

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 94/MP/2017 along with  
I.A. No. 22 of 2017**

- Subject : Petition under Section 79 (1)(f) of the Electricity Act, 2003 read with the relevant provisions of CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 for seeking quashing of notices dated 16.3.2017, 24.3.2017, 6.4.2017 and email dated 19.4.2017 sent by the PGCIL and refund of the payments made under protest by the petitioner against the impugned invoices.
- Date of hearing : 22.8.2017
- Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member
- Petitioner : Bharat Aluminium Company Limited (BALCO).
- Respondent : Power Grid Corporation of India.
- Parties present : Shri Sanjay Sen, Senior Advocate, BALCO  
Shri Hemant Singh, Advocate, BALCO  
Shri Matrugupta Mishra, Advocate, BALCO  
Shri Nishant Kumar, Advocate, BALCO  
Shri M.G. Ramachandran, Advocate, PGCIL  
Ms. Poorva Saigal, Advocate, PGCIL  
Shri V.Srinivas, PGCIL  
Shri R.P. Padhi., PGCIL

**Record of Proceedings**

At the outset, learned senior counsel for the petitioner submitted that the present petition has been filed seeking quashing of notices dated 16.3.2017, 24.3.2017, 6.4.2017 and e-mail dated 19.4.2017 issued by PGCIL vide which the petitioner has been called upon to make payment of transmission charges and surcharge for the period of October 2011 to March 2012 and for seeking direction to PGCIL to refund of the amount already paid by the petitioner. Learned senior counsel for the petitioner further submitted as under:

- (a) PGCIL has been raising invoices on the petitioner without clarifying or categorizing as to which invoice is raised against what assets. The Commission

vide order dated 19.5.2014 in Petition No. 107/TT/2012 held that the petitioner is only liable to pay transmission charges towards Asset I out of the five assets. Asset I is the transmission line which connected the generating station of the petitioner with Korba sub-station till 1.4.2012. There is no denial of liability on the part of the petitioner so far as Asset I is concerned.

(b) PGCIL raised invoices for the period from October 2011 to March 2012 for those assets, which were not even charged by 1.4.2012. The petitioner is liable to pay only for the Asset-I for the period from October 2011 to March 2012 on account of the fact that Asset II and Asset IV after being operationalized on 29.2.2012, tripped twice on the same date only to be charged up again in May 2012 and Asset III was exclusively utilized by VVL. Hence, the impugned notices dated 16.3.2017, 24.3.2017 and 6.4.2017 along with the invoices are arbitrary and violative of the Transmission Service Agreement (TSA) and the Commission's order dated 19.5.2014 in Petition No. 107/TT/2012.

(c) The petitioner has already made payment of Rs. 2,51,94,491 against the invoices and Rs. 47,67,607 towards late payment surcharge to PGCIL under protest as PGCIL had threatened the petitioner to curtail the entire short term open access in case of non-payment of the amount.

(d) PGCIL has wrongly interpreted the enabling part of the Commission's order dated 19.5.2014 in Petition No. 107/TT/2012. PGCIL has not made disclosure with regard to the charging of each and every asset of which non PoC bills have been illegally raised on the petitioner. Unless the actual implementation of the assets qua the TSA are conclusively established, the consequential liability of the petitioner towards the transmission charges in question cannot be ascertained. The enabling part of the said order cannot be construed or interpreted in a manner which would justify the alleged transmission charges imposed, even in the absence of assets in question or when the TSA itself was not implemented in the manner contemplated. It is nowhere stated in the said order that PGCIL can claim and raise transmission charges without even operationalizing the transmission assets.

2. In his rebuttal, learned counsel for PGCIL submitted as under:

(a) The amount claimed by PGCIL from the petitioner is as per the Commission's order dated 19.5.2014 in Petition No. 107/TT/2012. The petitioner did not file any appeal or otherwise challenged the said order of the Commission. Therefore, the said order has become final and binding on the petitioner.

(b) The Commission's order dated 19.5.2014 in Petition No. 107/TT/2012 clearly provides the extent of the obligation of the petitioner. The petitioner has to bear the transmission charges for that section of the transmission line until the entire transmission line has been completed. The Commission, in the said order, had also referred to the date of 1.4.2012 as the Cut-Off Date. Accordingly, all

transmission charges in respect of the transmission asset completed and declared CoD prior to 1.4.2012 was required to be borne by the petitioner in so far as such transmission lines were with respect to the petitioner's generating station.

(c) The petitioner accepted its liability to pay for Assets I, II and III in the letter dated 29.4.2015. The petitioner is wrongly alleging that its liability to pay the transmission charges is restricted to Asset I and does not extend to Assets II to IV. The petitioner cannot refuse to pay the transmission charges on the basis that it had not used the transmission facilities.

3. After hearing the learned senior counsel for the petitioner and learned counsel for PGCIL, the Commission directed the Chief (Engineering) of the Commission to examine the issue in consultation with the representatives of the petitioner and the respondent and submit a report by 30.9.2017.

4. After examination of the report, the petition may be listed for hearing, if required.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Legal)**