

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.26/RP/2023**

**in**

**Petition No. 642/GT/2020**

**Coram:**

**Shri Jishnu Barua, Chairperson**

**Shri Arun Goyal, Member**

**Shri Ramesh Babu V, Member**

**Date of Order: 12<sup>th</sup> July, 2024**

**In the matter of:**

Review of Commission's order dated 9.6.2023 in Petition No. 642/GT/2020 in the matter of truing-up of tariff for the period 2014-19 and determination of tariff for the period 2019-24 in respect of Chamera -III Hydroelectric Project (231 MW).

**And**

**In the matter of**

NHPC Limited,  
NHPC Office Complex, Sector-33,  
Faridabad (Haryana)- 121003.

**....Review Petitioner**

**Vs**

1. Punjab State Power Corporation Limited,  
The Mall, Near Kali Badi Mandir,  
Patiala - 147 001 (Punjab)
2. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector - 6  
Panchkula-134 109 (Haryana).
3. BSES Rajdhani Power Limited,  
BSES Bhawan, Nehru Place, New Delhi-110 019.
4. BSES Yamuna Power Limited,  
Shakti Kiran Building, Karkardooma, Delhi-110 072.
5. Tata Power Delhi Distribution Limited,  
33 kV Sub-Station Building, Hudson Lane,  
Kingsway Camp, New Delhi-110 009.



6. Power Development Department,  
New Secretariat, Jammu -180 001 (J&K).
7. Uttar Pradesh Power Corporation Limited,  
Shakti Bhavan, 14, Ashok Marg,  
Lucknow - 226 001 (Uttar Pradesh).
8. Ajmer Vidyut Vitaran Nigam Limited,  
Old Powerhouse, Hatthi Bhatta,  
Jaipur Road, Ajmer - 305 001 (Rajasthan).
9. Jaipur Vidyut Vitaran Nigam Limited,  
Vidyut Bhawan, Janpath, Jaipur - 302 005.
10. Jodhpur Vidyut Vitaran Nigam Limited,  
New Powerhouse, Industrial Area,  
Jodhpur - 342 003 (Rajasthan).
11. Uttaranchal Power Corporation Limited,  
Urja Bhawan, Kanwali Road,  
Dehradun – 248 001 (Uttarakhand).
12. Engineering Department,  
1<sup>st</sup> Floor, UT Secretariat, Sector 9-D,  
Chandigarh – 160 009.
13. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Kumar House,  
Shimla - 171 004 (H.P.)

....Respondents

**Parties Present:**

Shri Anant Singh Ubeja, Advocate, NHPC  
Shri Rajendra Shende, NHPC  
Shri Mohd. Faruque, NHPC  
Shri Sachin Dubey, Advocate, BRPL & BYPL  
Shri Mohit Jain, Advocate, BRPL & BYPL

**ORDER**

Petition No. 642/GT/2020 was filed by the Review Petitioner, NHPC for truing-up of the tariff of Chamera -III Hydroelectric Project (231 MW) (in short, “the generating station”) for the period 2014-19 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short, 'the 2014 Tariff Regulations') and for the determination of tariff of the



generating station for the period 2019-24, in terms of the provisions of the 2019 Tariff Regulations, and the Commission, vide its order dated 9.6.2023 (in short, the 'impugned order'), disposed of the said Petition. Accordingly, the annual fixed charges determined vide the impugned order dated 9.6.2023 for the periods are as under:

**Period 2014-19**

	(Rs. in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	10500.55	10525.47	10580.48	10614.73	10585.53
Interest on Loan	11199.62	10332.00	9311.52	7885.53	6726.13
Return on Equity	12829.42	12936.99	12970.24	12999.15	13057.76
Interest on Working Capital	1044.01	1043.64	1039.83	1027.28	1021.34
O&M Expenses	4511.24	4810.78	5130.22	5470.86	5834.13
<b>Total</b>	<b>40084.85</b>	<b>39648.88</b>	<b>39032.29</b>	<b>37997.54</b>	<b>37224.89</b>

**Period 2019-24**

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	10624.37	10653.75	10673.70	10687.86	10699.40
Interest on loan	6117.00	5237.28	4371.81	3435.92	2458.84
Return on Equity	12450.58	12479.64	12497.64	12507.42	12517.73
Interest on Working capital	918.24	868.21	819.57	829.46	838.40
O&M Expenses	9078.72	9511.46	9964.83	10439.81	10937.43
Additional O&M expenses	1918.71	2020.71	2117.10	2218.10	2323.89
<b>Total</b>	<b>41107.63</b>	<b>40771.05</b>	<b>40444.64</b>	<b>40118.57</b>	<b>39775.69</b>

2. Aggrieved by the said order, the Review Petitioner has sought the review of the impugned order on the ground of error apparent on the face of the record on the following issues:

- (A) *Erroneous application for calculating gross value of the assets being de-capitalized under 'assumed deletions' for the control period of 2014-19 and for 2019-24;*
- (B) *Disallowance of the additional capital expenditure towards the replacement of water tank in 2020-21.*

**Hearing dated 29.11.2023**

3. During the hearing on admission, the learned counsel for the Review Petitioner made detailed oral submissions pointing out the error apparent on the face of the impugned order dated 9.6.2023 on the above issues. The Commission, after the



hearing, directed the Review Petitioner to file an additional affidavit to confirm that the amounts indicated under the column of 'assumed deletions' are the gross value of the assets being de-capitalized. The Commission also directed the parties to complete their pleadings in the matter.

4. The Review Petitioner filed the additional information on 14.12.2023 after serving a copy on the Respondents. In response, the Respondents BRPL and UPPCL filed their replies on 11.1.2024 and 12.1.2024, respectively. The Review Petitioner has filed its rejoinder to the aforesaid replies on 5.2.2024.

#### **Hearing dated 4.4.2024**

5. During the hearing on 4.4.2024, the learned counsel for the Review Petitioner made a detailed oral submission of the issues raised in the Review Petition. In response, the learned counsel for the Respondents, BRPL & BYPL, objected to the submissions of the Review Petitioner and submitted that there is no error apparent on the face of the order. While pointing out that the Review Petitioner cannot be permitted to challenge the methodology of considering the 'assumed deletions' in the guise of a Review Petition, the learned counsel further submitted that the reply filed in the matter may be considered while passing the orders. The Commission, after hearing the parties, reserved its order in the matter.

#### **Hearing dated 29.5.2024**

6. Since the order in the Petition could not be issued prior to one Member of this Commission, who formed part of the Coram, demitting office, the Review Petition was re-listed for hearing. During the hearing, the learned counsel for the Review Petitioner and the Respondents submitted that since pleadings and arguments have already



been completed, the Commission may reserve its order in the Review Petition. Based on the consent of the parties, the order in the Review Petition was reserved.

7. Based on the parties' submissions and the documents available on record, we proceed to examine the issues raised by the Review Petitioner in the subsequent paragraphs.

**A. Erroneous application for calculating gross value of the assets being de-capitalized under 'assumed deletions';**

**Submissions of the Review Petitioner**

8. The Review Petitioner has submitted the following: -

- a) Certain additional capital expenditure has been claimed against the replacement of old items. There is no methodology prescribed for "assumed deletion" in the 2014 Tariff Regulations, but in the impugned order, the Commission has devised a methodology by calculating the gross value of the asset being de-capitalized for "assumed deletion" by de-escalating the gross value of the new asset @ 5% per annum till the year of capitalization of the old asset.
- b) In the said methodology, the Commission had considered the assumed deletion value of Rs. 0.76 lakh for the period **2018-19** in para 20 of the impugned order in place of the Review Petitioner's submitted value of Rs. 0.24 lakh for the corresponding period, leading to a substantial reduction in the claimed cost.
- c) In terms of the applicable Accounting Standards being followed, if the old item is not deleted in the books of accounts during the year, when there is an addition of the corresponding new item, the original gross value of the old item available in books of accounts is indicated as assumed deletion in the tariff petition.
- d) Assumed deletions are basically the book value of old items, which are not deleted from the books of accounts, and it may be deleted in future years. Accordingly, assumed deletion values are provided duly in Form-9B(i) of the tariff petition for the period 2014-19. The Commission has calculated the assumed deletion value as per methodology mentioned in para 19 of the impugned order, wherein it had observed as under:

*"Further, in the absence of the gross value of the asset being decapitalized, the same is calculated by de-escalating the gross value of new asset @ 5% per annum till the year of capitalization of the old asset."*

- e) While calculating the gross value of the asset being de-capitalized for "assumed deletion" by de-escalating the gross value of the new asset @ 5% per annum till



the year of capitalization of the old asset, the Commission has erred in devising such a methodology. The Commission has used an incorrect methodology for calculating the "assumed deletion" as the same is not supported under the tariff Regulations. Specifically, the Commission appears to have computed the gross value of the asset being de-capitalized for "assumed deletion" by de-escalating the gross value of the new asset at a rate of 5% per annum until the year of capitalization of the old asset.

f) The methodology adopted by the Commission, as above, is erroneous on the following counts:

(i) There is no provision for "assumed deletion" in the 2014 Tariff Regulations, so any methodology used to calculate it would be unsupported by the governing rules.

(ii) The 5% per annum de-escalation rate used by the Commission appears to be arbitrary and lacks any clear rationale or justification.

(iii) The methodology itself may not accurately reflect the actual costs associated with replacing old assets and may result in inaccuracies or inconsistencies in the calculation of capital expenditures.

(iv) The Commission has misinterpreted that assumed deletion values are not the book values and has proceeded to compute assumed deletion values as per arbitrary methodology mentioned in Para 19 of the impugned order.

(v) These calculated assumed deletion values are on a higher side in comparison to the actual value of the old assets as per the books of accounts of the Review Petitioner, being an error apparent on the face of the record.

(vi) The Commission ought to have considered the assumed deletion values submitted by the Review Petitioner in the tariff Petition. The assumed deletion is the gross value of the old asset and is named 'assumed deletion' since the old assets are not decapitalized in the books of accounts in the same year in which the new asset was capitalized.

