

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No.44/RP/2018
in Petition No.235/MP/2017**

Subject : Petition for review and modification of the order dated 17.9.2018 in Petition No. 235/MP/2017.

Date of hearing : 22.1.2019

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

Petitioner : Gujarat Urja Vikas Nigam Limited (GUVNL)

Respondent : Adani Power (Mundra) Limited

Parties present : Shri Anand K. Ganesan, Advocate, GUVNL
Ms. Swapna Seshadri, Advocate, GUVNL
Ms. Parichita Chowdhury, Advocate, GUVNL
Ms. Aparajita Upadhyay, Advocate, AP(M)L

Record of Proceedings

At the outset, learned counsel for the Review Petitioner submitted that present Review Petition has been filed for seeking review of the order dated 17.9.2018 in Petition No. 235/MP/2015 (remanded by the Appellate Tribunal for Electricity in Appeal No. 210 of 2017). Learned counsel further submitted as under:

(a) While considering the claims of Adani Power on the issue of Customs Duty on imported coal, the Commission in its order dated 17.9.2018 in Petition No. 235/MP/2015 has held that the duty shall be considered on actual coal consumed (calculated on the basis of actual GCV of imported coal) or as per the operating parameters in accordance with the Tariff Regulations or actual whichever is lower.

(b) While adjudicating the change in law claims of Adani Power in Petition No 235/MP/2015, the Commission in its order dated 4.5.2017 had adopted the operating parameters including the SHR as approved by GERC in Petition No. 1080/2011 (under PPA dated 6.2.2007) and Petition No. 1210/2012 (under PPA dated 2.2.2007) for the purpose of allowing the Change in Law claims of Adani Power.

(c) The above order dated 4.5.2017 was challenged by Adani Power in the Appellate Tribunal *inter alia* on the ground that the Commission has erroneously adopted the SHR as was previously applied by the GERC. The Appellate Tribunal *vide* its judgment dated 13.4.2018 in Appeal No. 210/2017 rejected the prayer of Adani Power, *inter-alia*, holding that the SHR as per the previous decision of the GERC and accepted by Adani Power would apply.

(d) The Commission in the remand proceedings has changed the methodology and the operating parameters to be applied for calculating the impact on account of change in law for Adani Power, which is an error apparent on the face of the record.

2. Learned counsel for the Adani Power (Mundra) Limited objected to the maintainability of the Petition and requested for two weeks time to file reply on the issue of maintainability.

3. After hearing the learned counsels for the parties, the Commission admitted the Petition and directed to issue notice to the Respondent.

4. The Commission directed the Respondent to file its reply on maintainability as well as on merit by 8.2.2019 with an advance copy to the Petitioner who may file its rejoinder, if any, by, 21.2.2018.

5. The Review Petition shall be listed for hearing on maintainability as well as on merits in due course for which separate notices will be issued.

By order of the Commission

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