission has actually done.

6. It is also seen that the anomalous situation (for the petitioner) has arisen because of loan repayments in the previous tariff periods much faster than what has been contemplated in the tariff notifications/orders for those periods. We are not aware about the compulsions, if any, on the petitioner for having contracted loans of short tenures resulting in loan repayments much in excess of provisions regarding depreciation and AAD is tariff. In any case, it would not be appropriate to try to compensate the petitioner in the present tariff period for difficulties faced due to past decisions of his own.

7. The Commission has the powers of review as conferred on a civil court under the Code of Civil Procedure under Section 114 read with Order 47 thereof. As laid down in Rule 1 Order 47, the conditions precedent for review of an order are:

- (a) Discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the person seeking review or could not be produced by him at the time when the order was made; or
- (b) On account of some mistake or error apparent on the face of record or,
- (c) Any other sufficient reason.

8. The petitioner's prayer for review, when seen in the light of facts discussed above, is not maintainable to review, since it does not fall in any of the statutory grounds for the decision has been arrived at through the deliberate decision on consideration of the provisions of the 2004 Regulations.

### **DEPRECIATION**

9. The petitioner has sought review of depreciation on two grounds. The first ground is that there is an error in computation of the balance useful life of the generating station. As review of the methodology for computation of the balance useful life of the generating station has been already turned down by the Commission in its order dated 29.9.2006, review of depreciation on the basis of the balance useful life is not called for. The other ground for review put forth by the petitioner is that the cumulative depreciation and advance against depreciation recovered up to 31.3.2004 should be Rs.9165 lakh, being the amount allowed in order dated 19.5.2004 for tariff period 2001-04. The Commission has, however, considered the amount as Rs.10655.49 lakh. It is observed that an amount of Rs.1543.22 lakh has been erroneously added twice while calculating the cumulative depreciation and advance against depreciation. This is a ministerial error and is proposed to be corrected. Accordingly, the cumulative depreciation recovered up to 31.3.2004 is amended. The revised calculations in support of depreciation recoverable during 2004-09 are appended hereunder.

		(Rs in lakh)				
Depreciation		2004-05	2005-06	2006-07	2007-08	2008-09
Rate of depreciation	2.37%					
Depreciable value	90%	43622.49	43622.49	43622.49	43622.49	43622.49
Balance Useful life of the asset (years)	34.41	34.4	33.4	32.4	31.4	30.4
Remaining depreciable value		34502.60	31454.96	30298.91	28795.79	27879.02
Depreciation		1156.05	1156.05	1156.05	916.77	916.77

## **ADVANCE AGAINST DEPRECIATION**

10. Advance Against Depreciation is directly relatable to repayment of loan and depreciation recoverable. There is no revision of interest on loan as stated in para 4 of the order. The revision of cumulative depreciation and the depreciation recoverable as per para 7 above, do not change the recovery of advance against depreciation allowed in the order dated 9.5.2006. Hence, review of Advance Against Depreciation is not maintainable.

## **O&M EXPENSES**

11. The 2004 regulations provide that in the case of hydroelectric generating stations which have not been in existence for a period of five years, O&M expenses are to be fixed at 1.5% of the capital cost as admitted by the Commission and escalated at the rate of 4% per annum to arrive at O&M expenses for the period 2004-09.

12. The petitioner has submitted that the Commission, while working out the normative O&M expenses to be allowed in the tariff for the period 2004-09, has worked out O&M expenses for 2000-01 at 1.5% of the admitted capital cost of Rs.47585 lakh as on the date of commercial operation. As the generating station was declared under commercial operation during 1999-2000, 1.5% of the capital cost should be escalated at the rate of 4% to arrive at O&M expenses for the year 2001. The petitioner has, therefore, sought review of the O & M expenses.

13. The generating station was declared under commercial operation on 15.2.2000. O&M expenses for the year 1999-2000 @ 1.5% of the capital cost of Rs.47585 lakh admitted by the Commission worked out to Rs.89.22 lakh for the

period 15.2.2000 to 31.3.2000. In the subsequent year, 2000-01, escalation factor of 4% on pro rata basis for this period was not provided for in the order dated 9.5.2006. This was again a ministerial error and calls for correction. Accordingly, the revised O&M expenses for the year 2000-01 work out to Rs.717.34 lakh. Thereafter escalation @ 4% is to be applied each year to arrive at the O&M expenses for the period 2004-09. Thus, admissible O&M expenses are as follows :

	(Rs in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
O&M expenses	839.19	872.76	907.67	943.98	981.73

### **Interest on working capital**

### **Maintenance Spares**

14. The amounts claimed towards maintenance spares by the petitioner for computation of interest on working capital and that allowed by the Commission for the period 2004-09 in the order dated 9.5.2006 are as follows:

	(Rs in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
As claimed by petitioner	639.79	675.00	715.50	758.43	803.94
As considered by Commission	600.75	636.79	675.00	715.50	758.43

15. The petitioner has submitted that there is an error in considering the maintenance spares by the Commission for the years 2004-09, since the historical cost of the generating station is Rs.47585 lakh and this is the cost on the date of commercial operation as admitted by the Commission. Accordingly, escalation factor of 6% will be applicable from the year 2000-01 as per provisions of the 2004 regulations.

16. While calculating the maintenance spares for first year of operation after the date of commercial operation of the generating station, that is, for the period 16.2.2001 to 31.3.2001 and thereafter escalation on pro rata basis was not applied in the order dated 9.5.2006. The revised value of maintenance spares has been worked out as below:

(Rs in lakh)					
	2004-05	2005-06	2006-07	2007-08	2008-09
Maintenance spares	605.26	641.57	680.06	720.87	764.12

17. The above revised amount of maintenance spares for computing interest on working capital for the tariff period 2004-09 is allowed.

18. As a consequence of revision of O&M expenses and the maintenance spares as above, the interest on working capital needs revision and is accordingly revised as follows:

(Rs in lakh)					
	2004-05	2005-06	2006-07	2007-08	2008-09
Maintenance Spares	605.26	641.57	680.06	720.87	764.12
O&M expenses	69.93	72.73	75.64	78.67	81.81
Receivables	1219.57	833.55	877.51	772.83	780.04
<b>Total</b>	<b>1894.75</b>	<b>1547.85</b>	<b>1633.21</b>	<b>1572.37</b>	<b>1625.97</b>
Rate of Interest	10.25%	10.25%	10.25%	10.25%	10.25%
<b>Interest</b>	<b>194.21</b>	<b>158.65</b>	<b>167.40</b>	<b>161.17</b>	<b>166.66</b>

19. Based on the above, the Annual Fixed Charges are revised as follows:

(Rs in lakh)					
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	1156.05	1156.05	1156.05	916.77	916.77
Interest on Loan	621.29	198.75	71.77	0.00	0.00
Return on Equity	2615.07	2615.07	2615.07	2615.07	2615.07
Advance Against Depreciation	1891.59	0.00	347.07	0.00	0.00
Interest on Working Capital	195.21	158.65	167.40	161.10	166.66
O&M expenses	839.19	872.76	907.67	943.98	981.73
<b>Total</b>	<b>7317.39</b>	<b>5001.28</b>	<b>5265.03</b>	<b>4636.99</b>	<b>4680.23</b>

## **PUBLICATION EXPENSES**

20. The petitioner has filed an affidavit on 22.5.2006 in support of expenditure amounting to Rs.1,37,520/- incurred on publication of notices therein and has claimed refund of the expenditure. The Commission as a matter of policy has allowed in the past recovery of such expenditure. Therefore, without going into the technicalities, this expenditure incurred by the petitioner, is allowed to be recovered from the beneficiaries in one instalment in proportion of the Annual Fixed Charges payable by them for the year 2004-05 for the generating station.

## **FILING FEE**

21. As regards refund of filing fee of Rs.25 lakh claimed by the petitioner, the matter has already been considered at para 59 of the order dated 9.5.2006. No fresh order in this regard is necessary.

22. With the above, the present application for review stands disposed of.

**Sd/-  
(A.H.JUNG)  
MEMBER**

**Sd/-  
(BHANU BHUSHAN)  
MEMBER**

**Sd/-  
(ASHOK BASU)  
CHAIRPERSON**

**New Delhi dated the 5<sup>th</sup> February, 2007**