(vii) The Commission has adopted an inconsistent approach when the assumed deletion value provided in the tariff petition is higher than the assumed deletion calculated by it.

g) In view of the above submissions, the calculation of the gross value of the asset being de-capitalized for "assumed deletion" by de-escalating the gross value of the new asset @ 5% per annum till the year of capitalization of the old asset is an error apparent on the face of the record and is liable to be reviewed by the Commission on the following counts:

#### **Construction of Administrative Building & Field Hostel**

(h) An expenditure amounting to Rs.860 lakh was claimed by the Review Petitioner for the construction of the administrative building under the original scope of work in the tariff petition. While claiming this, the Review Petitioner had submitted that a temporary office building was erected during the construction of the generating



station which had already completed its useful life. As there is a provision for the construction of a permanent administrative building in the DPR of the generating station, the Commission had allowed the expenditure amounting to Rs. 860 lakhs for the Construction of the administrative building in **2020-21**. While allowing the expenditure for the construction of the administrative building, the Commission had calculated the assumed deletion value amounting to Rs. 582.08 lakhs, as per the methodology in para 68 of the impugned order, wherein, in the absence of the original value of the asset being de-capitalized, the assumed deletion value of the old asset was calculated by de-escalating the original value of a new asset (i.e., Rs. 860 lakh) @ 5% per annum till the year of capitalization of the old asset considering the gross value of new asset.

(i) The previous office building was a temporary structure due to which the Review Petitioner could not submit its decapitalization value. Further, there is no requirement for an application pertaining to decapitalization of a temporary asset. Thus, the computation of the assumed deletion value at Rs. 582.08 lakh resulted in a substantial loss to the Review Petitioner. Therefore, the Commission has erred while considering the decapitalization value of the said asset and ought to have considered the zero value for the purposes of decapitalization of the said item.

#### **Replacement of Loaders-cum-Excavator**

(j) An expenditure amounting to Rs. 40 lakhs was claimed by the Review Petitioner for the Replacement of loader cum excavator. While claiming this item, the Review Petitioner submitted that the loader is a replacement of the old equipment, which completed its useful life and is under disposal. In view of this, the Commission had allowed the expenditure of Rs. 40 lakhs for the replacement of loader cum excavator. The Commission, while allowing the replacement of the loader cum excavator, calculated the assumed deletion value of Rs. 27.07 lakhs in **2020-21** as per the methodology in para 69 of the impugned order, wherein, in the absence of the original value of the asset being de-capitalized, the assumed deletion value of the old asset was calculated by de-escalating the original value of a new asset (i.e., Rs. 40 lakh) @ 5% per annum till the year of capitalization of the old asset, considering the gross value of new asset.



(k) The replaced item has already been decapitalized in 2018-19 and an amount of Rs. 1.34 lakh had already been deducted in this regard. Pertinently, the Commission had already considered this value under decapitalization during the year 2018-19 in para 18 of the impugned order. In view of this, the computation of the assumed deletion value of Rs. 27.07 lakh for the said item had resulted in an additional deduction, thereby leading to a substantial loss to the Review Petitioner. Therefore, the Commission has erred while considering the assumed deletion and ought to reconsider the same.

### **Construction of Field hostel**

(l) An expenditure of Rs. 500 lakhs was claimed by the Review Petitioner for the Construction of field hostel under the original scope of work in the Tariff Petition. While claiming this expenditure, the Review Petitioner submitted that the existing field hostel was a temporary structure taken from M/s JPIL, which completed its useful life, and that there was an urgent requirement for a new permanent field hostel. It was also submitted that the construction of the field hostel was included in the original scope of work. Accordingly, the Commission in the impugned order, had allowed an expenditure of Rs. 500 lakh for the construction of field hostel. The Commission, while allowing the expenditure for the construction of the field hostel, had calculated the assumed deletion value amounting to Rs. 292.34 lakhs **in 2023-24** as per the methodology in para 69 of the impugned order, wherein, in the absence of the original value of the asset being de-capitalized, the assumed deletion value of the old asset was calculated by de-escalating the original value of a new asset (i.e., Rs. 500 lakh) @ 5% per annum till the year of capitalization of the old asset considering the gross value of a new asset.

(m) The Review Petitioner had constructed the field hostel and the same is within the original scope of work. The previous field hostel was a temporary structure due to which the Review Petitioner could not submit its decapitalization value, i.e., zero. In view of the above, there is no requirement for an application pertaining to decapitalization of a temporary asset. Thus, the computation of the assumed deletion value at Rs. 292.34 lakh had resulted in a substantial loss to the Review Petitioner. The Commission has erred while considering the decapitalization value of the said





asset and ought to have considered the zero value for the purposes of decapitalization of the said item.

9. Accordingly, the Review Petitioner has submitted that the Commission may reconsider its methodology for calculating the "assumed deletion" and ensure that it is consistent with the Tariff Regulations.

