

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 279/2010

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K.Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K.Iyer, Member

Date of Order : 14.7.2016

In the matter of

Revision of tariff of Mejia TPS Unit-4 for the period from 13.2.2005 to 31.3.2009-Implementation of the judgement of the Appellate Tribunal for Electricity dated 19.2.2016 in Appeal No. 184/2013 (BSAL-v-CERC & ors)

And

In the matter of

Damodar Valley Corporation

...Petitioner

Vs

1. Department of Energy, Government of West Bengal, Kolkata
2. Department of Energy, Government of Jharkhand, Ranchi
3. West Bengal State Electricity Distribution Co. Ltd., Kolkata
4. Jharkhand State Electricity Board, Ranchi
5. Ministry of Power, Government of India, New Delhi
6. Bhaskar Shraichi Alloys Ltd., Kolkata
7. Jai Balaji Industries Ltd., Kolkata
8. Shyam Ferro Alloys Ltd., Kolkata
9. Cosmic Ferro Alloys Ltd., Kolkata
10. BDG Metal and Power Ltd., Kolkata
11. Lalwani Ferro Alloys Ltd., Kolkata
12. Howrah Gases Ltd., Kolkata

....Respondents

ORDER

Petition No. 279/2010 was filed by the petitioner Damodar Valley Corporation (DVC) for approval of tariff for Mejia TPS Unit-4 (210 MW) (hereinafter referred to as “the generating station”) based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as “the 2004 Tariff Regulations”). The Commission by order dated 22.4.2013 determined the tariff of the generating station for the said period as under:



	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	4949.78	4991.15	5048.13	5085.72	5111.82
Interest on Loan	5084.69	4716.37	4123.28	3512.06	2883.19
Return on Equity	2942.14	2966.74	3000.61	3022.95	3038.47
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Working Capital	644.81	798.18	796.45	795.47	791.84
O&M Expenses	2184.00	2272.20	2362.50	2457.00	2555.70
Total	15957.36	15744.64	15330.97	14873.20	14381.03

2. Aggrieved by the said order, M/s Bhaskar Shrachi Alloys Ltd, an HT Consumer and respondent in the said petition filed Appeal No.184/2013 before the Tribunal raising the following issues:

- (a) Recovery towards Pension & Gratuity Fund;
- (b) Reimbursement of expenditure towards pay revision with effect from 1.1.2006 under O&M expenses;
- (c) Additional capitalisation of ₹100.06 lakh; and
- (d) Non adjustment of alleged liquidated damages against capital cost.

3. The Tribunal by its judgment dated 19.2.2016 while allowing the prayer of the petitioner in respect of the issues raised in para 2(c) and (d) above had rejected the submissions of the appellant in respect of the prayers 2(a) and (b) and remanded the matter to the Commission. The relevant portion of the order of the Tribunal in respect of the issues allowed namely, additional capitalisation and Non-adjustment of Liquidated damages are extracted as under:

Issue No.3

“18.7 As per Clause 18 (3) of the Tariff Regulations, 2004, any expenditure on minor items specified in this Clause brought after the cut-off date i.e.31.3.2006 shall not be considered for additional capitalisation for determining tariff with effect from 1.4.2004. Accordingly, the investment of Rs.1.0 Crore on other assets during FY 2006-07 should not be taken under the capital expenditure. We remand the matter to Central Commission to scrutinise all the additional capital expenditures submitted by the Respondent No.2, DVC and if any expenditure is noticed under Regulation 18(3) of Tariff Regulations like the expenditure noticed in FY 2006-07, the same has to be deducted from the Capital Expenditure.”

Issue No.4

“21.10 Accordingly, this issue is decided in favour of the Appellant and the matter is remanded back to Central Commission directing Respondent No.2, DVC to claim liquidated damages from the EPC Contractor and accordingly, the capital cost of the project has to be arrived at for determination of tariff of Mejia 4 unit.”



