

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 23/RP/2022

in

Petition 451/GT/2020

Coram:

**Shri I.S Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member**

Date of Order: 6th December, 2022

In the matter of

Petition for the review of the Commission's order dated 16.04.2022 in Petition No. 451/GT/2020 in the matter of truing up of tariff for the tariff period 2014-19 in respect of Korba STPS Stage-I&II (2100 MW), under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103(1) of the CERC (Conduct of Business), Regulations, 1999

And

In the matter of

NTPC Limited
NTPC Bhawan,
Core-7, Scope Complex,
7, Institutional Area, Lodhi Road,
New Delhi - 110 003

...Review Petitioner

Vs

1. Madhya Pradesh Power Management Company Limited,
Shakti Bhawan, Vidyut Nagar,
Jabalpur - 482 008
2. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, Bandra (East),
Mumbai - 400 051
3. Gujarat Urja Vikas Nigam Limited,
Vidyut Bhavan, Race Course,
Vadodara - 390 007



4. Chhattisgarh State Power Distribution Company Limited,
P.O. Sundar Nagar,
Danganiya, Raipur – 492 013
5. Electricity Department of Goa,
Vidyut Bhawan,
Panaji, Goa
6. DNH Power Distribution Corporation Limited,
UT of DNH, Silvassa – 396 230
7. Electricity Department,
Administration of Daman & Diu,
Daman - 396 210

...Respondents

Parties present:

Shri A. S. Pandey, NTPC
Shri Vivek Kumar, NTPC
Shri Ravin Dubey, Advocate, MPPMCL

ORDER

Petition No. 451/GT/2020 was filed by the Review Petitioner, NTPC Limited for the truing-up of tariff of Korba STPS Stage-I & II (2100 MW) (hereinafter referred as 'generating station') for the period 2014-19 in terms of the 2014 Tariff Regulations and the Commission vide its order dated 16.4.2022 (in short' the impugned order') had revised the tariff of the generating station for the said period. Aggrieved by the impugned order dated 16.4.2022, the Review Petitioner has filed this Review Petition seeking review on the ground that there are errors apparent on the face of record, limited to the following issues:

- A. *Dis-allowance of additional capitalization on accrual basis (through addition to liability) of Rs.84 lakh in 2016-17;*
- B. *Disallowance under exclusion of (-) Rs.28.17 lakh in 2017-18;*



Hearing dated 12.8.2022

2. The Review Petition was heard on 12.8.2022 and the same was admitted on the issues raised in paragraph 1 above, vide interim order dated 27.8.2022, and notice was served on the Respondents. The Respondent, MPPMCL has filed its reply vide affidavit dated 15.9.2022 and the Review Petitioner has filed its rejoinder to the same, vide affidavit dated 22.9.2022.

Hearing dated 2.11.2022

3. The Review Petition was heard on 2.11.2022 and the Commission, after hearing the representative of the Review Petitioner and the learned counsel for the Respondent MPPMCL, reserved its order in the matter. Based on the submissions of the parties and the documents available on record, we proceed to examine the issues raised by the Review Petitioner in the subsequent paragraphs.

A. Dis-allowance of additional capitalization on accrual basis (through addition to liability) of Rs.84 lakh in year 2016-17

4. The Commission in paragraph 17 of the impugned order dated 16.4.2022 had disallowed the additional capital expenditure of Rs.84.00 lakh in 2016-17, on accrual basis, towards Dry and Wet system AHP at Dhanras in the following manner: -:

“17. The matter has been considered. It is observed that the additional capital expenditure incurred towards FERV for Ash handling system is restatement of liability on account of exchange rate variation for the admitted work during the 2001-04 tariff period on accrual basis. Accordingly, the same shall be considered at the time of actual discharge of liability. As regards the additional capital expenditure of Rs.84.00 lakh in 2016-17 on accrual basis towards Dry and Wet system AHP at Dhanras, it is noticed that the Petitioner has not substantiated its claim with supporting documents and the reasons for holding such payments for a long time (since 2003-04). In view of this, the claim is not allowed



Submissions of the Review Petitioner

5. The Review Petitioner submitted that it has claimed Rs. 84 lakh on accrual basis, i.e. through addition to liability in 2016-17 in respect of Dry and Wet System AHP (by M/s Indure) with justification provided as “while reconciling the work executed by M/s Indure prior to 2003-04, the Review Petitioner has accepted some of the works”. The capitalization pertains to the works which are now accepted by the Review Petitioner. The Review Petitioner submitted that the Commission has disallowed the claim stating that the Petitioner has not substantiated its claim with supporting documents and has not submitted the reasons for holding such payments for a long time (since 2003-04). The Review Petitioner submitted that the said addition to liability in 2016-17 was for the Ash Handling Plant (AHP) Package works executed by M/s Indure under the original scope of works of Korba STPS Stage-II. Review Petitioner has further submitted that in 2016-17, reconciliation for the AHP package including reconciliation of material issued to the agency (M/s Indure) by NTPC, as also the review of pending submission of documents/ invoices/ statutory certifications etc. necessary for release of retention amount and for consideration of due eligible payments for works already completed, put to use and capitalized before 2003-04, was carried out jointly with the agency. During this reconciliation exercise, it came to fore that an amount of Rs.84 lakh against supply of equipment already made was eligible for payment to the agency, however, the agency (M/s Indure) had not submitted relevant invoices in this regard. Hence, this amount of Rs.84 lakh was added to the liability of the AHP Package, for works executed prior to 2003-04, as seen from the Form-18



(i.e. form for liability flow) furnished with the Petition. Further, this liability would be discharged once the relevant invoices in respect of equipment supply already made prior to 2003-04 are provided by the agency to NTPC. The Review Petitioner has submitted that the said liability addition of Rs.84 lakh in 2016-17 pertains to works executed and put to use prior to 2003-04 period under original scope of works for AHP Package forming part of capital cost allowed for the generating station. NTPC has prayed for reviewing the disallowance of the said additional capitalization of Rs.84 lakh in the year 2016-17 on accrual basis (through addition to liability) claimed in line with Regulation 14(3)(v) of the 2014 Tariff Regulations.

Reply of the Respondent, MPPMCL

6. The Respondent MPPMCL has submitted that the Review Petitioner has claimed the capitalization pertaining to the works which have now been accepted. It has also submitted that Regulation 14(3) of the 2014 Tariff Regulations provides for items/assets which can be considered for additional capitalization in respect of existing generating station and does not fall within the ambit of any sub-clauses of Regulations 14 (3) of the 2014 Tariff Regulations and the same may be met from the compensation allowance. The Respondent has further submitted that the claim of the Petitioner is beyond the scope of the 2014 Tariff Regulations and cannot be allowed in any manner. The Respondent has stated that after completion of useful life of the project, the Regulations does not provide for any additional capitalization and therefore, the claim of the Review Petitioner is not maintainable. It has prayed that the claim



may be disallowed in the interest of justice to safeguard consumer's interest in terms of the provisions contained in Section 61(d) of Electricity Act, 2003.

Rejoinder of the Review Petitioner

7. The Review Petitioner in its rejoinder, has reiterated that the claim of the Petitioner for liability pertains to original scope of work and is in line with Regulation 14(3)(v) of the 2014 Tariff Regulations. The Petitioner has also submitted that it has furnished reasons for withholding of such payment in the present Review Petition. As regards the Respondent's contention that the said claim should be met from compensation allowance, the Petitioner has submitted that compensation allowance is admissible to meet expenses on new assets of capital nature which are not covered under Regulation 14 of the 2014 Tariff Regulations. It has also submitted that the said claim is in line with the provision for additional capitalisation expenditure as per Regulation 14(3)(v) of the 2014 Tariff Regulations. The Review Petitioner has further submitted that Regulation 14(3) of the 2014 Tariff Regulations in no way limits the additional capitalization to useful life of the generating station and Regulation 14(3) of the 2014 Tariff Regulations is therefore, available to a generating company after useful life, as long as the capital expenditure falls within the scope of the said Regulations. It is also submitted that the Commission, after prudence check, had allowed additional capitalization beyond useful life in several of its orders.

Analysis and Decision

8. We have considered the rival submissions of the parties. It is observed that the claim of the Review Petitioner, was disallowed in the impugned order



dated 16.4.2022, on the ground that the Review Petitioner has not substantiated its claim with supporting documents along with reasons for withholding such payments since 2003-04 as required under Regulation 14(3)(v) Tariff Regulations. We find that the Review Petitioner is seeking additional capitalization on accrual basis which is not to be accepted. Needless to say that The Review Petitioner may approach the Commission as and when liability is discharged along with supporting documents as per Regulation 14(3)(v) of 2014 Tariff Regulations.

