

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

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

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 : 13.9.2018

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member

Petitioner : Bharat Aluminum Company Limited (BALCO)

Respondent : Power Grid Corporation of India Limited (PGCIL)

Parties present : Shri Matrugupta Mishra, Advocate, BALCO
Shri Nishant Kumar, Advocate, BALCO
Shri Md. Zeyauddin, BALCO
Shri M.G. Ramachandran, Advocate, PGCIL
Ms. Ranjitha Ramachandran, Advocate, PGCIL
Ms. Anushree Bardhan, Advocate, PGCIL
Shri V. Srinivas, PGCIL

Record of Proceedings

At the outset, learned 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 Power Grid Corporation of India Limited (PGCIL) demanding the 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 counsel further submitted as under:

(a) The Petitioner and Vandana Vidyut Limited (VVL) are LTTCs of PGCIL and accordingly, on 24.2.2010, BPTAs were signed between the parties for evacuation of 200 MW and 265 MW power from their respective generating stations. As a temporary arrangement it was decided that the Petitioner and VVL shall draw start up powers through LILO of Korba- Birsinghpur 400 kV D/C line till the commissioning of their respective dedicated transmission system. Subsequently, PGCIL executed a TSA with the Petitioner and VVL on 15.7.2011.

(b) Under the TSA, in order to give effect to the interim arrangement till commissioning of Korba- Birsinghpur 400 kV D/C line, two arrangements were conceptualized. Firstly, the Petitioner shall pay full transmission charges for the temporary inter-connection of its generating units (Arrangement-I) before inter-connection of VVL to ISTS from its actual date of commissioning. Secondly, both the Petitioner and VVL shall share and pay full transmission charges for the

complete loop of BALCO-VVL-Korba of Korba- Birsinghpur 400 D/C section required for temporary inter-connection of the generating unit of the Petitioner and VVL to the ISTS (Arrangement-II). However, Arrangement-II was never implemented.

(c) The Commission vide order dated 19.5.2014 in Petition No. 107/TT/2012 held that the Petitioner is liable to pay transmission charges towards Asset-I out of the five assets 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.

(d) 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.

(e) The Commission vide ROP dated 22.8.2017 directed the Chief (Engineering) to examine the issue and submit a report in consultation with the representatives of the Petitioner and the Respondent. Subsequently, on 8.9.2017 a meeting was convened in the presence of the Petitioner, PGCIL and VVL. However, no report has been submitted so far.

2. 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 arrangement was discussed and agreed between the parties and they are liable to pay the transmission charges in case of delay or non-utilization of said transmission system upon its commissioning.

(b) As per the provisions of the TSA, the Petitioner and VVL are liable to pay the transmission charges in accordance with the Commission's order dated 19.5.2014 in Petition No.107/TT/2012. Accordingly, prior to 1.4.2012, the transmission charges have to be paid by the Petitioner and VVL and from 1.4.2012, the transmission charges shall be shared in accordance with the Sharing Regulations, 2010.

3. The Commission directed the Petitioner to implead VVL as a party to the petition and file revised memo of parties by 31.10.2018.

4. The Commission directed VVL to file its reply to the petition by 16.11.2018, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 30.11.2018. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account.

5. The petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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