### **Reply of the Respondents**

#### ***Assumed Deletion***

10. The Respondent UPPCL has submitted the following: -

- (a) The de-escalation at 5% for assumed deletion is used only in the cases where the gross asset value of the asset as per books is not available. Therefore, it is wrong for the Review Petitioner to say that the methodology adopted by the Commission has been devised for the impugned order.
- (b) Review is sought by the aggrieved person for remedy of the errors and mistakes of facts/law committed by the court in passing the order. Review cannot be sought for correction of any alleged erroneous, arbitrary and incorrect policy/methodology used by the Commission. Review cannot be an appeal in disguise.
- (c) The Petitioner seeks to replace the temporary structures, specifically the administrative building and field hostel constructed during the project, with new structures within the original project scope. However, the Tariff Regulations permit such work only during the construction period or until the cutoff date, which has long passed since the project was commissioned on 4.7.2012. Consequently, the Commission correctly accounted for the "assumed deletion" values of Rs. 582.08 lakhs for the temporary office building and Rs. 292.34 lakhs for the temporary field hostel, rather than considering them as new assets.
- (d) The expenditure for new structures is for additional capitalization under the "original scope of work" but after the cutoff date. The Review Petitioner has wrongly assumed it could capitalize these buildings as new assets, considering the old ones as "zero" due to their temporary nature. The said assets are under "the original scope of work" and after the cut-off date. Further, the cost of the old assets has not, admittedly, been submitted. As such, the Commission has rightly considered the assumed deletion of Rs. 582.08 lakh in respect of the old temporary office building and Rs. 292.34 lakh for the old Field hostel.
- (e) Therefore, the Commission may reject the review sought by the Review Petitioner as there is no error/mistake committed by the Commission in passing the impugned order.



(f) The Review Petitioner has contended that the replaced old assets had already been decapitalized for Rs. 1.34 lakh in 2018-19. As such, the “assumed deletion” of Rs. 27.07 lakh has resulted in loss to the Review Petitioner. The Commission examine the veracity of the claim of the Review Petitioner and allow the review, if permissible.

11. The Respondent BRPL has submitted the following: -

- (a) The Commission has passed a detailed order on the issue of de-capitalization taking into consideration the documents/ details submitted by the Review Petitioner on this issue. The Commission observed that the Review Petitioner, while claiming the additional capitalization, had not provided the gross value of old assets for some of the items which were being replaced. Therefore, the de-capitalization of items that were not a book entry in the year of capitalization has been termed by the Commission as the “Assumed Deletion”.
- (b) The Commission was constrained to adopt the aforesaid methodology in the absence of the gross value of the asset being decapitalized, and hence the same was calculated by de-escalating the gross value of new asset @ 5% per annum until the year of capitalization of the old asset.
- (c) The Commission adopted a liberal view while determining the aforesaid issue in the absence of the adequate details supplied by the Petitioner. In furtherance to this, Regulation 7(5) of the 2014 Tariff Regulations and Regulation 10(2) of the 2019 Tariff Regulations clearly provides that the tariff petition which is inadequate in any respect shall be returned to the generating company for rectifying the deficiencies. However, the Commission, instead of returning the same for supplying the gross value of the decapitalized items, proceeded to determine the tariff which is in favor of the Petitioner itself. Therefore, the Review Petitioner ought not to be aggrieved by the same.
- (d) If the Review Petitioner would have filed the gross value of the entire decapitalized items in the tariff petition itself, then the Commission would not have proceeded to adopt the aforesaid methodology. Further, if the Review Petitioner is aggrieved with the methodology adopted by the Commission, then review is not an appropriate remedy.
- (e) The methodology of ‘assumed deletion’ cannot fall under the purview of the Review Petition as the Commission has consistently adopted the aforesaid methodology in its orders in various other tariff petitions. Therefore, any methodology that has been consistently adopted by the Commission for the determination of an issue cannot be termed as an error apparent, and hence, the same cannot be challenged in a Review Petition.



- (f) The Review Petitioner has alleged that the Commission has adopted an incorrect methodology, as there is no provision under the Tariff Regulations for 'assumed deletion.' In the light of the judgment of the Hon'ble Supreme Court in Energy Watchdog v. CERC & Ors. (2017) 14 SCC 80, which categorically held that where in a situation there are no guidelines framed at all or where the guidelines do not deal with a given situation, then the Commission can determine the said issue by using its general regulatory powers under Section 79(1)(b) of the Electricity Act, 2003. Hence, in the absence of any specific provisions or guidelines to deal with the aforesaid issue, the Commission has rightly determined the issue by consistently adopting the methodology of 'Assumed Deletion.'

### **Rejoinder of the Review Petitioner**

12. The Review Petitioner has filed its rejoinder to the reply of the Respondents as summarized below:

#### ***Reply of UPPCL***

- (a) The Respondent has only made bald averments without even substantiating their contentions in this regard. There is no methodology prescribed for assumed deletion in the Tariff Regulations notified by the Commission. As a matter of fact, the Review Petitioner had already submitted the 'assumed deletion values' in terms of Form 9B(i) of the Tariff Petition for the period 2014-19, which ought to have been considered by the Commission.
- (b) The Commission has misinterpreted that 'assumed deletion values are not the book values' and has proceeded to compute the assumed deletion values as per the methodology mentioned in the impugned order. Notably, the Review Petitioner had submitted the values of the old items available in the books of accounts, which were duly certified by the statutory auditor and indicated as assumed deletion in the Tariff Petition in Form-9B(i) for the period of 2014-2019.

