

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

**Review Petition No. 8/RP/2022**

<b>Subject</b>	: Review Petition No. 8/RP/2022 seeking review of order dated 30.11.2021 in Petition 691/TT/2020.
<b>Date of Hearing</b>	: 24.6.2022
<b>Coram</b>	: Shri I.S. Jha, Member Shri Arun Goyal, Member Shri P.K. Singh, Member
<b>Petitioner</b>	: Power Grid Corporation of India Limited
<b>Respondents</b>	: Madhya Pradesh Power Management Company Limited and 12 others
<b>Parties Present</b>	: Shri Anand K. Ganesan, Advocate, PGCIL Ms. Swapna Sheshadri, Advocate, PGCIL Shri Jai Dhanani, Advocate, PGCIL Shri Ravi Sharma, Advocate, MPPMCL

**Record of Proceedings**

Case was called out for virtual hearing. The matter was last listed on 26.4.2022.

2. The learned counsel for the Review Petitioner made the following submissions:
- a. The instant review petition is filed for review of the order dated 30.11.2021 in Petition No.691/TT/2020 wherein tariff of the 2004-09 and 2009-14 tariff periods was revised and tariff of 2014-19 tariff period was trued up. The instant review petition pertains to Asset-II which was put into commercial operation on 1.4.2008.
  - b. The Petitioner had claimed the completion cost of Asset-II of ₹1486.36 lakh as on 1.4.2014 which was restricted to apportioned approved cost (as per RCE-I) of ₹1408.56 lakh vide order dated 29.2.2016 in Petition No. 225/TT/2015. Subsequently, a Review Petition No. 37/RP/2017 was filed seeking review and modification of the said order. In the said Review Petition, RCE-II along with apportionment for Asset-II amounting to ₹1625.15 lakh was submitted.
  - c. The Commission vide order dated 27.3.2018 in Review Petition No. 37/RP/2017 declined to entertain the review petition on account of non-compliance of the statutory time limit for filing the review petition without expressing any opinion on the merit of the review petition. However, the Review Petitioner was allowed to submit the RCE-II for consideration of the Commission at the time of truing up of the 2014-19 tariff period.
  - d. RCE-II was inadvertently missed by the Review Petitioner at the time of filing of the true up Petition No. 691/TT/2020 and the Commission vide order dated 30.11.2021 in Petition 691/TT/2020 observed that the document as submitted by the Petitioner in support of RCE-II revealed that it was only an Annexure



and RCE-II duly approved by BOD of the Petitioner company had not been furnished by the Petitioner in the Petition. This has led to disallowance of ₹77.80 lakh in case of Asset-II.

- e. In terms of the directions of the Commission vide RoP dated 26.4.2022, MPPMCL has filed reply vide affidavit 5.4.2022 and the Review Petitioner has filed rejoinder to the same vide affidavit 27.5.2022.

3. The learned counsel of MPPMCL opposed the review petition on the following grounds:

- a. The Petitioner has revised the capital cost post disposal of the Commission's order for tariff of 2014-19 period and did not submit the RCE-II since the disposal of the Commission's order till the submission of true-up petition. The RCE-II is dated 12.4.2017 and the tariff order was disposed of vide order dated 29.2.2016 in Petition No. 225/TT/2015 implying that the Petitioner has not placed the RCE-II during the tariff order for 2014-19 period.
- b. The reason for filing the review petition does not fall under the relevant provisions of Section 94(1)(f) of the Electricity Act, 2003.
- c. In terms of the ratio decided by Hon'ble Supreme Court in Kamlesh Verma Vs. Mayavati & others, the review cannot be treated like an appeal in disguise.
- d. The Commission has denied considering the revised apportioned capital cost in order dated 15.2.2021 in Petition No. 152/TT/2020 wherein the Petitioner had requested the same under Regulation 44 of the 2009 Tariff Regulations.
- e. Therefore, the Respondents should not be burdened to pay additional charges and requested the Commission to reject the instant review petition with costs.

4. In response, the learned counsel of the Review Petitioner submitted that as per the federal court's judgement in Musammam Jamna Keur Vs Lal Bahadur and others dated 20.12.1949, whether the error occurred by reason of the counsel's mistake or it crept in by reason of an oversight on part of the court was not a circumstance which could affect the exercise of jurisdiction of the court to review its decision. Also, the error was apparent on face of record but the question of how the error occurred is not relevant to the inquiry. The learned counsel of the Review Petitioner further admitted to the mistake of not submitting the RCE-II and accordingly requested the Commission to consider the RCE-II. The learned counsel for the Review Petitioner prayed for leave of the Commission to file written submissions/judgments in the matter.

5. After hearing the learned counsels of the parties, the Commission directed the Review Petitioner to file their written submissions by 10.7.2022 with an advance copy to the Respondents. The Commission directed that due date of filing written submission should be strictly adhered to and no extension of time shall be granted.

6. Subject to above, the Commission reserved the order in the matter.

**By order of the Commission**

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(V. Sreenivas)  
Joint Chief (Law)

