

**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.96/2006
in
Petition No.159/2004**

In the matter of

Review of order dated 19.7.2006 in Petition No. 159/2004, for approval of tariff in respect of Korba Super Thermal Power station for the period 1.4.2004 to 31.3.2009.

And in the matter of

NTPC Ltd. , New Delhi

....Petitioner

Vs

1. Madhya Pradesh Power Trading Company Limited, Jabalpur
2. Maharashtra State Electricity Distribution Co Ltd, Mumbai
3. Gujarat Urja Vikas Nigam Ltd, Vadodara
4. Chhatisgarh State Electricity Board, Raipur
5. Electricity Department, Govt of Goa, Panaji
6. Electricity Department, Govt of Daman and Diu, Daman
7. Electricity Department, Administration of Dadra & Nagar Haveli,
Sivassa.

.... Respondents

The following were present

1. Shri S.N.Goel, NTPC
2. Shri I.J.Kapoor, NTPC
3. Shri L. Agrawal, NTPC
4. Shri S.K.Sharma, NTPC
5. Shri A.S.Pandey, NTPC
6. Shri N.N.Sadasivan, NTPC

ORDER

(Date of Hearing: 28.11.2006)

This application has been made for review of order dated 19.7.2006 in Petition No.159/2004, determining the tariff in respect of Korba Super Thermal

Power Station, (hereinafter called "the generating station") 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 19.7.2006 and accordingly has sought review. According to the petitioner, the order needs to be reviewed on account of the following errors present therein :

(a) Not considering First-In-First-Out (FIFO) method of loan repayment.

(b) Impact of de-capitalization of assets on cumulative re-payment of loan.

(c) Calculation of balance life of plant

(d) Computation of interest on loan

(e) Computation of cost of maintenance spares.

3. Heard Shri Goel on behalf of the petitioner on admission. Admit on points at sub-paras (d) and (e) above. The reasons for rejection of review on other grounds is discussed in the succeeding paras.

First- In- First-Out (FIFO) method of loan repayment.

4. The petitioner has stated that it borrows money on the basis of consolidated corporate balance sheet which enables it to finalize loan on favourable terms. According to the petitioner, borrowing at the corporate level instead of at the specific project level enables it to reduce the cost of borrowing.

In the absence of any specific stipulation to the contrary attached to a particular borrowing, the petitioner adopts FIFO method for repayment of loans. This is particularly beneficial to the respondents as the first draws are generally at higher rates of interest and later draws are at lower ones in the current interest rate regime. The petitioner also has the flexibility of re-negotiating loans on reduced rates of interest for subsequent drawal with the same lender.

5. According to the petitioner, it has been adopting FIFO method to allocate interest liability to its generating stations. The Commission has, however, not considered FIFO method of repayment and has followed the average method of repayment of loan, irrespective of the terms and conditions of the loan agreements. According to the petitioner, adoption of FIFO method of loan repayment would be more beneficial to the respondent beneficiaries of the generating station. The petitioner has accordingly sought review.

6. We are not satisfied with the submission.

7. With regard to FIFO method, the petitioner had stated in the tariff petition No. 159/2004 that -

(a) As the loans are to be drawn over a period of years and at the time of first drawal, it is not known whether the next drawal will be at same interest rate or reduced interest rate.

(b) Repayment of some of the loans started even before the entire sanctioned loan was fully drawn.

(c) In case the loan agreement is silent on the method of repayment, the petitioner adopts FIFO or average method in order to ensure minimal interest liability for the petitioner as well as the individual generating stations. The repayment and interest on loan is, thereafter allocated to the projects based on the method adopted.

8. Although loan is drawn by the petitioner at corporate level, determination of tariff is always for individual generating stations, considering project specific allocated loans. Also, it is seen that interest rate applicable to various draws of particular loan contracted on FIFO repayment method is not the same and can increase or decrease depending on conditions prevalent at a point of time. Allocation of loan to a particular generating station is within the discretion of the petitioner. By allocating loans to projects and adopting FIFO method of repayment, the repayment schedule will turn uneven and will lead to irregular repayment amount in different years; the difference at times may be substantial. Re-payment of some of the loans started even before the entire sanctioned loan was fully drawn. Therefore, FIFO method advocated by the petitioner is beset with a number of difficulties.

9. While fixing tariff for a particular generating station, adoption of FIFO method of repayment may lead to higher AAD for the existing generating stations and higher IDC for the ongoing projects artificially in view of the discretion available with the petitioner for allocation of loans to individual generating stations. Therefore, FIFO method does not take into consideration the principle

of uniformity and consistency. By adopting average method of loan repayment at interest rates applicable to the drawal, the repayment schedule worked out is even and regular thereby eliminating the chance of higher AAD/IDC in tariff calculations. FIFO method of repayment also leads to a situation where loan drawal and allocation is after expiry of moratorium period. Further, the petitioner's contention that rate of interest will fall subsequently is not borne by facts as seen from the data available on record. It is also seen that by adopting FIFO method of repayment, loan repayment during the tariff period will be unevenly spread, which will result into the payment of AAD in the tariff where the loan repayment is more than depreciation and benefit of full depreciation where the loan repayment is less than the depreciation.