#### ***Construction of Administrative Building and Field Hostel***

- (c) The Commission had allowed the construction of the administrative building in Petition No. 321/GT/2018 without any de-capitalization against it, which was deferred in 2018-19 to be carried out in future years. However, the Commission, while considering the value of the original value of the old asset/work, failed to appreciate that the previous office building and field hostel were a temporary structure and ought to have considered zero value for the purposes of decapitalization of the said items. The office building and the existing field hostel were temporary structures that completed their useful life. There was an urgent requirement for the construction of administrative buildings and a field hostel, both of which are within the original scope of work. Thus, there is no



requirement for decapitalization of a temporary asset.

### ***Replacement of Loader cum Excavator***

- (d) The Commission, while allowing the replacement of loader cum excavator, had calculated the assumed deletion as per the methodology by considering that there is the absence of the original value of the old asset. However, the replaced item has already been de-capitalized as per Form 9B (i) of the Tariff Petition in the year 2018-19, and an amount of Rs. 1.34 lakh has already been deducted in this regard. The computation of the assumed deletion of Rs. 27.07 lakh for the said item has resulted in an additional deduction, thereby leading to a substantial loss of the Review Petitioner.

### ***Reply of BRPL***

- (a) The Respondent has only made bald averments without even substantiating their contentions in this regard. There is no methodology prescribed for assumed deletion in the Tariff Regulations of the Commission. The Review Petitioner had already submitted the assumed deletion values in terms of Form 9B(i) of the Tariff Petition for the year 2014-19, which has not been considered by the Commission.
- (b) The Review Petitioner has not challenged the inherent regulatory powers of the Commission. It is the case of the Review Petitioner that the Commission has erroneously applied the methodology, as the Commission has calculated the assumed deletion for certain claimed additional capital expenditures on the pretext that the de-capitalized value of the old and replaced assets/works was not furnished. The Commission has misinterpreted that 'assumed deletion values are not the book values' and has proceeded to compute the assumed deletion values as per the methodology mentioned in the impugned order.

### **Analysis and Decision**

13. We have considered the submissions of the parties. It is pertinent to mention that the expenditure on the replacement of assets, if found justified, is to be allowed for the purpose of tariff, provided that the capitalization of the said asset is followed by the de-capitalization of the original value of the old asset. However, in certain cases, where the decapitalization is effected in the books during the following years to the year of capitalization of the new asset, the de-capitalization of the old asset for the purpose of tariff is shifted to the very same year in which the capitalization of the new asset is allowed. Such de-capitalization which is not a book entry in the year of



capitalization is termed as “Assumed deletion”. Further, in the absence of the gross value of the asset being de-capitalized, as per the consistent methodology adopted by the Commission, the same is calculated by de-escalating the gross value of the new asset @ 5% per annum till the year of capitalization of the old asset. The same methodology is also being applied in respect of the tariff determination for other projects of the Review Petitioner since the period 2014-15 onwards.

***Assumed deletion for 2018-19***

14. Though the Review Petitioner has submitted that the methodology adopted by the Commission is erroneous as it has not been specified under the regulations, it has during the oral hearing of the Review Petition, made it clear that it has not challenged the methodology adopted by the Commission as regards assumed deletion, but has only pointed out that the assumed deletion values as furnished by it, have not been considered by the Commission while passing the impugned order.

15. While referring to para 20 of the impugned order, wherein the Commission had worked out the decapitalization value of the old asset (submersible pump for Dam Drainage Gallery) for Rs 0.76 lakh in 2018-19 as assumed deletion value, the Review Petitioner has pointed out that it had submitted the de-capitalized value of Rs. 0.24 lakh for the said asset for the corresponding period and the same is required to be considered in place of Rs 0.76 lakh. We agree with the submissions of the Review Petitioner. It is noticed from records in the main petition that the Review Petitioner had submitted the amount indicated under the column of assumed deletions as Rs. 0.24 lakh in 2018-19, as the gross value of the asset being decapitalized. This submission of the Review Petitioner was inadvertently not considered by the Commission while calculating the assumed deletion value of the asset decapitalized in para 20 of the



impugned order, based on the above-said methodology. The non-consideration of the submission of the Review Petitioner is, in our view, an error apparent on the face of the order, and review on this count is maintainable. Accordingly, the inadvertent error in para 20 of the impugned order dated 9.6.2023 is rectified/ corrected as under:

<i>(Rs. in lakh)</i>					
Sl. no	Asset	Amount allowed	Year put to use	Assumed deletion considered	Year of de-cap
1	Submersible pump for Dam Drainage Gallery	1.02	COD	0.24	2018-19

**Assumed Deletions for the period 2019-24**

***Construction of Administrative building and Field hostel***

16. As regards the assumed deletions considered on account of the Construction of the administrative building and the Field hostel, the Review Petitioner has submitted that expenditure incurred for the Construction of the administrative building formed part of the original scope of work and accordingly the Commission had allowed the same in the impugned order. As regards the construction of the Field hostel, the Review Petitioner has submitted that the expenditure incurred was on a replacement basis and accordingly, the Commission has allowed the same in the impugned order. However, the Review Petitioner has submitted that the Commission, while considering the decapitalization value of the old asset in the impugned order, has failed to take note that the previous office building was a temporary structure and accordingly, the Commission ought to have considered 'zero' value for the purposes of de-capitalization of the said item.

