

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

**Present : Shri S. P. Nanda, Chairperson
Shri B. K. Misra, Member
Shri S. P. Swain, Member**

Case No. 106/2011

M/s. GRIDCO

-----Petitioner

Vrs.

M/s. JSL Stainless Ltd and others

-----Respondents

In the matter of : Under Sec. 94 (f) of the Electricity Act, 2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations 2004 for review of the order dated 23.9.2011 of the Commission passed in Case No.49 of 2011.

For Petitioner : Shri D. K Mohanty, Advocate, on behalf of M/s. GRIDCO.

For Respondents : Shri Himansu Pattanaik, the representative of M/s. JSL Stainless Ltd. for respondent No1;
Shri P.K.Dash, Sr.GM (PS), SLDC for respondent No.2
Ms. Niharika Pattanaik, Asst. Law Officer, DoE, GoO for Respondent No-3.

ORDER

Date of Hearing: 30.04.2012

Date of Order: 16.11.2012

The present review petition has been filed by the GRIDCO U/s.94(f) of the Electricity Act, 2003 read with Regulation 70 of OERC (Conduct of Business) Regulation, 2004 for review of the order dtd.23.09.2011 passed in Case No.49 of 2011 by the Commission.

2. The Commission vide its interim order dtd.10.02.2012 admitted the review petition as maintainable and agreed with the contention of GRIDCO to re-adjudicate on the real dispute involved in this case.
3. The only disputed issue is determination of the CGP status of M/s. JSL, in view of the fact that for the FY 2009-10 and 2010-11 self consumption of the respondent was less than 51% of its total generation in the respective years. The Commission in its order dtd.23.09.2011 (the order sought to be reviewed) has held that M/s.JSL shall treated as a CGP for the purpose of billing by GRIDCO.
4. After this order was passed the Energy Detpt. Notified a Cabinet decision on 10.04.2012, the relevant portion of which is produced below:

Although there was no formal directive by the Govt. of Odisha u/S. 11 of the Electricity Act, 2003 for supply of power to the State Grid during the year 2010-11, it is fact that the deficit scenario continued to persist till October, 2010 and GRIDCO/SLDC approved the schedule of CGPs from time to time to maximize the drawal for mitigating the deficit situation in public interest.

- i. Deprived of the exemption of electricity duty under IPR-2001 and
- ii. Not paid the preferential CGP price towards supply of surplus power to GRIDCO.

Further, Government has already invoked Section-11 of the Electricity Act, 2003 on 25.11.2011 directing CGPs to maximize generation and supply power to the State Grid to tide over power crises situation till June, 2012.

Keeping in view the larger interest of the State and difficulties faced by the CGPs due to invocation of Section-11 of the Electricity Act, 2003 by Govt., the State Cabinet in their 21st Meeting held on 21.02.2012 have decide as follows:

- a. The quantum of supply of surplus power to GRIDCO during FY 2009-10 and 2010-11 (April, 2010 to October, 2010) by the CGPs is construed as being deemed self-consumption for the purpose of determination of CGP status.*
- b. The injection made by CGPs to the State Grid during period of invocation of Section-11 will be considered as deemed self-consumption in the FY 2011-12 and 2012-13.”*

5. The Cabinet notification is in fact exactly on the line of the decision of the Commission passed in Case No.49 of 2011 dtd.23.09.2011. The above Cabinet notification makes it clear that the quantum of surplus power supplied by M/s.JSL to GRIDCO during the FY 2009-10 and 2010-11 (April 2010 to October, 2010) will be construed as self consumption for the purpose of determining CGP status of the Company. Therefore, GRIDCO is directed to determine the CGP status of M/s.JSL and settle bills accordingly.
6. With these observations the review petition of M/s.GRIDCO is disposed of.

Sd/-
(S.P.Swain)
Member

Sd/-
(B. K. Misra)
Member

Sd/-
(S. P. Nanda)
Chairperson