B. Review the disallowance under exclusion for (-) Rs 28.17 lakh in 2017-18

9. The Commission in the impugned order dated 16.4.2022 had allowed the exclusion of decapitalization of R&M works for (-) Rs.24.70 lakh in 2017-18 which do not form part of the capital cost and disallowed the de-capitalization under exclusion to the extent of (-) Rs.215.57 lakh as under:

“39. The Petitioner, in justification of the same, has submitted that since the generating station has completed 25 years of commercial operation and claiming Special Allowance, additional capital expenditures and de-capitalization pertaining to Renovation & Modernization are not being claimed and is kept under exclusion. It is observed that the Petitioner has also considered the de-capitalization of R&M works of (-) Rs.240.27 lakh under this head in 2017-18 and this de-capitalization includes assets of (-) Rs.24.70 lakh which do not form part of the capital cost allowed. Accordingly, we allow the exclusions of Rs.2376.40 lakh along with de-capitalization of (-) Rs.24.70 lakh and disallow the de-capitalization under exclusion to the extent of (-) Rs.215.57 lakh as the same forms the part of the admitted capital cost of the generating station and now becoming unserviceable. Further, the exclusions claimed for 2014-15, 2015-16, 2016-17 and 2018-19 are allowed”

Submissions of the Review Petitioner

10. The Review Petitioner has submitted that it had claimed exclusion in 2017-18 inter alia for (-) Rs.28.17 lakh against adjustment for item “400 KV air bl CB of S-I by 400 KV SF6 Brkr” in 2017-18. The Review Petitioner has also



submitted that, while carrying out the prudence check for exclusions claimed, the Commission in the impugned order dated 16.4.2022 has observed that out of the de-capitalization of R&M works of (-) Rs.240.27 lakh claimed under exclusion in 2017-18, only (-) Rs.24.7 lakh pertains to assets that do not form part of capital cost allowed and hence de-capitalization to the extent of (-) Rs.215.57 lakh has been disallowed. The Review Petitioner has submitted that in Form-9D for the year 2017-18, submitted in the main petition, under the head “B.2 Items not claimed” only (-) Rs.212.09 lakh pertain to de-capitalization of assets (against (-) Rs.240.27 lakh considered in order dated 16.4.2022), while the item at Sl. No. 17, i.e. “400KV air bl CB of S-I by 400KV SF6 Brkr” for (-) Rs.28.17 lakh is not on behalf of de-capitalization, but is an adjustment. Further, the said amount of (-) Rs.28.17 lakh, claimed under exclusion is not on account of de-capitalization, which can be corroborated from the fact that as per the corresponding de-capitalization form, i.e. Form-9Bi for 2017-18, the total amount for de-capitalization of assets claimed under exclusion is Rs.2930.27 lakh and as per exclusion Form-9D for 2017-18 the total amount claimed under de-capitalization of assets is also Rs (-) 2930.27 lakh, but without considering the said amount of (-) Rs.28.17 lakh. The Review Petitioner has submitted that hence, the said amount of (-) Rs.28.17 lakh is not on account of de-capitalization but an adjustment. The Review Petitioner has also submitted that the said item, i.e., “400KV air bl CB of S-I by 400KV SF6 Brkr”, pertain to R&M works carried out for the generating station and its capitalization was claimed under exclusion in Form-9D for 2015-16. It has stated that the Commission had allowed the capitalization of the said item



under exclusion for 2015-16 and hence the said item does not form part of capital cost allowed. Accordingly, the adjustment of (-) Rs.28.17 lakh in 2017-18 for the said item has been correctly claimed by the Review Petitioner under exclusion. In view of above, the Review Petitioner has submitted that the Commission has apparently erred to consider the said (-) Rs.28.17 lakh as de-capitalization for assets forming part of the capital cost, although the same pertains neither to assets forming part of capital cost nor to de-capitalization. The Petitioner has submitted that it is an error apparent on the face of the record.

Reply of the Respondent, MPPMCL

11. The Respondent MPPMCL has submitted that the claim of the Petitioner may be examined under the provisions contained in the 2014 Tariff Regulations, after prudence check.

Rejoinder of the Review Petitioner

12. The Review Petitioner has submitted that the amount of (-) Rs.28.17 lakh pertains to adjustment in an item, capitalization of which was claimed and also allowed under exclusion by the impugned order dated 16.4.2022. The Review Petitioner has further submitted that therefore, adjustment in the same item, in a subsequent year, may also need to be kept under exclusion.

Analysis and Decision

13. We have considered the submissions of the parties, The Petitioner, in the Review Petition has submitted that an amount of (-) Rs.28.17 lakh against “400KV air bl CB of S-I by 400KV SF6 Brkr” is an adjustment entry for R&M



works allowed under exclusion in Form-9D for 2015-16 and not the de-capitalisation. Further, it is also observed that the Commission had allowed the said item capitalization, i.e. “400KV air bl CB of S-I by 400KV SF6 Brkr”, pertain to R&M works under exclusion in Form-9D for 2015-16. Accordingly, we find that it is an error apparent on the face of the record and the review of order on this count is maintainable.

14. Issues (A) and (B) are decided accordingly.

Revision of capital cost and tariff for the 2014-19 tariff period

15. As stated above, the Review Petition has been allowed only on the ground of (B) i.e. review of the disallowance under exclusion for (-) Rs 28.17 lakh in 2017-18. Based on this, and after rectification of the errors with regard to exclusion, the capital cost and tariff determined for this generating station for the tariff period from 1.4.2014 to 31.3.2019 vide order dated 16.4.2022 in Petition No.451/GT/2020, shall stand revised, as stated in the subsequent paragraphs.

Revised Capital cost allowed for the 2014-19 tariff period

16. Accordingly, the capital cost allowed vide paragraph 61 of the order dated 16.4.2022 stands revised and modified as under:

	<i>(Rs. in lakh)</i>				
	2014-15	2015-16	2016-17	2017-18	2018-19
Capital cost as on 1.4.2014	178071.97	176223.93	170128.49	168528.75	165863.58
Add: Additional Capital Expenditure	(-)1848.04	(-)6095.44	(-)1599.74	(-)2665.18	(-)756.05
Closing Gross Block	176223.93	170128.49	168528.75	165863.58	165107.53
Average Gross Block	177147.95	173176.21	169328.62	167196.16	165485.55



Debt-Equity Ratio

17. Accordingly, the details of debt-equity ratio approved vide paragraph 63 of the order dated 16.4.2022 stands revised and modified as under:

	Capital cost as on 1.4.2014 (Rs. in lakh)	(%)	Additional capital expenditure (Rs. in lakh)	(%)	Decapitalization (Rs. in lakh)	(%)	Total cost as on 31.3.2019 (Rs. in lakh)	(%)
Debt	90990.26	51.10	850.22	70.00	(-)7089.52	50.00%	84750.96	51.33%
Equity	87081.70	48.90	364.38	30.00	(-)7089.52	50.00%	80356.56	48.67%
Total	178071.97	100.00	1214.60	100.00	(-)14179.04	100.00%	165107.53	100.00%

Return on Equity

18. Accordingly, ROE approved vide paragraph 67 of the order dated 16.4.2022 stands revised and modified as under:

<i>(Rs. in lakh)</i>						
		2014-15	2015-16	2016-17	2017-18	2018-19
Normative Equity-Opening	A	87081.70	86141.08	83011.01	82074.64	80737.45
Addition of Equity due to additional capital expenditure	B	(-)940.63	(-)3130.07	(-)936.36	(-)1337.19	(-)380.89
Normative Equity-Closing	C=A+B	86141.08	83011.01	82074.64	80737.45	80356.56
Average Normative Equity	D=(A+C)/2	86611.39	84576.04	82542.82	81406.05	80547.01
Return on Equity (Base Rate)	E	15.500%	15.500%	15.500%	15.500%	15.500%
Effective Tax Rate	F	20.961%	21.342%	21.342%	21.342%	21.549%
Rate of Return on Equity (Pre-Tax)	G=E/(1-F)	19.610%	19.705%	19.705%	19.705%	19.758%
Return on Equity (Pre-Tax) annualized	H=DxG	16984.49	16665.71	16265.06	16041.06	15914.48

Interest on Loan

19. Accordingly, Interest on loan approved vide paragraph 70 of the order dated 16.4.2022 stands revised and is allowed in the following manner:

<i>(Rs. in lakh)</i>						
		2014-15	2015-16	2016-17	2017-18	2018-19
Gross opening loan	A	90990.26	90082.85	87117.49	86454.11	85126.13
Cumulative repayment of loan upto previous year	B	90493.00	89701.59	86447.99	86141.79	84797.68
Net Loan Opening	C=A-B	497.26	381.26	669.49	312.32	328.45



		2014-15	2015-16	2016-17	2017-18	2018-19
Addition due to additional capital expenditure	D	(-) 907.41	(-) 2965.37	(-) 663.38	(-) 1327.98	(-) 375.17
Repayment of loan during the year	E	90.70	0.00	406.88	0.00	196.11
Repayment adjustment on account of de-capitalization	F	882.11	3253.60	1141.10	1344.10	385.18
Repayment adjustment on a/c of discharges / reversals corresponding to un-discharged liabilities deducted as on 1.4.2009	F1	0.00	0.00	428.01	0.00	5.97
Net Repayment of loan during the year	G=E-F+F1	-791.41	-3253.60	-306.21	-1344.10	-183.10
Net Loan Closing	H=C+D-G	381.26	669.49	312.32	328.45	136.38
Average Loan	I=(C+H)/2	439.26	525.38	490.91	320.39	232.41
Weighted Average Rate of Interest on loan	J	8.7947%	8.6498%	8.2344%	7.3026%	7.7407%
Interest on Loan	K=IxJ	38.63	45.44	40.42	23.40	17.99

Depreciation

20. Accordingly, Depreciation approved vide paragraph 72 of the order dated 16.4.2022 has been worked out and allowed as follows:

<i>(Rs. in lakh)</i>						
		2014-15	2015-16	2016-17	2017-18	2018-19
Average Capital Cost	A	177147.95	173176.21	169328.62	167196.16	165485.55
Value of freehold land	B	824.10	824.10	824.10	824.10	824.10
Depreciable Value	C=(A-B)x90%	158691.46	155116.90	151654.07	149734.86	148195.31
Remaining depreciable value at the beginning of the year	D=C- (Cumulative Depreciation at the end of previous year)	90.70	0.00	406.88	0.00	196.11
No. of completed years at the beginning of the year	E	25.90	26.90	27.90	28.90	29.90
Depreciation (annualized)	F=D	90.70	0.00	406.88	0.00	196.11



		2014-15	2015-16	2016-17	2017-18	2018-19
Add: Cumulative depreciation adjustment of discharges / reversals corresponding to un-discharged liabilities deducted as on 1.4.2009	G	0.00	0.00	818.50	0.00	11.42
Less: Cumulative depreciation adjustment on account of de-capitalization	H	1587.80	5856.48	2053.99	2419.39	693.32
Cumulative depreciation (at the end of the period)	I=[(Cumulative depreciation at the end of previous year) +F+G-H]	157103.66	151247.19	150418.59	147999.20	147513.41

Interest on Working Capital

d) Revised Working Capital for Receivables

21. Receivables for the purpose of working capital approved vide paragraph 144 of the order dated 16.4.2022 stands revised as under has been worked out and being allowed as follows:

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Variable Charges (45 days)	20921.89	20979.21	20921.89	21426.03	21426.03
Fixed Charges (45 days)	12214.07	12835.22	12801.52	13237.95	13748.22
Total	33135.96	33814.43	33723.40	34663.98	35174.25

22. Accordingly, Interest on working capital approved vide paragraph 147 of the order dated 16.4.2022 stands revised as under:

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Working capital for coal cost stock in 10 days	5023.46	5023.46	5023.46	5144.50	5144.50
Working capital for coal cost expenses 30 days	10046.91	10046.91	10046.91	10289.01	10289.01
Working capital for cost of secondary oil for 2 months	554.20	555.72	554.20	567.56	567.56
Working capital for O & M expenses 1 month	3980.09	4304.17	4288.85	4536.76	4771.82
Working capital for Maintenance Spares (20% of O&M expenses)	9552.21	10330.01	10293.23	10888.22	11452.36



	2014-15	2015-16	2016-17	2017-18	2018-19
Working capital for Receivables for 45 days	33135.96	33814.43	33723.40	34663.98	35174.25
Total Working Capital	62292.82	64074.70	63930.06	66090.02	67399.50
Rate of Interest	13.50%	13.50%	13.50%	13.50%	13.50%
Total Interest on Working capital	8409.53	8650.08	8630.56	8922.15	9098.93

Annual Fixed Charges for the 2019-24 Tariff Period

23. Based on the above discussion, the annual fixed charges approved vide paragraph 149 of the order dated 16.4.2022 stand revised as under:

	2014-15	2015-16	2016-17	2017-18	2018-19
					<i>(Rs. in lakh)</i>
Depreciation	90.70	0.00	406.88	0.00	196.11
Interest on Loan	38.63	45.44	40.42	23.40	17.99
Return on Equity	16984.49	16665.71	16265.06	16041.06	15914.48
O&M Expenses	47761.04	51650.07	51466.17	54441.10	57261.81
Interest on Working Capital	8409.53	8650.08	8630.56	8922.15	9098.93
Compensation Allowance	500.00	500.00	0.00	0.00	0.00
Special allowance	11056.83	11758.94	16747.00	17810.43	18941.40
Total	84841.23	89270.24	93556.10	97238.14	101430.71

24. The difference between the tariff determined by this order and the tariff recovered by the Review Petitioner in terms of the order dated 16.4.2022 in Petition No. 451/GT/2020 shall be adjusted in terms of Regulation 8(13) of the 2014 Tariff Regulations.

25. Review Petition No. 23/RP/2022 is disposed of in terms of the above.

Sd/-
(Pravas Kumar Singh)
Member

Sd/-
(Arun Goyal)
Member

Sd/-
(I. S. Jha)
Member