17. We have examined the matter. It is pertinent to mention that the Review Petitioner, in justification for its claim for the Construction of an Administrative building had, in the main petition (Petition No. 642/GT/2020), submitted that the 'temporary building has completed its useful life'. Also, in respect of its claim for the Construction



of the Field hostel, it has submitted that the 'existing hostel has completed its useful life'. It is in terms of these submissions, that the Commission had decapitalized the same as per the methodology adopted in the impugned order. As the asset is no longer in use, the de-capitalization of the same is in order. However, the Review Petitioner is aggrieved by the value of the de-capitalization of the said asset (being a temporary structure) as considered by the Commission in the impugned order. Since this aspect was inadvertently not examined in the impugned order, we are inclined to grant liberty to the Review Petitioner to furnish the justification at the time of truing-up of the tariff, demonstrating that the cost of the old temporary building which was replaced did not form part of the capital cost for which tariff was allowed.

#### **Replacement of Loader cum Excavator**

18. As regards the assumed deletion considered on account of the Replacement of Loader cum Excavator, the Review Petitioner has submitted that the replaced item has already been de-capitalized as per Form 9B (i) of the Tariff Petition in 2018-19 and an amount of Rs. 1.34 lakh have already been deducted in this regard. It has also stated that the computation of assumed deletion for Rs. 27.07 lakh for the said item has resulted in an additional deduction, thereby leading to a substantial loss for the Review Petitioner. The submissions of the Review Petitioner have been examined. We notice from records that the old loader had already been decapitalized in 2018-19 and adjusted for the purpose of tariff. Thus, the deduction of the de-capitalization value under 'assumed deletion' again in 2020-21 is, in our view, an inadvertent error that is required to be reviewed. Accordingly, the review on this count is maintainable. However, keeping in view that the tariff of the generating station is required to be trued-up for the period 2019-24, based on the tariff petition to be filed by the Review Petitioner, we grant liberty to the Review Petitioner to claim the same at the time of





truing-up of the tariff of the generating station for the period 2019-24, for revision of tariff on this count.

**B. Disallowance of the additional capital expenditure towards the Replacement of water tanker in 2020-21**

***Submissions of the Review Petitioner***

19. The Review Petitioner has submitted that during the year 2020-21, an expenditure of Rs. 20 lakh was claimed by the Review Petitioner towards the Replacement of the water tanker under replacement, as there was an urgent requirement to provide a water tanker for supplying clean water to the Personnel performing duties at various locations. It has, however, submitted that the Commission had failed to appreciate the submissions of the Review Petitioner and erroneously disallowed the claim of the Review Petitioner, considering the said asset as a spare asset. The Review Petitioner has also pointed out that the said asset/item has already been replaced and has been decapitalized in 2018-19. Accordingly, the Review Petitioner has submitted that the Commission has erred in disallowing the claim of the Review Petitioner, considering the said asset as 'spare' instead of considering the same as 'replacement.'

***Reply of the Respondents UPCL and BRPL***

20. The Respondent UPPCL has submitted that the claim of the Review Petitioner for an expenditure of Rs. 20 lakh in 2020-21 for the Replacement of a water tanker for the supply of clean water to the personnel performing duties at various locations may be considered and the same may be allowed, if permissible, after examining the veracity of the submissions of the Review Petitioner. The Respondent BRPL has submitted that the Review Petitioner has not given any valid reason for seeking a review of the impugned order on this ground. It has also stated that there is no error in rejecting the claim of the Review Petitioner, as the claim was not supported under





the applicable Regulations. Accordingly, the Respondents have submitted that review on this ground may be rejected.

### **Rejoinder of the Review Petitioner**

21. The Review Petitioner has submitted that the additional expenditure on account of the Replacement of the water tanker has been submitted with due reasoning but the Commission had erroneously disallowed the claim of the Review Petitioner by considering it as a spare asset. It has also been submitted that the previous water tanker, which was in use since 2013, met with an accident, which resulted in a complete loss and in view of this, temporary arrangements were made through open body truck by fitting a synthetic tank. The Review Petitioner has further submitted that the power station faces problems due to the unavailability of clean and drinking water at various locations and considering this, there was an urgent requirement to provide a water tanker, which was claimed under replacement. The Review Petitioner has pointed out that the said item claimed under additional capital expenditure has already been de-capitalized in 2018-19 as provided in Form 9B(i) of the Tariff Petition at S. No. 15.

