

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 39/RP/2022  
in Petition No. 482/TT/2020**

- Subject** : Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of the tariff order dated 10. 6.2022, passed in Petition No. 482/TT/2020, as modified vide corrigendum dated 22.7.2022, whereby truing up of transmission tariff for the period 2014-19 & determination of transmission tariff for the period 2019-24 has been undertaken in respect of Existing Transmission and Distribution (T&D) System Network of Damodar Valley Corporation in Eastern Region.
- Date of Hearing** : 30.8.2023
- Coram** : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner** : Damodar Valley Power Consumers' Association (DVPCA)
- Respondents** : Damodar Valley Corporation (DVC) & 2 Others
- Parties present** : Shri Rajiv Yadav, Advocate, DVPCA  
Shri M G Ramachandran, Advocate, DVC  
Ms. Surbhi Kapoor, Advocate, DVC  
Shri Aneesh Bajaj, Advocate, DVC  
Ms. Tanuja Sareen, DVC

**Record of Proceedings**

The instant Review Petition has been filed by Damodar Valley Power Consumers' Association (DVPCA) seeking review of the order dated 10.6.2022 in Petition No. 482/TT/2020 and subsequent corrigendum dated 22.7.2022. The Review Petitioner has sought review on the following counts:

- i) Allowance of depreciation on freehold Land
- ii) Errors in the adjustment of depreciation due to de-cap
- iii) Mismatch between depreciation and loan repayment
- iv) Omission to specify availability linked recovery of Sinking Fund Contribution



v) Double allowance of repayment of Bonds' amount

2. The learned counsel for the Review Petitioner submitted as follows:

a. Its submissions in respect of the depreciation on the freehold land in the review petition are misplaced, and hence the Review Petitioner does not press for review on this count.

b. An incorrect amount has been adjusted against the depreciation in respect of decapitalised assets for 2014-15, 2015-16, and 2016-17. Inadvertently, the depreciation recovered on *Old Assets for the Main Division* has been excluded, and only the depreciation recovered on *Old Assets for the A-N Stage* has been taken into consideration. As a result, the *Adjustment of Depreciation due to De-Cap* considered by the Commission is significantly lower than what ought to have been considered in accordance with Regulation 27(8) of the 2014 Tariff Regulations.

c. There is a mismatch between depreciation and loan repayment, despite Regulation 26 of the 2014 Tariff Regulations stipulating otherwise.

d. The Sinking Fund contribution has been allowed by the Commission separately, whereas the same should have been a part of the AFC.

e. The Commission has allowed double allowance of Bonds (loan) repayment through Depreciation on assets funded through bonds when Sinking Fund Contribution was allowed separately to DVC. Regulation 53 of the 2014 Tariff Regulations does not sanction any 'additional expense' to DVC over and above those that are ordinarily allowed to other generators/ transmission licensees.

3. In response, the learned senior counsel for the DVC submitted that there appears to be some clerical/computational error in respect of the depreciation allowed for the decapitalised assets. He further submitted that the depreciation rates claimed by DVC are as per the CAG rates and sought permission to file the Notification issued in this regard. He further submitted that Sinking Fund is a special allowance under the DVC Act, 1948, and it has been upheld by the Supreme Court in *Bhaskar Shrachi Alloys Ltd. vs Damodar Valley Corporation (2018) 8 SCC 281* and by APTEL vide judgement dated 23.11.2007 in Appeal No. 271 of 2006. Subsequently, the Commission has incorporated special provisions in the 2014 and 2019 Tariff Regulations, to give effect to the above decisions. As regards the contention of the Review Petitioner in respect of double allowance, the same is allowed by APTEL in its decision dated 13.6.2007 in Appeal No. 139 of 2006 in the matter of *NTPC Limited vs. Central Electricity Regulatory Commission* and the Supreme Court in Civil Appeals no. 5622 of 2007 and other connected appeals vide the order dated 10.4.2018.



4. After hearing the parties, the Commission directed DVC to submit the CAG's Notification. Both the parties are at liberty to file their short Written Submissions by 27.9.2023.
5. Subject to the above, the Commission reserved its order in the matter.

**By order of the Commission**

sd/-  
(V. Sreenivas)  
Joint Chief (Law)