4. In the light of the directions of the Tribunal as above, the Commission's order dated 22.4.2013 in Petition No.279/2010 in respect of the generating station shall stand revised as stated in the subsequent paragraphs.

Additional Capital Expenditure for 2006-09

5. The Commission in order dated 22.4.2013 in Petition No 279/2010 had allowed the following additional capital expenditure for the period 2006-09.

<i>(₹ in lakh)</i>					
2004-05 (13.2.2005 to 31.3.2005)	2005-06	2006-07	2007-08	2008-09	2009-10
0.00	1171.14	441.64	622.33	116.50	2351.61

6. In its judgment dated 19.2.2016, the Tribunal has observed that the Commission shall scrutinise all the additional capital expenditures submitted by DVC and if any expenditure is noticed under Regulation 18(3) of the 2004 Tariff Regulations like the expenditure noticed during 2006-07, the same has to be deducted from the capital expenditure. In the light of this observation, the claims of DVC for additional capital expenditure during the period from 2006-07 to 2008-09 in respect of this generating station has been re-examined on prudence check, and no other additional capital expenditure, similar to the expenditure noticed in 2006-07 was found to have been allowed during the period 2006-09 in the order dated 22.4.2013 in terms of Regulation 18(3) of the 2004 Tariff Regulations. Accordingly, the additional capital expenditure of ₹100.06 lakh for 2006-07 has been deducted from the additional capital expenditure allowed for the said year. Based on this, the additional capital expenditure allowed in order dated 22.4.2013 shall stand revised as under:

<i>(₹ in lakh)</i>					
2004-05 (13.2.2005 to 31.3.2005)	2005-06	2006-07	2007-08	2008-09	2009-10
0.00	1171.14	341.58	622.33	116.50	2351.61

Adjustment of Liquidated damages

7. One more issue for consideration is the adjustment of Liquidated damages, wherein the Tribunal in its judgment dated 19.2.2016 has observed that the respondent be directed to claim



the Liquidated Damages (LD) from the EPC contractor and accordingly arrive at the capital cost for determination of tariff of the generating station. Accordingly, we direct the petitioner to claim LD from the EPC contractor M/s BHEL and submit the details of such LD recovered, on affidavit, for working out the capital cost of the generating station. However, as the recovery of LD amount from the EPC contractor will take some time, the capital cost of the generating station is revised after taking into consideration the additional capital expenditure allowed in terms of the judgment of the Tribunal.

Capital Cost

8. Consequent upon revision of the additional capital expenditure for the year 2006-07 as in para 6 above, the capital cost allowed in order dated 22.4.2013 stand modified as under:

<i>(₹ in lakh)</i>		
Year	Additional Capital Expenditure	Capital Cost
As on 13.2.2005/31.3.2005	Not Applicable	70051.06
2005-06	1171.14	71222.20
2006-07	341.58	71563.78
2007-08	622.33	72186.11
2008-09	116.50	72302.61

Debt-Equity ratio

9. The normative gross loan and equity as on COD allowed in order dated 22.4.2013 remains unchanged. However, the admitted additional capital expenditure has been allocated in the debt equity ratio of 70:30 during the respective years of the tariff period.

Return on Equity

10. Return on Equity at 14% of the normative equity after accounting for admitted additional capital expenditure is as under:

<i>(₹ in lakh)</i>					
	2004-05 (13.2.2005 to 31.3.2005)	2005-06	2006-07	2007-08	2008-09
Notional Equity- Opening	21015.32	21015.32	21366.66	21469.14	21655.83
Addition of Equity due to Additional Capitalisation	0.00	351.34	102.48	186.70	34.95
Normative Equity-Closing	21015.32	21366.66	21469.14	21655.83	21690.78
Average Normative Equity	21015.32	21190.99	21417.90	21562.48	21673.31
Return on Equity (Annualised)	2942.14	2966.74	2998.51	3018.75	3034.26



Interest on loan

11. Interest on loan is worked out and allowed as under:

(₹ in lakh)

	2004-05 (13.2.2005 to 31.3.2005)	2005-06	2006-07	2007-08	2008-09
Gross opening loan	49035.75	49035.75	49855.54	50094.65	50530.28
Cumulative repayment of loan up to previous year	0.00	637.37	5628.52	10673.12	15751.77
Net Loan Opening	49035.75	48398.38	44227.02	39421.53	34778.51
Addition due to Additional capitalisation	0.00	819.80	239.11	435.63	81.55
Less : Repayment of Loan	637.37	4991.15	5044.60	5078.65	5104.75
Net Loan Closing	48398.38	44227.02	39421.53	34778.51	29755.31
Average Loan	48717.06	46312.70	41824.28	37100.02	32266.91
Weighted Average Rate of Interest on Loan	10.4372%	10.1837%	9.8508%	9.4504%	8.9200%
Interest on Loan (Annualized)	5084.69	4716.37	4120.01	3506.11	2878.21

Depreciation

12. Depreciation has been worked out and allowed as under:

(₹ in lakh)

	2004-05 (13.2.2005 to 31.3.2005)	2005-06	2006-07	2007-08	2008-09
Opening capital cost	70051.06	70051.06	71222.20	71563.78	72186.11
Closing capital cost	70051.06	71222.20	71563.78	72186.11	72302.62
Average capital cost	70051.06	70636.63	71392.99	71874.95	72244.36
Depreciable value @ 90%	63045.96	63572.97	64253.69	64687.45	65109.93
Balance depreciable value	63045.96	62935.60	58625.17	54014.34	49268.16
Depreciation (pro rata)	637.37	4991.15	5044.60	5078.65	5104.75
Depreciation (annualized)	4949.78	4991.15	5044.60	5078.65	5104.75

13. The Advance against depreciation and O&M expenses allowed in order dated 22.4.2013 remains unchanged.

Interest on Working Capital

14. An inadvertent typographical error had occurred in the interest on working capital allowed for the period 13.2.2005 to 31.3.2005 in order dated 22.4.2013. This is rectified by this order. However, there is no change in the annual fixed charges allowed for the said period on this count. Accordingly, based on the judgment of the Tribunal, the interest on working capital is worked out and allowed as under:



(₹ in lakh)

	2004-05 (13.2.2005 to 31.3.2005)	2005-06	2006-07	2007-08	2008-09
Cost of coal – 2 months	1999.76	1999.76	1999.76	2005.24	1999.76
Cost of secondary fuel oil – 2 months	115.80	115.80	115.80	116.12	115.80
O&M expenses – 1 month	182.00	189.35	196.88	204.75	212.98
Maintenance Spares	700.51	742.54	787.09	834.32	884.38
Receivables – 2 months	4775.12	4739.66	4669.21	4597.30	4509.64
Total working capital	7773.19	7787.11	7768.74	7757.72	7722.55
Rate of interest	10.250%	10.25%	10.25%	10.25%	10.25%
Interest on Working Capital (Annualized)	796.75	798.18	796.30	795.17	791.56

Annual Fixed Charges

15. Based on the above, the annual fixed charges allowed vide order dated 22.4.2013 in Petition No. 279/2010 stands revised as under:

(₹ in lakh)

	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	4949.78	4991.15	5044.60	5078.65	5104.75
Interest on Loan	5084.69	4716.37	4120.01	3506.11	2878.21
Return on Equity	2942.14	2966.74	2998.51	3018.75	3034.26
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Working Capital	796.75	798.18	796.30	795.17	791.56
O&M Expenses	2184.00	2272.20	2362.50	2457.00	2555.70
Total	15957.36	15744.64	15321.90	14855.67	14364.49

16. With this, the directions contained in the judgment of the Tribunal dated 19.2.2016 stands implemented.

-Sd/-
(Dr. M.K.Iyer)
Member

-Sd/-
(A. S. Bakshi)
Member

-Sd/-
(A. K. Singhal)
Member

-Sd/-
(Gireesh B. Pradhan)
Chairperson