### **Analysis and decision**

22. As regards the claim of the Review Petitioner for additional capital expenditure of Rs 20 lakh in 2020-21 for the Replacement of the water tank, the Commission, in the impugned order, had disallowed the same (in sl no.7 of the table in 2020-21) holding as under:

*“As the capitalization of the expenditure for the asset is in the nature of spares, after the cut-off date, the claims are **not allowed**. The corresponding decapitalization on account of the same are also not allowed”*

23. However, we notice that though the asset has been claimed as a replacement, the same has been inadvertently disallowed, considering it as a spare. Since the



question of replacement of the asset, as claimed by the Review Petitioner, has not been examined in terms of the relevant provisions of the 2019 Tariff Regulations, there is error apparent error in the face of the impugned order. Accordingly, a review on this count is allowed. However, the Review Petitioner shall, at the time of truing up of tariff provide detailed justification for additional capital claim under the relevant provisions of the 2019 Tariff Regulations.

### **Revision of tariff for the period 2014-19**

24. Consequent upon rectification of the error in para 20 of the impugned order, with regard to the assumed deletion of Rs 0.24 lakh considered for 'Submersible pump for Dam Drainage Gallery' in 2018-19 (as stated in para 14 above), the net additional capital expenditure allowed for the period 2014-19 (in the table under para 21 of the impugned order) stands modified as under:

		<i>(Rs. in lakh)</i>				
		<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
A	Additions allowed	284.70	392.05	835.10	37.70	715.29
B	Decapitalization allowed	(-)178.99	(-)356.84	(-)9.63	(-)68.06	(-)31.26
C	Assumed deletions considered	0.00	0.00	0.00	0.00	(-) 0.24
D	Discharge of Liabilities	1132.87	172.26	23.67	100.01	24.68
E	Reversal of liabilities	0.00	0.00	0.00	0.00	0.00
<b>F</b>	<b>Net Additional Capitalization allowed (F=A+B+C+D-E)</b>	<b>1238.58</b>	<b>207.47</b>	<b>849.14</b>	<b>69.65</b>	<b>708.47</b>

### **Capital cost**

25. Accordingly, the capital cost allowed (in the table under para 22 of the impugned order) is modified as under:



(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Opening capital cost (a)	204231.93	205470.51	205677.98	206527.12	206596.77
Net additional capital expenditure allowed during the year/ period (b)	1238.58	207.47	849.14	69.65	708.47
<b>Closing Capital Cost (a)+(b)</b>	<b>205470.51</b>	<b>205677.98</b>	<b>206527.12</b>	<b>206596.77</b>	<b>207305.24</b>

### Debt Equity Ratio

26. The debt-equity ratio allowed (in the table under para 24 of the impugned order)

is modified as under:

	Capital cost as on 1.4.2014		Additional Capital Expenditure		Decapitalization		Capital cost as on 31.3.2019	
	Amount	(%)	Amount	(%)	Amount	(%)	Amount	(%)
Debt (A)	142962.35	70.00%	2602.83	70.00%	451.51	70.00%	145113.67	70.00%
Equity (B)	61269.58	30.00%	1115.50	30.00%	193.51	30.00%	62191.57	30.00%
<b>Total (C)=(A)+(B)</b>	<b>204231.93</b>		<b>3718.33</b>		<b>645.02</b>		<b>207305.24</b>	

### Return on Equity

27. Return on Equity allowed (in the table under para 27 of the impugned order) is

modified as under:

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Equity (A)	61269.58	61641.15	61703.40	61958.14	61979.03
Addition of Equity due to additional capital expenditure (B)	371.57	62.24	254.74	20.90	212.54
Normative Equity- Closing (C) =(A) + (B)	<b>61641.15</b>	<b>61703.40</b>	<b>61958.14</b>	<b>61979.03</b>	<b>62191.57</b>
Average Equity (G)=(A+F)/2	61455.37	61672.27	61830.77	61968.58	62085.30
Base Rate (%) (H)	16.500%	16.500%	16.500%	16.500%	16.500%
Effective Tax Rate (%) (I)	20.961%	21.342%	21.342%	21.342%	21.549%
Effective ROE Rate (%) (J)	20.876%	20.977%	20.977%	20.977%	21.032%
<b>Return on Equity (K)= (G)*(J)</b>	<b>12829.42</b>	<b>12936.99</b>	<b>12970.24</b>	<b>12999.15</b>	<b>13057.78</b>



### Interest on loan

28. Interest on loan allowed (in the table under para 30 of the impugned order) is modified as under:

	(Rs. in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Gross opening loan	142962.35	143829.36	143974.59	144568.98	144617.74
Cumulative repayment of loan upto previous year	18247.82	28723.30	39180.73	49758.89	60353.74
Net Loan Opening	124714.53	115106.06	104793.85	94810.09	84264.00
Addition due to additional capital expenditure	867.01	145.23	594.40	48.76	495.93
Repayment of loan during the year	10500.55	10525.47	10580.48	10614.73	10585.54
Less: Repayment adjustment on account of de-capitalization	25.07	68.04	2.32	19.88	9.99
Net Repayment of loan during the year	10475.48	10457.43	10578.16	10594.85	10575.55
Net Loan Closing	115106.06	104793.85	94810.09	84264.00	74184.37
Average Loan	119910.29	109949.95	99801.97	89537.04	79224.19
Weighted Average Rate of Interest of loan	9.3400%	9.3970%	9.3300%	8.8070%	8.4900%
<b>Interest on Loan</b>	<b>11199.62</b>	<b>10332.00</b>	<b>9311.52</b>	<b>7885.53</b>	<b>6726.13</b>

### Depreciation

29. Depreciation allowed (in the table under para 32 of the impugned order) is modified as under:

	(Rs. in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Gross block (A)	204231.93	205470.51	205677.98	206527.12	206596.77
Net Additional capital expenditure during 2014-19 (B)	1238.58	207.47	849.14	69.65	708.47
Closing gross block (C=A+B)	205470.51	205677.98	206527.12	206596.77	207305.24
Average gross block (D)=(A+C)/2	204851.22	205574.25	206102.55	206561.95	206951.01
Value of Free Hold Land	256.31	281.01	418.51	418.51	418.51
Depreciable Value (E= (D *90%))	184135.42	184763.91	185115.64	185529.09	185879.25
Remaining Depreciable Value at the beginning of the year (F=E-Cum Dep at 'L' at the end of previous year)	165887.60	156040.61	145934.90	135770.20	125525.51
Balance useful Life (H)	33.25	32.25	31.25	30.25	29.25
<b>Rate of Depreciation (G)</b>	<b>5.1259%</b>	<b>5.1200%</b>	<b>5.1336%</b>	<b>5.1388%</b>	<b>5.1150%</b>
<b>Depreciation (I=D*G)</b>	<b>10500.55</b>	<b>10525.47</b>	<b>10580.48</b>	<b>10614.73</b>	<b>10585.54</b>



	2014-15	2015-16	2016-17	2017-18	2018-19
Cumulative Depreciation at the end of the year (J=I+ Cum Dep at 'L' at the end of previous year)	28748.37	39248.77	49761.21	60373.62	70939.29
Less: Depreciation adjustment on account of de-capitalization (K)	25.07	68.04	2.32	19.88	9.99
<b>Cumulative Depreciation at the end of the year (L)</b>	<b>28723.30</b>	<b>39180.73</b>	<b>49758.89</b>	<b>60353.74</b>	<b>70929.29</b>

### Working Capital for Receivables

30. The Receivable component of working capital worked out and allowed based on two months of fixed cost (in the table under para 44 of the impugned order) is modified as under:

<i>(Rs. in lakh)</i>				
2014-15	2015-16	2016-17	2017-18	2018-19
6680.81	6608.15	6505.38	6332.92	6204.15

### Interest on Working Capital

31. Accordingly, interest on working capital worked out and allowed (in the table under para 48 of the impugned order) is modified as under:

<i>(Rs. in lakh)</i>					
	2014-15	2015-16	2016-17	2017-18	2018-19
Working capital for O&M Expenses (one month of O&M Expenses)	375.94	400.90	427.52	455.91	486.18
Working capital for Maintenance Spares (15% of operation and maintenance expense)	676.69	721.62	769.53	820.63	875.12
Working capital for Receivables (two months of fixed cost)	6680.81	6608.15	6505.38	6332.92	6204.15
<b>Total working capital</b>	<b>7733.43</b>	<b>7730.66</b>	<b>7702.43</b>	<b>7609.46</b>	<b>7565.45</b>
Rate of Working Capital (%)	13.5000%	13.5000%	13.5000%	13.5000%	13.5000%
<b>Interest on Working Capital</b>	<b>1044.01</b>	<b>1043.64</b>	<b>1039.83</b>	<b>1027.28</b>	<b>1021.34</b>

### Annual Fixed Charges approved for the period 2014-19

32. Accordingly, the annual fixed charges approved for the period 2014-19 (in the table under para 49 of the impugned order) stands modified as under:



	<i>(Rs. in lakh)</i>				
	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Depreciation	10500.55	10525.47	10580.48	10614.73	10585.54
Interest on Loan	11199.62	10332.00	9311.52	7885.53	6726.13
Return on Equity	12829.42	12936.99	12970.24	12999.15	13057.78
Interest on Working Capital	1044.01	1043.64	1039.83	1027.28	1021.34
O&M Expenses	4511.24	4810.78	5130.22	5470.86	5834.13
<b>Total</b>	<b>40084.85</b>	<b>39648.88</b>	<b>39032.29</b>	<b>37997.54</b>	<b>37224.92</b>

### **Tariff for the period 2019-24**

33. The tariff approved for the period 2019-24 in the impugned order has not been revised, since liberty has been granted to the Review Petitioner to raise the issues at the time of truing-up exercise, in terms of our decision in paras 17, 18 and 23 of this order. The closing capital cost of Rs.207305.24 lakh, as on 31.3.2019, as approved above in para 25 of this order, shall be considered as the opening capital cost as on 1.4.2019, at the time of truing-up of tariff of the generating station, for the period 2019-24.

34. Review Petition No. 26/RP/2023 in Petition No. 642/GT/2020 is disposed of in terms of the above.

**Sd/-**  
**(Ramesh Babu. V)**  
**Member**

**Sd/-**  
**(Arun Goyal)**  
**Member**

**Sd/-**  
**(Jishnu Barua)**  
**Chairperson**

