

**ODISHA ELECTRICITY REGULATORY COMMISSION**  
**PLOT NO. 4, CHUNOKOLI, SAILASHREE VIHAR,**  
**BHUBANESWAR-751021**

**Present : Shri G. Mohapatra, Officiating Chairperson**  
**Shri S.K. Ray Mohapatra, Member**

M/s. Raajratna Energy Holdings Private Limited ..... Petitioner

GRIDCO Ltd. & Others ..... Respondent

**Date of hearing: 27.12.2022**

The petitioner Raajratna Energy Holdings Pvt. Ltd. has filed the present Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 70(1) of OERC (Conduct of Business) Regulations, 2004 and the provisions of Order 47 Rule-1 of the Civil Procedure Code, 1908 seeking review of the Commission's order dated 18.10.2022 passed in Case No.20/2022 relating to wrongful deduction of rebate in the monthly energy bills for supply of power from its 1 MW solar PV project.

disposing of the above case has not considered the claim of the petitioner, which requires reconsideration of such issues on the following grounds:

- a) While passing the impugned order dated 18.10.2022, this Commission had considered para-30 of the judgment of the Hon'ble Supreme Court of India in case of AP Power Coordination Committee and other Vrs. M/s. Lanco Kandapalli Power Ltd. and others reported in (2016) 3 SCC 468. But the Commission did not consider the findings of the Hon'ble Apex Court in Para-31 of the aforesaid judgment, wherefrom it is evident that, this Commission is not bound by the principles of limitation while discharging its administrative and regulatory jurisdiction.
  - b) As pointed out in the main petition (Case No.20 of 2022), the wrongful deduction of rebate from its monthly energy bills by GRIDCO is not just in contravention of this Commission's order dated 29.10.2021 passed in Case No.32 of 2021 and the provision of PPA, but also the directions of this Commission in the BSP orders of GRIDCO from FY 2010-11 onwards.
  - c) For the aforesaid reasons, it is prayed to allow the review petition invoking Section 96(1)(f) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulations, 2004 and under the provisions of Order 47 Rule 1 of the Code of Civil Procedure, 1908.
4. We considered the submissions of the Review Petitioner, perused the order dated 18.10.2022 and scrutinized the record.

Order 47 Rule 1 of Code of Civil Procedure, 1908, provides that a party considering itself aggrieved by an order may seek review of the order under the following circumstances:

- (a) Discovery of new and important matter or evidence which was not within knowledge of the Review Petitioner or could not be produced after the exercise of due diligence;
  - (b) Mistake or error apparent on the face of the record; and
  - (c) Any other sufficient reason.
5. On examination of the averments of the review petition, we find that after considering the issues raised by the Review Petitioner in the main petition (Case No.20 of 2022), the Commission has passed the impugned order. It is the fact that the petitioner had accepted the payment procedure of GRIDCO and signed the re-conciliation statement. Further, after a long period of 10 years since from the date of commissioning of its solar plant on 11.07.2011, the Review Petitioner, even after signing the reconciliation statement issued by GRIDCO, had not raised any claim against the GRIDCO. Only after issue of the order dated 29.10.2021 by the Commission in Case No.32/2021, in the matter of M/s. S N Mohanty Vrs. GRIDCO, the Petitioner, vide its letter dated 29.11.2021, has claimed for refund of excess

rebate deducted by GRIDCO from its monthly bills since the commissioning of its solar plant in July, 2011 and hence this matter of money claim attracts the provisions of Section 3 of the Limitation Act, 1963, according to which, suit instituted after the prescribed period of limitation shall be dismissed. Suffice to note that no plea as required for the applicability of Section 5 and Section 14 of the Limitation Act, 1963 was raised earlier.

Relying upon the judgment of Hon'ble Apex Court referred to above, the Commission had held that the claim of the petitioner is partly barred by time. We have given our anxious and respectful consideration to the observations and the law laid down in the aforesaid judgment of Hon'ble Supreme Court at Para 31. However, with due respect to the said judgment of the Hon'ble Apex Court, we observe that the law laid down in the aforesaid judgment at para 31 is not applicable to the present case. Learned Counsel for the petitioner has failed to connect the judgment with his prayer of the review in the present dispute. Hence, we do not find any error apparent on the face of record, which requires review of our order dated 18.10.2022. Thus, we observe that the averments made by the petitioner in the present review petition have already been raised and have been addressed by us in our order dated 18.10.2022 in Case No.20 of 2022 in paragraph 5 to 7. Therefore, we find that the Review Petition is not maintainable in the eye of law.

6. In view of above discussions, we are of the view that no reasonable ground is found for review of the decision in the impugned order.
7. Accordingly, we dismiss the review petition solely on the ground of maintainability.

**Sd/-**  
**(S. K. Ray Mohapatra)**  
**Member**

**Sd/-**  
**(G. Mohapatra)**  
**Officiating Chairperson**