

2012 has been come into effect vide order dated 31.03.2015 in suo motu Petition No. SN/004/2015 regarding determination of generic levelled tariff for Biomass power projects, which includes the variable tariff for the biomass power plants for FY 2015-16. The Commission in Case No. 16/2013 has directed that the fixed cost, as determined in Case No. 37/2008 for Biomass power plants commissioning during the 1st control period shall continue unchanged for the entire tariff period.

4. The APERC have also adopted the CERC norms for determination of variable tariff for biomass power plants but OERC has specified the GCV as 3300 Kcal/Kg in suo motu proceeding Case No. 80/2013 while finalizing the generic tariff of RE Sources for the 2nd control period from 2013-14 to 2017-18. The variable tariff determined by the Commission for FY 2015-16 in Case No. 16/2013 was based on GCV of 3522 Kcal/Kg, which is an error apparent on the face of the record and needs to be reviewed. Another important matter is the Station Heat Rate (SHR) was again specified as 3800 Kcal/KWh for the 2nd control period without any change of the same as for the 1st control period. Therefore, the order passed in Case No. 16/2013 by the Commission needs to be reviewed and delay may be condoned for the above reasons.
5. The representatives of the respondents submitted that the above application for review of order dated 15.01.2014 passed in Case No. 80/2013 and order dated 01.03.2014 passed in Case No. 16/2013 are not maintainable being barred by limitation and liable to be rejected. The petitioner has not explained the delay in filing the present review petition after 350 days of the original order passed by the Commission. The petitioner in its application for condonation of delay averred that if the delay would not be condoned, the plant would be closed but the delay for near about one year, which has been occurred in filing the above review petition has not been explained. Hence on this ground the application for review of the above order is not maintainable and liable to be rejected.
6. We have gone through all the records and documents at hand and considered all the submissions written and oral on condonation of delay in filing of the above review petition. The Commission has considered all such documents and find no new facts, errors and any other additional materials to review of the order dated 15.01.2014 passed in Case No. 80/2013 and order dated 01.03.2014 passed in Case No. 16/2013.

It is well settled principle that a review can only be made on the following grounds:

- (i) As per Section 94(1) (f) of the Electricity Act, 2003, this Commission has the same power as are vested with the Civil Court under the Code of Civil Procedure, 1908 in respect of reviewing its decisions, directions and orders among others.
- (ii) As per Order 47 Rule 1 of the Civil Procedure Code, review of an order can be made on the following grounds:
 - (a) Error apparent on the face of the record;

- (b) New and important matter or evidence which is relevant for the purpose was discovered which could not be produced after exercise of due diligence or if there appears to be some mistake;
 - (c) Any other sufficient reason.
- (iii) Error contemplated under the rule must be such which is apparent on the face of the record and not an error which is to be fished out and searched. It must be an error of inadvertence.
- (iv) We are citing two important decisions here. *“Error apparent on the face of the record” must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions.* (AIR 1995 SC 455).

That no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it. (‘Batuk K. Vyas vrs. Surat Borough Municipality,’ AIR 1953 Bombay 133 (R)).

7. The error as pointed out by the Petitioner seeking the review of our above orders passed in Case Nos.16 & 80 of 2013 are merely reiterating the facts of the original petition. There is no new material evidence to review our order. It has become almost an everyday experience that review applications are filed mechanically as a matter of routine and there is no indication as to which ground strictly it falls with the narrow limits of Order 47 Rule 1 of the Code of Civil Procedure, 1908. The present petition appears more to be an appeal than prayer to review the said orders of the Commission.
8. In the instant case the Petitioner has also not been able to show the sufficient reason for condonation of each day of delay in filing of the review petition. Since the present review petition of M/s Shalivahana Green Energy Ltd. has fails to explain each day of delay in filing of the above review petition and also does not satisfy any of those conditions required for review of the said order passed in Case nos.16 & 80 of 2013, we are not inclined to review the said order dated 15.01.2014 passed in Case No. 80/2013 and order dated 01.03.2014 passed in Case No. 16/2013.
9. Accordingly, the case is dismissed as it has no merit.

Sd/-
(A .K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson