

ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNAKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021

Present: Shri U. N. Behera, Chairperson
Shri A. K. Das, Member
Shri S. K. Parhi, Member

Case No. 33 of 2017

OPTCL Vrs. Shri G.N.Agrawal, Covener-cum-General secretary, Sambalpur District Consumers Federation & others Petitioner Respondents
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In the matter of: An application under Sections 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulations, 2004 and under Order 47 Rule 1 (c) of CPC 1908 for review of Order dated 23.03.2017 passed in Case No. 64 of 2016.

For Petitioner: Shri R.C.Mishra, CGM (Fin.), OPTCL.

For Respondents: Shri G. N. Agarwal, Shri Ananda Kumar Mohapatra, Shri Bibhu Swain on behalf of M/s. Swain & Sons Power Tech Pvt. Ltd., Shri R. P. Mahapatra authorized representative of M/s. Grashim Industries Limited, and Ms. Niharika Pattnayak, ALO, DoE, GoO.

Nobody is present on behalf of M/s. Ferro Alloys Limited, M/s. Adhunik Metaliks Limited, M/s. NOCCI, M/s. Visa Steel Ltd., M/s. Facor Power Limited & M/s. WISE, Pune.

ORDER

Date of hearing: 16.08.2017

Date of order: 18.01.2018

The present petition has been filed by the Odisha Power Transmission Corporation Ltd. (STU) to review our tariff order passed in Case No. 64/2016 which pertains to FY 2017-18. In its petition OPTCL has prayed to rectify a mistake in the calculation and further allow higher amounts towards interest on loan, depreciation, expenditure for corporate social responsibility and miscellaneous receipts. The prayer of OPTCL is briefly summarized below:

- There is a mistake in addition in the Table – 21 (truing up) of the impugned order. The result of addition should be Rs.41.97 crore instead of Rs.52.72 crore.

- The Commission has changed the methodology of calculation of interest impact on loan in the year 2017-18 from that of 2016-17. Therefore, an interest impact of Rs.65.15 crore should be considered instead of Rs.46.59 crore.
 - The Commission may allow Rs.2.06 Cr. towards interest on loan against JICA funded projects and new Loan as per their proposal in the ARR.
 - The total addition of fixed assets for FY 2015-16 is Rs.770.80 crore instead of Rs.636.59 crore which has been approved in the FY 2016-17. The revised depreciation therefore is to be considered at Rs.137.43 Cr. instead of Rs.130.76 Cr.
 - The Commission has not allowed Rs. 0.59 Cr. towards expenditure in CSR which is mandatory under Section 135 and Schedule VIII of the Companies Act as claimed by OPTCL. This should be allowed.
 - The total miscellaneous receipt from interstate wheeling, short term open access etc. should be considered Rs.47.91 Cr. instead of Rs. 81.94 Cr.
2. Shri R. P. Mohapatra raised objection to such petition of the OPTCL and submitted that any mistake in making addition in the Table of the order may be rectified. As regards to interest on loan Shri Mohapatra has submitted that interest charges cannot be allowed for the projects which are yet to be approved specifically JICA funded projects. Therefore, no change in provision towards interest need be made in the order. As regards consideration of CSR amount of Rs.0.59 Cr., the GoI notification casts an obligation on all profit making company to spend a minimum amount under such activities. This cannot be reimbursed like Income Tax. This is not an error apparent on face of record and the order of the Commission is perfectly valid. In fact the petitioner has spent less in CSR activities for FY 2014-15 to 2016-17 and deficit should be made up during later years. With regard to miscellaneous receipts, the petitioner is executing a huge amount of work for the DISCOMs and therefore, supervision charges @16% is receivable by the petitioner which they have not included in the Misc. receipts. The Commission has allowed an amount of Rs.5 Cr. towards incentive for System availability which should be spent by OPTCL in Grid substations which is not within (-) 12.5% of the normative EHT voltage level. The incentive should be spent in such a way that 33 KV secondary supply to DISCOMs should be within permissible limit. The Commission has directed OPTCL to submit

the breakup of the amount spent under this head. Therefore, OPTCL may be again directed to submit the breakup of incentive that was available to them.

3. Mr. G.N.Agarwal and Shri Anand Kumar Mohapatra submitted that the prayer of OPTCL in the present petition could be better redressed in course of tariff determination for the ensuing year 2018-19.
4. The Commission has gone through the petition of the OPTCL for review of the order 64 of 2016 passed on 23.3.2017. The Commission has also taken into account the view points of the objectors.
5. A review of the order can only be made on the following grounds:
 - (a) Discovery of new important matter or evidence which after exercise of due diligence was not in the knowledge of the applicant and could not be produced by him at the time when the decree or order was passed
 - (b) Mistake or error apparent on the face of the record and
 - (c) For any other sufficient reason.
6. The OPTCL in its petition has pointed out certain calculation mistake in addition while calculating surplus in true up for FY 2015-16 in Table 21 of the said order. This is an error apparent on the face of the record and shall be taken into consideration in the truing up exercise in the Tariff order for FY 2018-19.
7. OPTCL in its review petition has further prayed to allow certain amounts towards Interest on Loan, Depreciation, CSR activities and miscellaneous receipts. These matters have been extensively dealt with in Para-222 to 228 (Interest on Loan), Para-232 to 240 (Depreciation), Para-247(b) (Corporate Social Responsibility), Para-252 to 253 (Miscellaneous Receipt). Re-opening of this matter shall constitute a proceeding on appeal of the same order. Therefore, these do not fall under the scope of review.
8. With this observation, the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(A. K. Das)
Member

Sd/-
(U. N. Behera)
Chairperson