

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

No. F.11(739)DERC/2008-09/

Petition No. 62/2011

In the matter of : **Petition seeking clarification and/or reconsideration and/or review and/or modification of certain observations & findings in the Order dated 26.08.2011 on True-up for FYs 2008-09, 2009-10 and ARR for the FY 2011-12 in Petition Nos. 21 of 2009, 20 of 2010 and 25 of 2011 respectively.**

North Delhi Power Ltd.
(now Tata Power Delhi Distribution Ltd.)
Through its: **Sr. General Manager**
33Kv Sub Station Building,
Hudson Lane,
Delhi 110 009

...Petitioner

Coram:

**Sh. P.D. Sudhakar, Chairman, Sh. Shyam Wadhera, Member &
Sh. J.P. Singh, Member.**

Appearance:

1. Mr. Ajay Kapoor, CFO, TPDDL;
2. Mr. Anurag Bansal, Sr. Manager, TPDDL;
3. Mr. Hemant Goyal, TPDDL.

ORDER

(Date of Hearing: 12.04.2012)
(Date of Order: 24.04.2012)

1. This Petition has been filed by the NDPL for seeking clarification and/or reconsideration and/or review and/or modification of certain observations & findings in the Order dated 26.08.2011. The Petitioner has sought clarification and/or reconsideration and/or review and/or modification on the following issues:
 - (i) Excess availability of non-tariff income in ARR (for True-up for FY 2008-09) due to typographical inadvertent error.
 - (ii) Non-computation of carrying costs on revenue gap till FY 2009-10, for the FY 2011-12 while adjudicating on present Petition no. 25/2011;
2. The Commission heard the Petitioner at length.

Issue no. 1:

3. Section 94 of the Electricity Act, 2003 provides that:

“94(1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil

court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:--

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) reviewing its decisions, directions and orders..."

4. Section 114 read with Order 47 of the Code of Civil Procedure, 1908 empowers a Civil Court to review its decisions which inter alia provides:

"1. Application for review of judgment— (1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been referred,*
- (b) by a decree or order from which no appeal is allowed, or*
- (c) by a decision on a reference from a Court of Small Causes,*

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."

5. In the light of above-mentioned provisions after perusing the Tariff Order dated 26.08.2011 it emerged that para 3.295 indicates the Interest/Short-term Capital gain by the Petitioner to be Rs. 5.52 Cr., whereas the non-tariff income (NTI) approved in table 105 indicates the amount to be Rs. 5.22 Cr. The Commission has inadvertently taken Interest/Short-term Capital gain as Rs. 5.22 Cr. instead of Rs. 5.52 Cr. This is a typographical error apparent on the face of the record and can be cured as per the provisions of Order 47 Rule 1 of the Civil Procedure Code, 1908 as mentioned above. Therefore, Petitioner's prayer in this regard is accepted.

Issue no. 2:

6. During the course of hearing the Counsel for the Petitioner submitted that the Petitioner does not want to press this issue in this Petition and this issue may be considered in next Tariff Order. Therefore, the Commission is not adjudicating on this issue now.
7. The Petition is disposed off accordingly.

Sd/-
(J.P. Singh)
Member

Sd/-
(Shyam Wadhera)
Member

Sd/-
(P.D. Sudhakar)
Chairman