

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 171/MP/2023

Coram:

**Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member**

Date of Order: 14th April, 2024

In the matter of

Petition under section 79(1)(f) of the Electricity Act, 2003 seeking quashing of invoice dated 28.2.2023 issued by the Respondent DVC claiming charges for fly-ash transportation for the period from 23.2.2017 to 26.3.2018 from Bokaro-A Thermal Power Station.

And

In the matter of

Punjab State Power Corporation Limited,
The Mall, Patiala – 147001

...Petitioner

Vs

Damodar Valley Corporation,
DVC Towers, VIP Road,
Kolkata – 700054

...Respondent

Parties Present:

Ms. Suparna Srivastava, Advocate, PSPCL
Shri Rishabh, Advocate, PSPCL
Shri Venkatesh, Advocate, DVC
Shri Ashutosh Srivastava, Advocate, DVC
Shri Punyam Bhutani, Advocate, DVC

ORDER

Petition No. 171/MP/2023 has been filed by the Petitioner, Punjab State Power Corporation Limited (in short 'PSPCL') seeking the following relief(s):



(a) Allow the present Petition and quash the Supplementary Invoice dated 28.2.2022, to the extent it includes sums payable for a period prior to 26.3.2018, issued by the Respondent to the Petitioner;

(b) Pending adjudication of the present Petition, direct the Respondent not to take any coercive action against the Petitioner in furtherance of the Supplementary Invoice dated 28.2.2022 issued by it to the Petitioner; and

(c) Pass such further and other order(s) as this Hon'ble Commission may deem fit in the facts and circumstances of the present case.

Submissions of the Petitioner PSPCL

2. The Petitioner's submissions, in support of the above prayers, are mainly as under:

- (a) The erstwhile Punjab State Electricity Board (PSEB), the predecessor to PSPCL, had entered into a PPA dated 7.11.2006 with the Respondent DVC for purchase of 700 MW power from three generating stations of the Respondent [200 MW from BTPS-A, 200 MW from Durgapur Steel Thermal Power Station (DTPS) and 300 MW from Raghunathpur Thermal Power Station (RTPS)]. Under the aforesaid PPA, the Respondent (under clause 2.2) agreed to make all reasonable efforts to ensure the above-scheduled power to PSPCL at the delivery point.
- (b) With respect to BTPS-A, which is the subject matter in the present Petition, its Unit-I was commissioned on 23.2.2017, as against the scheduled COD of 16.12.2011, with a time overrun of 62 months. By order dated 30.5.2018 in Petition No. 196/GT/2016, this Commission approved the tariff for power supply from the said unit from COD till 31.3.2019 after condoning the delay of 28 months.
- (c) The LTA to evacuate power from BTPS-A was granted to PSPCL on 20.3.2018. Thereafter, PSPCL signed the LTA on 22.3.2018, and with the grant of LTA, PSPCL started scheduling power from BTPS-A with effect from 26.3.2018. Under the clear terms of the PPA, the tariff recovery was to ensue only from the date of actual commencement of power supply, as was already being done by the Respondent in the case of Durgapur TPS and Raghunathpur TPS. Though BTPCS had been in commercial operation since February 2017, owing to the ongoing review of the PPAs, no power scheduling by PSPCL against its share of 200 MW had commenced. Yet the Respondent kept on raising fixed charges bills on to the Petitioner as well.



- (d) Meanwhile, the Respondent had filed Petition No.101/MP/2019 before this Commission seeking recovery of the additional expenditure incurred due to transportation of fly ash consequent to MOEF &CC Notification dated 25.1.2016 as a change in law event for its 7 generating stations including Durgapur TPS, Raghunathpur TPS and BTPS-A. The Commission, vide its order dated 29.7.2020, while granting in-principle approval to the Respondent for claiming expenditure on account of ash transportation charges, held the same was permitted to be recovered from the beneficiaries at the time of true-up, subject to submission and fulfilment of the conditions, on a case to case basis.
- (e) Under the Notifications of the MoEF, 100% of this fly ash generated by the Respondent during its energy generation is mandatorily required to be utilised, and the cost incurred by it in its transportation in the process of such utilisation has been mandated to be shared amongst its beneficiaries. It is, therefore clear that any such cost to be incurred by the Respondent is to be commensurate with the amount of fly ash generated by it, which is directly dependant on its actual energy generation. This assumes significance in the present case where, till the date of the actual commencement of power supply from BTPS-A, i.e. 26.3.2018, the Petitioner never scheduled any power from the Respondent and, as such, energy generation by the Respondent during this period was done without any requisition made by the Petitioner.
- (f) As in the terms of the PPA, no charges for the same period were payable by the Petitioner to the Respondent; as an obvious corollary, any incidental charges incurred by the Respondent owing to energy generation during this period (not scheduled by the Petitioner) could also never be reimbursable by the Petitioner. In other words, no fly ash transportation charges could be said to be payable by the Petitioner for any energy generation prior to 28.3.2018, i.e. the date of actual commencement of power supply to the Petitioner from BTPS-A.
- (g) The Respondent, thereafter, filed Petition No.205/GT/2020 before this Hon'ble Commission seeking true-up of annual fixed charges for the 2014-19 tariff period and for determination of tariff for the 2019-24 tariff period in respect of Unit-4 of its Mejia Thermal Power Station (210 MW). Under the said Petition, in compliance with the aforesaid Order dated 29.7.2020 passed in Petition No.101/MP/2019, the Respondent submitted before this Commission that the transportation of fly ash generated by it had been awarded through competitive bidding, the transportation charges were within the schedule rates of the respective State Governments and that the revenue generated from fly ash sales was being maintained in a separate account, as per the MOEF&CC Notification;



- (h) By order dated 30.11.2022, this Commission disposed of Petition No.205/ GT/ 2020 and determined the fly ash transportation charges for the Respondent's projects as under:

91. It is observed that the 2014 Tariff Regulations, do not contain any provision for allowing the ash transportation charges. Accordingly, the Commission, in exercise of its regulatory powers, had allowed the expenditure towards fly ash to various other thermal generating station of NTPC, for the period 2014-19, after adjusting the revenue received from the sale of ash of such plants, in six equal instalments, starting from December, 2022, starting from December, 2022, keeping in view the interest of the beneficiaries. Considering the fact that the reimbursement of the ash transportation expenses is being allowed based on the MOEF&CC notification, these expenses are not made part of the O&M expenses and the consequent annual fixed charges being determined in this order under the 2014 Tariff Regulations. The Petitioner is also directed to utilize the surplus fund of Rs. 1553.18 lakh pertaining to DSTPS, in terms of the MOEF&CC's notification only.'

- (i) The Commission, while determining the ash transportation charges recoverable by the Respondent from its beneficiaries, observed that (i) the ash transportation charges for each of the generating stations of the Respondents had been apportioned on the basis of 'actual generation' by each of the generating stations; and (ii) in terms of the Notifications issued by the MOEF&CC, the ash transportation charges were not to form part of the operations and maintenance (O&M) expenses and the consequent annual fixed charges (AFC) determined for each of the generating stations under the Tariff Regulations, 2014.
- (j) Since the said charges are based on the 'actual generation' of BTPS-A, such charges, for a period prior to the actual commencement of power supply to the Petitioner, could never be said to be recoverable by the Respondent, since the generation of power before the actual commencement of power supply, i.e. 26.3.2018 had not been based on any scheduling by the Petitioner but had rather been done with an intent to sell the same in open market without the prior consent/knowledge of the Petitioner.
- (k) While the matter stood as above, and more particularly, Petition No.346/MP/2020 filed by the Respondent itself being pending adjudication before this Commission, the Respondent proceeded to unilaterally issue a Supplementary Invoice dated 28.2.2023 in the sum of Rs.7.8 crore claiming reimbursement of fly ash transportation expenses from the Petitioner stated to be incurred by it with respect to BTPS-A. Payment under the said Invoice was bifurcated by the Respondent in 6 monthly instalments amounting to Rs.1,30,07,667/- payable from 29.4.2023 onwards. Out of the said sum, an amount of Rs.5.72 crore under the said Invoice was claimed by the Respondent for a period prior to the date of actual commencement of power supply (i.e. 26.3.2018) from BTPS-A by the



