

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

1. Dr. Pramod Deo, Chairperson
2. Shri R.Krishnamoorthy, Member
3. Shri S. Jayaraman, Member
3. Shri V.S.Verma, Member

**Petition No. 161/2008**

**In the matter of**

Review of the order dated 12.11.2008 in Petition No.23/2007-Determination of impact of additional capital expenditure incurred during 2004-05 and 2005-06 for Faridabad Gas Power station.

**And in the matter of**

NTPC Limited, New Delhi

**..Petitioner**

Vs

Haryana Power Purchase Centre, Panchkula

**.....Respondent**

**The following were present:**

1. Shri V.K.Padha, NTPC
2. Shri G.K.Dua, NTPC
3. Shri A.S.Pandey, NTPC
4. Shri N.N.Sadasivan, NTPC

**ORDER  
(DATE OF HEARING: 24.3.2009)**

The petitioner, NTPC Limited, has filed this application seeking review of the order dated 12.11.2008 in Petition No. 23/2007 under which the fixed charges for the period 2004-09 in respect of Faridabad Gas Power Station (hereinafter referred to as "the generating station") were revised after considering the impact of the additional capital expenditure incurred during 2004-05 and 2005-06. While considering capitalization of expenditure of Rs. 362.39 lakh incurred on procurement of spares during 2004-06 was not allowed since it was incurred after the cut-off date.

2. The petitioner has submitted that an amount of Rs. 362.39 lakh has been incurred during 2004-06 was part of the original approved project cost and is within the ceiling norm for initial spares of 4% of the original project cost. The petitioner has

further submitted that the generating station was conceived and was executed before notification of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (the 2004 regulations) wherein concept of cut-off date was introduced first time and prior thereto it could be not known that concept of cut-off date would be introduced and applied to the generating stations in existence. According to the petitioner, the principle of cut-off date as per the 2004 regulations cannot be applied in the present case. The petitioner has submitted that on this account, there is an error apparent on the face of record in the said order dated 12.11.2008, which have been sought to be corrected.

3. The petition was listed before us for admission. We heard the representative of the petitioner on the point raised in the application for review. After careful examination of the material on record and oral submissions made on behalf of the petitioner, we propose to dispose of the application at the admission stage for reasons recorded in succeeding paragraphs.

4. The issue relating to capitalization of spares has been considered in detail by the Commission in the said order dated 12.11.2008 in following words:

“14. The claim for capitalization of expenditure of Rs.362.39 lakh for the period 2004-06 (Rs. 250.46 lakh for 2004-05 and Rs.111.93 lakh for 2005-06) relates to capitalization of spares. The petitioner has submitted that the 2004 regulations allow capitalization of spares up to 4% of the original project cost, which works out to Rs 4538 lakh in the case of the generating station. The spares amounting to Rs. 3474 lakh were capitalized upto 31.3.2004. After adding the petitioner’s claim for capitalization for spares of Rs 362.39 lakh, the total claim works out to Rs.3836 lakh which is within the limits of the ceiling norms specified in the regulations.

15. The generating station was commissioned on 1.1.2001. Initial capitalized spares have been allowed to the generating station in accordance with Regulation 2.5 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001, which provided that “the project cost shall include reasonable amount of capitalized initial spares”. Regulation 17 of the 2004 regulations provides for initial capitalised spares @ 4% of the capital cost for gas based generating stations, if it is incurred, as on the cut-off date. It

appears that the petitioner has further capitalized spares of Rs.362.36 lakh to be within 4% of the original capital cost. Considered as per the 2004 regulations, the cut-off date of the generating station was 31.3.2002 or at least 1.4.2004 when these regulations came into force and the concept of cut-off date came to be implemented. As the spares sought to be capitalized were procured during 2004-05 and 2005-06, the expenditure of Rs.362.36 lakh cannot be capitalized in terms of Regulation 17 of the 2004 regulations. The O&M expenses specified in the 2004 regulations for the generating station cater for the consumption of spares and thus O&M expenses approved adequately takes care of the requirements of the petitioner.”

5. Thus the reasons for non-capitalization of spares have been elaborately dealt with in the said order dated 12.11.2008. The capitalization of spares has been disallowed through a conscious decision of the Commission. The petitioner has sought to re-agitate the issue on merits, which is not permitted in the proceedings for review. In the circumstances, it cannot be said that there is an error apparent on the face of record.

6. In view of the above, we do not find any ground to review of the said order dated 12.11.2008. Accordingly, the application for review is dismissed at the admission stage as not maintainable.

<b>Sd/-</b> <b>(V.S. VERMA)</b> <b>MEMBER</b>	<b>Sd/-</b> <b>(S.JAYARAMAN)</b> <b>MEMBER</b>	<b>Sd/-</b> <b>(R.KRISHNAMOORTHY)</b> <b>MEMBER</b>	<b>Sd/-</b> <b>(DR.PRAMOD DEO)</b> <b>CHAIRPERSON</b>
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New Delhi dated the 26<sup>th</sup> March 2009