10. In order to obviate the above-noted anomalies, a conscious view has been taken for averaging of the repayment during the tariff period calculated as "normative loan balance as per regulation divided by loan tenure as per loan agreement " and this method has been traditionally followed in all cases of tariff determination, including the cases pertaining to the periods prior to 1.4.2004. The same methodology considered for earlier periods has been accepted by the petitioner without demur.

11. It is also significant that the petitioner is not put to any loss in terms of interest payment if average payment method is used in place of FIFO method. Adoption of re-payment on average basis is more reasonable.

12. In our considered view, the change of methodology suggested by the petitioner does not fall within the scope of review under Section 114 read with Order XLVII of the Code of Civil Procedure.

Impact of de-capitalization of assets on cumulative re-payment of loan.

13. The petitioner's next grievance is that cumulative repayment of loan corresponding to the assets de-capitalised should also be adjusted to the extent of loan component of the de-capitalised assets to arrive at cumulative repayment, as on 1.4.2004, for the purpose of computation of tariff for the period 2004-05 to 2008-09. The petitioner's case is that in the course of operation of the generating stations (which have a life of 25 years or more) it de-capitalizes assets from time to time. On such de-capitalisation, the value of the capital assets is reduced in the balance sheet of the concerned generating station for accounting purposes. However, the Commission in its order dated 19.7.2006 has reduced the capital base to the extent of such de-capitalisation which has adversely affected its entitlement to tariff on the value of assets de-capitalised. The petitioner has stated that de-capitalisation of assets does not amount to taking back the capital employed in the assets except to the extent of the value recovered on sale of those assets, which generally is the scrap value. Further, according to the petitioner, de-capitalisation of assets does not reduce the loan capital and the obligation towards servicing of loan continues as scheduled. It has been urged that the revenue realized on the sale of the de-capitalised assets should be taken into account as a non-tariff income in the year in which such sale proceeds are realized. The petitioner has further submitted that if the de-capitalised assets are adjusted against the capital base, the cumulative

depreciation recovered as well as the cumulative repayment of the loan proportionate to those assets de-capitalised should also be reduced. The Commission, in the order dated 19.7.2006 has made adjustment in cumulative depreciation on account of de-capitalisation without any adjustment of cumulative repayment of loan. The petitioner states that by such non-adjustment of cumulative repayment due to de-capitalisation, the petitioner will not be able to service the loan taken and employed for capital works, as the cumulative repayment has been allowed only to the extent of the reduced capital base.

14. We have considered the contention of the petitioner in this regard. There are generally two concepts associated with recovery of depreciation. According to one concept, depreciation is charged for replacement of the assets, the other one relates depreciation to repayment of loan. In the present case, certain assets were de-capitalised and certain other assets capitalised for the period ending 31.3.2004 on their face value. For the assets de-capitalised, the petitioner was allowed recovery of depreciation of 90% of the value of the assets de-capitalised, which has been allowed to be retained by the petitioner, in addition to the scrap value of the assets de-capitalised. The entire value of the new assets replacing the old assets has been considered for the purpose of computation of tariff, without adjusting the depreciation recovered on the old replaced assets, discarding the first concept of recovery of depreciation. The petitioner is thus also entitled to recover interest on the entire loan amount considered for the new asset. By extending the second concept to the facts of the case on hand, funds for repayment of loan were available to the extent of depreciation recovered and

have to be utilised accordingly. In case the contention of the petitioner for adjustment of loan component of the de-capitalised asset is accepted, it will amount to servicing the loans already recovered through depreciation recovered.

15. In the above circumstances, de-capitalisation of assets should not have any impact on cumulative repayment of loan recovered. Therefore, in our considered opinion, no case for review on this count has been made out.

Calculation of balance life of plant

16. The petitioner has submitted that the Commission while deciding the tariff for the generating station has calculated the useful life of the generating station as 25.6 years based on the asset mix as on 31.3.2004. It has been stated that the Commission had earlier, while determining tariff for the period 2001-04 vide order dated 6.8.2003, calculated the weighted average depreciation as 3.77% per annum, based on which the average life of the generating station would work out to 23.8 years, against the weighted average useful life of 25.6 years considered in the order dated 19.7.2006.

17. The weighted average useful life of 25.6 years has been worked by considering the gross value of the fixed assets and the useful life of each of the asset. This methodology has been consistently adopted by us for all the generating stations of the petitioner while determining tariff whether for the period 2001-04 or for the period 2004-09 and also adopted by the petitioner in its petitions for approval of tariff. Thus the same methodology has been universally accepted by the petitioner. We, therefore, do not find any ground for review on

this count based on the present application. Nevertheless, the basic calculations in support of the weighted average useful life of the generating station are given in the sheet attached.

18. The petitioner is directed to serve copy of the application for review on the respondents latest by 15.12.2006. The respondents may file their reply by 15.1.2007 on the grounds admitted for review, with a copy to the petitioner, who may file its rejoinder, if any, by 31.1.2007.

19. List on 8.2.2007.

Sd/-

**(A.H.JUNG)
MEMBER**

Sd/-

**(BHANU BHUSHAN)
MEMBER**

Sd/-

**(ASHOK BASU)
CHAIRPERSON**

New Delhi dated the 1st December 2006

