

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

Present: **Shri U. N. Behera, Chairperson**
 Shri S. K. Parhi, Member
 Shri G. Mohapatra, Member

Case No. 44/2018

Scans Steel Ltd.	Petitioner
Vrs.		
WESCO Utility	Respondents

In the matter of: **An application under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 70(1) of the OERC (Conduct of Business) Regulations, 2004 for review of order dated 22.03.2018 of the Commission passed in Case No.80 of 2017 regarding approval of ARR and Wheeling and Retail Supply Tariff for FY 2018-19.**

For Petitioner: Shri A.K. Sahani, the authorized representative

For Respondent: Shri K.C. Nanda, DGM (Finance), WESCO Utility

ORDER

Date of hearing: 10.11.2020

Date of order: 08.12.2020

The present petitioner seeks the review of our Retail Supply Tariff order for FY 2018-19 passed in case No.80 of 2017 dt.22.03.2018. The petitioner is a steel plant drawing power at 33 KV under WESCO utility area. The petitioner prays the Commission to review the following in the tariff order:

- a) As per Tariff order, meter rent will be collected for 60 months. This order may be withdrawn and order may be passed for collection of meter rent till recovery of the landed cost of the meter.
- b) The reliability surcharge enforced from the Tariff order for FY 2013-14 should be withdrawn as it is the responsibility of the DISCOM to provide reliable power supply. DISCOMs are not attaching reliability indices calculation and voltage variation report with the bill to the consumers contrary to the orders of the Commission.
- c) The provision in the Tariff order for imposition of overdrawl penalty when no other penalty due to overdrawl is levied may be reconsidered. If such penalty is to continue, it should be booked under Section 126 of the Act. Some electrical

divisions are adopting illegal method under Section 126 of the Electricity Act to harass the bonafide consumers by way of disconnection of power supply under the provisional bill. Final bills are not issued so that consumers cannot move to appellate authority.

- d) KVA demand for consumers less than 110 KVA to be billed as per Tariff order strictly.
 - e) Off-peak hour may be granted from 10 PM to 6 AM next day.
 - f) None of the consumers are being extended with remunerative benefit. Strict direction may be issued for implementation of the same.
2. In its reply the WESCO utility states that the instant petition is not maintainable in the eyes of law in view of the fact that the issues raised in the present petition has already been raised by the petitioner through objection during and in course of hearing of the Tariff petition and the same has been dealt with in the Tariff order for FY 2018-19. The petitioner has not substantiated the grounds of filing the instant review petition. There is no ambiguity in the order of the Commission. The prayer of the petitioner is not maintainable through a review petition and same is liable to be dismissed.
3. In its rejoinder, the petitioner has stated that the applicability of Retail Supply Tariff orders for FY 2018-19 and after that for FY 2019-20 have already been passed. The petitioner does not think that a favourable order shall be passed in favour of the petitioner which may affect the Retail Supply Tariff orders for FY 2018-19 and FY 2019-20. He prays the Commission to file a new review petition against the RST order for FY 2019-20 instead of FY 2018-19.
4. Heard the parties at length. The order under review was passed by three members of the Commission. In the meantime, there was a vacancy in the quorum of the Commission. After joining of a new member, now we are hearing the matter. All the issues raised by the petitioner are part of the Tariff order for that year. The Commission has exhaustively dealt with the matter in that order. The petitioner through a review petition prays the Commission to modify the order which appears to be more like an appeal. 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.

5. 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.
6. 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.
7. 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)).

But no such error has been pointed out by the Petitioner seeking the review of our judgement. 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 grounds strictly it falls within 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 our Order.

8. Therefore, the present review petition is devoid of any merit and accordingly is dismissed.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S.K. Parhi)
Member

Sd/-
(U.N. Behera)
Chairperson