Petitioner, which, for the reasons set out hereinabove, could not at all have been claimed by the Respondent. It is submitted that the said amount of Rs.5.72 Cr., being for a period prior to the actual commencement of power supply from BTPS-A, was clearly illegal;

- (l) The Respondent wrongly proceeded to upload the said Invoice on 28.2.2023 on the PRAAPTI portal being maintained by PFC Ltd. under the provisions of the Electricity (Late Payment Surcharge & related matters) Rules, 2022 [hereinafter, the "LPS Rules"] and the procedure notified thereunder by the Government of India, Ministry of Power (MOP).
- (m) Thus, while this Commission, in its order dated 30.11.2022 in Petition No.205/GT/2020, had categorically held that the ash transportation charges were not to form part of either the O&M expenses or the fixed charges, the Respondent, while proceeding to upload the illegal supplementary invoice on PRAAPTI portal had wrongly stated the same to be part of fixed charges. As such, with an attempt to use the rigours of the LPS Rules to arm-twist the Petitioner, the Respondent had uploaded clearly incorrect information on the PRAAPTI portal, which was liable to be viewed extremely strictly by this Commission.
- (n) Upon receipt of the above-mentioned supplementary Invoice, the Petitioner, vide its letter dated 3.3.2023, immediately requested the Respondent to withdraw the said Invoice, the same being illegal and issued with an intent to pre-empt the Orders to be passed by this Commission. Despite the clarification, the Respondent has failed to withdraw the aforesaid Invoice constraining the Petitioner to approach this Commission by way of the present Petition seeking setting aside of the same.
- (o) The aforesaid Supplementary Invoice to the extent of Rs.5.72 crore issued by the Respondent claiming alleged fly ash transportation charges from the Petitioner with respect to BTPS-A is wholly illegal and has wrongly been issued by the Respondent. As stated above, the fly ash generated by the Respondent during the period for which the aforesaid expenses have been incurred has been due to its actual 'energy generation' from the COD of BTPS-A till 26.3.2018, which has clearly not been scheduled by the Petitioner but has rather been done by the Respondents to earn revenue by its sale in the open market.
- (p) The impugned Supplementary Invoice dated 22.2.2023, to the extent it relates to a period from the COD of BTPS-A to the actual date of power supply to the Petitioner, i.e. 26.3.2018 amounting to Rs.5.72 crore, is liable to be quashed by this Commission, as being illegal and contrary to the provisions of the PPA. The



Petitioner submits that vide its letter dated 26.4.2023, the Petitioner has informed the Respondent that, without prejudice to its rights and contention, the first instalment of Rs.1.29 crore. was being disbursed to it under protest. Naturally, since the said payment is towards the undisputed portion of the aforesaid invoice and has been made by the Petitioner so as not to be under the rigours of the LPS Rules.

Hearing dated 10.8.2023 and 21.8.2023

3. The matter was heard on 'admission' on 10.8.2023, and the Petition was admitted, and direction was issued to the parties to complete their pleadings in the matter. Thereafter, the matter was heard on 21.8.2023, and the Commission directed the Respondent DVC not to take any coercive action against the Petitioner in connection with the invoice dated 28.2.2023 till the next date of hearing. The Respondent was also directed to file certain additional information after serving a copy to the Petitioner, with directions to complete pleadings. The Respondent has filed its reply along with the additional information vide affidavit dated 11.12.2023, and the Petitioner has also filed its rejoinder vide affidavit dated 3.1.2024.

Reply of the Respondent DVC

4. The Respondents' submissions are mainly as under:

(a) The reliance placed by the Petitioner on the order dated 30.11.2022 in Petition No.205/GT/2020 is misplaced on account of the subsequent order dated 26.10.2023 in Petition No.574/GT/2020 (truing-up of the tariff for BTPS-A). The Commission, in the said order, had allowed the Respondent to recover the ash disposal expenses for the period 2016-19 from the beneficiaries. The charges allocated, based on the actual generation of the different units of BTPS, are as under:

<i>(Rs. in lakh)</i>					
Stage	2014-15	2015-16	2016-17	2017-18	2018-19
BTPS Units 1 to 3	0.00	350.62	1398.05	174.05	83.87
BTPS A	0.00	0.00	200.22	886.79	355.81
BTPS (all Stages)	0.00	350.62	1598.27	1060.84	439.68



- (b) That the ash transportation charges claimed from the beneficiaries in respect of BTPS-A for the period from 23.2.2017 to 25.3.2018 are Rs. 5,63,73,568/- and the claim for the remaining period w.e.f. 26.3.2018 to 31.3.2019 is Rs. 2,16,72,434/- The ash transportation charges claimed from PSPCL in respect of BTPS-A are Rs. 7,80,46,002/- in six equal monthly instalments of Rs. 1,30,07,667/- each. PSPCL has paid five out of the six monthly instalments.
- (c) There are no findings in the aforesaid order, which link the ash transportation charges with the actual generation qua a particular beneficiary. The reliance of the Petitioner on the term 'actual generation' is completely misplaced and bound to be rejected by this Commission. Since the ash transportation expenses have been cumulatively computed for all the units of BTPS, the term 'actual generation' has been used to apportion the unit-wise cost based on each unit's 'actual generation'. Therefore, the term actual generation has not been used for the allocation of ash transportation amongst beneficiaries, as the same is to be done on the basis of the capacity allocation.
- (d) The COD of BTPS-A, consisting of one unit of 500 MW, was achieved on 23.2.2017 and pertinently, the Respondent has been in a position to generate and deliver electricity to the Petitioner from the COD date. On perusal of Article 4.4 and Article 4.4 of the PPA, it is clear that it was the obligation of the Petitioner to coordinate and obtain the LTA agreement from the CTU, and the Petitioner was responsible for coordination with CTU for implementation of the transmission system in order to evacuate power from the delivery points of generating station. The Petitioner has not been scheduling power from the station due to non-obtaining of the LTA agreement, which was the obligation of the Petitioner. Therefore, the Respondent is entitled to the fixed charges and the charges towards ash transportation expenses for the above period, on the quantum of power which the Respondent had declared availability but not scheduled by the Petitioner.
- (e) The Petitioner has already made payments of all the six instalments amounting to Rs. 7,80,46,002/- on 28.4.2023, 8.6.2023, 11.7.2023, 29.7.2023, 28.8.2023 and 28.9.2023 to the Respondent. The details of the same are in accordance with the data uploaded on the PRAAPTI portal by PSPCL. However, the payment and the ascertainment, thereof, are subject to appropriation and hence can be confirmed through joint reconciliation.

Rejoinder of the Petitioner PSPCL

5. The Petitioner, in its rejoinder, has mainly reiterated its submissions made in the Petition.



Hearing dated 2.2.2024

6. During the hearing of the Petition on 2.2.2024, the learned counsel for the Petitioner pointed out that the recovery of fly ash transportation charges by the Respondent, as part of the fixed charges through supplementary bills, when power was not scheduled to the Petitioner, is arbitrary. On a specific query by the Commission as to whether the issues raised in the present petition would stand settled, pursuant to the corrigendum order dated 20.1.2024 (in Petition Nos 205/GT/2020 & batch cases) issued in connection with the recovery of fly ash transportation charges by the Respondent for its various generating stations for the periods 2014-19 and 2019-24, the learned counsel for the Respondent replied in the affirmative. He also submitted that the amounts paid by the Petitioner against the supplementary invoice dated 28.2.2023 shall be adjusted in future, and the Petition may be disposed of accordingly. However, the learned counsel for the Petitioner prayed for a grant of a week's time to seek instructions.

Hearing dated 12.2.2024

7. During the hearing of the Petition on 12.2.2024, the learned counsel for the Respondent submitted that pursuant to the corrigendum order dated 20.1.2024 issued in connection with the recovery of fly ash transportation charges by the Respondent for its various generating stations for the periods 2014-19 and 2019-24, a letter dated 6.2.2024 was addressed to the Petitioner, stating that the Respondent would provide suitable adjustment through credit/debit note, within the timeline stipulated by the Commission in the said order, and also requesting the Petitioner to liquidate the invoices raised by the Respondent. He, therefore, sought permission to place on record



the said letter in the course of the day, which was accepted by the Commission. The learned counsel for the Petitioner sought time to place on record a short affidavit in the matter. She, however, submitted that the Commission may reserve its order in the petition. Accordingly, based on the submissions of the parties, the Commission, after permitting the Petitioner to file a short affidavit, reserved its order in the matter. The Respondent has filed the copy of the letter dated 6.2.2024 addressed to the Petitioner, and the Petitioner has filed the additional affidavit on 16.2.2024

Letter dated 6.2.2024 of the Respondent DVC

8. The Respondent DVC, in its letter dated 6.2.2024 addressed to the Petitioner, has stated the following:

Hon'ble CERC vide its corrigendum order dtd. 20.01.2024 directed to calculate ash evacuation charges in six equal monthly installments without interest and the charges to be claimed based on ex-bus schedule energy billed to different beneficiaries. The relevant portion of the order is reproduced hereunder.

"XXX

3. Accordingly, the interest amounts recovered till the date of issuance of this order, through six installments of the Ash transportation charges, if any, shall be returned or adjusted, without any interest, by the Petitioner, in the bills of the respective beneficiaries, within one month from the date of issuance of this order"

Therefore, DVC shall provide suitable adjustments through credit/debit notes within the stipulated time as mandated by the Hon'ble CERC in its order dated 20.1.2024 and PSPCL shall be required to liquidate the invoices raised by DVC in compliance to the above order.

Affidavit of the Petitioner

9. The Petitioner, in its affidavit dated 16.2.2024, while reiterating its submissions made in the Petition and the rejoinder, has, in addition, submitted the following:

(a) The invoice amount of Rs.7.8 crore has been bifurcated by the Respondent as under:

<i>Ash Evacuation Bill Details</i>	<i>All Figures in Rs.</i>
<i>Ash Evacuation Charges (Detail in Annexure – C)</i>	<i>5,03,71,415</i>



<i>Interest Charges (Detail in Annexure – C)</i>	<i>2,76,74,587</i>
<i>Total Bill Amount (Payment schedule in the following table)</i>	<i>7,80,46,002</i>
TOTAL AMOUNT PAYABLE IN WORD	
<i>Seven Crore Eight Lakh Forty-Six Thousand Two only.</i>	

(b) From the aforesaid, the amount claimed under the Invoice dated 28.2.2023 was inclusive of Rs.2,76,74,587/- being interest charged by the Respondent on the total ash transportation charges claimed by it. The said amounts have been paid by the Petitioner in the following manner:

Bill	Bill receipt date	Due date for LPS	Gross bill	TDS	Net balance payable	Bank charges	Total amount paid	Payment date	LPS
SB Install-1	28-02-23	29.4.23	130.07667	0.78046	129.29621	0.00018	129.29639	28.2.23	0
SB Install-2	28-02-23	29.5.23	130.07667	--	130.07667	0.00018	130.07685	8.6.23	0
SB Install-3	28-02-23	28.6.23	130.07667	--	130.07667	0.00018	130.07685	11.7.23	0
SB Install-4	28-02-23	28.7.23	130.07667	--	130.07667	0.00018	130.07685	29.7.23	0
SB Install-5	28-02-23	28.8.23	130.07667	--	130.07667	0.00000	130.07685	28.9.23	0
SB Install-6	28-02-23	26.9.23	130.07667	--	130.07667	0.00000	130.07685	28.9.23	0

(c) During the pendency of the present Petition, vide order dated 20.1.2024, this Commission has issued a Corrigendum to the orders passed in Petition Nos.205/GT/2020,574/GT/2020 and other orders relating to the determination/true-up of tariff for the various generating stations of the Respondent, including BTPS-A. Vide the said Order; this Commission has substituted its findings as regards the entitlement of the Respondent to recover fly ash transportation expenses from its beneficiaries in the following manner:

"It is noticed that the Commission in the aforesaid tariff Petitions had trued up the tariff for the period 2014-19 and determined the tariff for the period 2019-24 for various generating stations of the Petitioner, Damodar Valley Corporation. Further, the Commission vide its order dated 27.1.2023 had issued a corrigendum order dated 30.11.2022 in Petition No. 205/GT/2020. However, it is noticed that certain inadvertent errors had crept in the various tariff orders in respect of the applicability of interest thereof, in connection with the recovery of Ash transportation charges allowed during the period 2014-19 and 2019-24. Accordingly, by permitting the recovery of the ash transportation charges, without interest, the inadvertent errors are being corrected in terms of the Regulation 111 read with Regulation 103A of the Central Electricity Regulatory Commission (Conduct of Business) Regulations 1999. Accordingly, the relevant paras in the orders passed by the Commission in the concerned tariff Petitions, are modified as stated below:



Paras 91 and 261 of the Order dated 30.11.2022 in Petition No. 205/GT/2020 is corrected as under:

“91. Admittedly, the 2014 Tariff Regulations, do not contain any provision for allowing the ash transportation charges. Accordingly, we, in exercise of the regulatory powers, allow the total expenditure of Rs 1212.78 lakh towards fly ash transportation for the generating station of the Petitioner for the period 2014-19, after adjusting the revenue received from the sale of ash of such plants, in six equal monthly instalments, starting from December, 2022, without any interest, keeping in view the interest of the beneficiaries. The petitioner may recover year wise these allowed charges in terms of regulation 8(13) from beneficiaries as per their ex -bus energy scheduled to the ex- bus energy produced in the respective year.

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“261. . The Petitioner is permitted to recover the said expenses from 1.4.2019 upto the date of order, in a phased manner, in 6 equal monthly instalments, without any interest, in accordance with the Regulation 10 of the 2019 Tariff Regulations from beneficiaries as per their ex-bus energy scheduled to the ex-bus energy produced in the respective year. Thereafter, the recovery of the same, may be effected through monthly bills of beneficiaries as per their ex – bus energy scheduled to the ex-bus energy produced in the respective year.”

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Paras 97 and 236 of the Order dated 26.10.2023 in Petition no. 574/GT/2020 stands modified as under:

“97. Admittedly, the 2014 Tariff Regulations, do not contain any provision for allowing the Ash transportation charges, incurred by the generator. Accordingly, the Commission, in exercise of the regulatory powers, allows the total expenditure of Rs.1442.82 lakh towards fly ash transportation for the generating station of the Petitioner for the period 2016-19, after adjusting the revenue received from the sale of ash of such plants, in six equal monthly instalments (without interest), starting from the succeeding month from the date of order, keeping in view the interest of the beneficiaries. The Petitioner may recover year-wise these allowed charges in terms of Regulation 8(13) from the beneficiaries as per their ex-bus energy scheduled to the ex-bus energy produced in the respective year. Considering the fact that the reimbursement of the ash transportation expenses is being allowed based on the MOEF&CC notification, these expenses are not made part of the O&M expenses and the consequent annual fixed charges being determined in this order under the 2014 Tariff Regulations.”

xxx

“236.The Petitioner is permitted to recover the said expenses from 1.4.2019 upto the date of this order, in 6 (six) equal monthly instalments, without interest, commencing from the following month of the date of this order in accordance with the Regulation 10 of the 2019 Tariff Regulations from the beneficiaries as per their ex-bus energy scheduled to the ex-bus energy produced in the respective year. Thereafter, the recovery of the same, may be effected through monthly bills of beneficiaries as per their ex – bus energy scheduled to the ex-bus energy produced in the respective year.

xxx



3. Accordingly, the interest amounts recovered till the date of issuance of this order, through six instalments of the Ash transportation charges, if any, shall be returned or adjusted, without any interest, by the Petitioner, in the bills of respective beneficiaries, within one month from the date of issuance of this order.”

(d) From the aforesaid Corrigendum order dated 20.1.2024, the following position emerges:

(a)The Respondent can recover fly ash transportation expenses from its beneficiaries as per their ex-bus energy scheduled to the ex-bus energy produced in the respective year, meaning thereby that for a period when no power has been scheduled by a beneficiary, no fly ash evacuation expenses for the said period can be said to be payable by such beneficiary (which is also what the Petitioner has contended in its Petition);

(b)since admittedly, during the period prior to 26.3.2018, the Petitioner has never scheduled any energy from the Respondent from BTPS-A, there is no question of the Petitioner ever being liable to pay any fly ash transportation charges to the Respondent;

(c)even for the period after 26.3.2018 and upto 31.3.2019 (falling under the 2014-19 period), fly ash transportation charges can be recovered by the Respondent from its beneficiaries without any interest; and

(d)any amount of interest already recovered by the Respondent is liable to be refunded/adjusted by the Respondent without any interest thereon.

(e) The Respondent has admitted its obligations under the aforesaid order dated 20.1.2024. Since the refund/adjustment of the principal amount [as stated in para 13(ii) below] is payable by the Respondent to the Petitioner in view of the true-up of the tariff of BTPS-A, in terms of Regulation 8 of the 2014 Tariff Regulations, the Petitioner is entitled to receive interest on the principal amount in terms of Regulation 8(13) of the 2014 Tariff Regulations.

(f) In terms of the corrigendum order dated 20.1.2024 and Regulation 8(13) of the 2014 Tariff Regulations, the Respondent is liable to:

(i) refund/adjust an amount of Rs. 2,76,74,587/- charged towards interest on the Petitioner for the entire ash evacuation charges for the 2014-19 period without any interest thereon; and

(ii)refund/adjust the Principal amount of Rs.3,61,38,923/- charged on the Petitioner towards ash evacuation charges for the period prior to 26.3.2018 along with interest thereon in terms of Regulation 8(13) of the 2014 Tariff Regulations.

(g) With the clarifications given by this Commission in its Corrigendum Order dated 20.1.2024, it is clear that the Petitioner has never been required to pay the illegal demands of the Respondents, and for any belated payments made by the Petitioner for such instalments, the Respondent shall not be eligible to levy any late payment surcharge thereon in future.



- (h) Taking the above submissions made by the Petitioner on record, this Commission may be pleased to dispose of the present Petition, directing the Respondent to comply with the corrigendum order dated 20.1.2024 in the manner as set out above

Analysis and Decision

10. We have considered the parties' submissions and the documents on record. In the present case, PSPCL has contended that it is not liable to pay the fly ash transportation charges (which are based on actual generation) to the Respondent DVC for Bokaro-A station till the date of actual commencement of power supply (26.3.20218), as the same was not based on any scheduling by PSPCL. Per contra, DVC has argued that since there is no finding in the Commission's order dated 30.11.2022 (in Petition No.205/GT/2020) and order dated 26.10.2023 (in Petition No.574/GT/2020) linking the fly ash transportation charges with the actual generation, the Petitioner PSPCL is liable to pay the said charges, worked out based on the capacity allocation. Be that as it may, pursuant to the Corrigendum order dated 20.1.2024 issued in respect of the tariff orders for the various generating stations of the Respondent DVC, including BTPS-A, as stated aforesaid in para 9(c) above, permitting the recovery of the fly ash transportation charges, both the parties have accepted the same and prayed that the present Petition may be disposed of in terms of the said order. Accordingly, in terms of the corrigendum order dated 20.1.2024 and Regulation 8(13) of the 2014 Tariff Regulations, we direct the Respondent DVC to:

- (a) Refund/adjust the amount of Rs 2,76,74,587/- charged towards interest on the Petitioner for the entire ash transportation charges for the period 2014-19, without any interest thereon; and
- (b) Refund/adjust the Principal amount of Rs 3,61,38,923/- charged on the Petitioner towards fly ash transportation charges for the period prior to



26.3.2018 (i.e., from COD till 25.3.2018) along with interest thereon, in terms of Regulation 8(13) of the 2014 Tariff Regulations.

11. The prayer of the Petitioner, in Petition No. 171/MP/2023, stands disposed of in terms of the above.

Sd/-
(Pravas Kumar Singh)
Member

Sd/-
(Arun Goyal)
Member

Sd/-
(Jishnu Barua)
Chairperson

