

ODISHA ELECTRICITY REGULATORY COMMISSION
PLOT NO. 4, CHUNUKOLI, SHAILASHREE VIHAR,
CHANDRASEKHARPUR,
BHUBANESWAR-751021

Present : **Shri S. P. Nanda, Chairperson**
 Shri S. P. Swain, Member
 Shri A. K. Das, Member

Case No. 48/2015

M/s. SAIL	Petitioner
Vrs.		
M/s. OREDA. & Others	Respondents

In the matter of: **An application under Section Sec. 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulations, 2004 along with O-47 R (1) (c) of the CPC for review of Order dated 07.08.2015 passed in Case No. 59 of 2014.**

For Petitioner: Ms. Ranjitha Ramachandram, Advocate

For Respondents: Shri U. N. Mishra, CGM (PP), GRIDCO Ltd.
 Shri K. C. Nanda, DGM (Fin.), WESCO Utility
 Nobody present on behalf of M/s. OREDA.

ORDER

Hearing Date: 31.05.2016

Date of Order: 18.06.2016

M/s. SAIL Rourkela Steel Plant the petitioner herein has filed the above review petition for review of order dated 07.08.2015 of the Commission in Case No. 59/2014 under Sec. 94 (1) (f) of the Electricity Act, 2003 read with Reg. 70 (1) of the OERC (Conduct of Business) Regulations, 2004 along with O-47 R-1 (c) of the CPC.

2. The case is taken up for hearing on condonation of 3 days delay in filing of the review application and also on merit if the delay is condoned. After hearing the delay condonation application is accepted.
3. Heard the parties at length on merit. Learned counsel appearing on behalf of M/s. SAIL (RSP) has submitted that the petitioner is a flat steel producer and a power intensive large scale industry having a dedicated captive power plant with 100 MW capacity (i.e CPP-1). The manufacture of steel results in by product gas being generated from the Blast Furnace and coke ovens which are used as primary fuel to produce steam from six boilers of 90T capacity each. The high pressure steam thus

generated is used in the steel plant and balance steam is used for generation of electricity through CPP-1. The generation of CPP-1 is by use of flue gas from the steel making process. The electricity generated in CPP-1 is through gas/ steam generated in the steel making process and falls within the definition of co-generation under Section 2 (12) of the Act. The Petitioner submits that it should be exempted from fulfilling renewable purchase obligation specified in OERC (Renewable and Co-generation Purchase Obligations and Its Compliance) Regulations, 2010 so long as the co-generation electricity is in excess of percentage of Renewable Purchase Obligation mentioned in that Regulation.

4. The Petitioner submitted that the Commission in its order in Case No. 59/2014 dated 07.08.2015 relied on the decision of the Hon'ble Supreme Court in Hindustan Zinc Ltd. vrs. Rajasthan Electricity Regulatory Commission in Civil Appeal No. 4417/2015 and stated that the judgements of Hon'ble APTEL in different appeals to relieve them from RPO is misplaced and irrelevant. This finding of the Commission is erroneous since Hon'ble Supreme Court was considering only the aspects of the validity of imposing an obligation on a captive consumer or a person procuring electricity through open access other than the Distribution Licensees. Nowhere the Hon'ble Supreme Court has overruled the decision of Hon'ble APTEL in Century Rayon case and Vedanta Aluminium case granting co-generation status to the industries utilising by product gases for generation of power. Therefore, the findings of the Commission in Case No. 59/2014 is to be reviewed.
5. The applicability of OERC Case No. 59/2014 dated 07.08.2015 to the captive generating plant based on by product gases and not treating them as co-generators has also been challenged by M/s. Patnaik Steels and Alloys Ltd. and M/s. Bhusan Power and Steel Ltd. in W.P.(C) No. 4848/2016 and W.P.(C) No. 1537/2016 respectively in Hon'ble Orissa High Court. These cases are pending before the said Hon'ble Court for adjudication.
6. The decision of Hon'ble High Court of Orissa shall also be applicable in the instant case since material challenged in those cases is similar to this one.
7. We do not find any reason meeting conditions of review as per Civil Procedure Code, 1908.
8. Therefore, the review petition is rejected and accordingly the case is disposed of.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson