

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**I.A. No. 77 of 2007
in Appeal No. 95 of 2005**

and

**I.A. No. 78 of 2007 in
Appeal No. 96 of 2005 & I.A. No. 117 of 2006 in Appeal No. 94 of 2005**

Dated : July 18, 2007

Present:

Hon'ble Mr. Justice Anil Dev Singh, Chairperson
Hon'ble Mr. A.A.Khan, Technical Member

Madhya Pradesh State Electricity Board

-Applicant(s)

V/s.

NTPC & Ors.

-Respondent(s)

Counsel for the Applicant : Mr. Pradeep Misra with Mr. Daleep Dhyani

ORDER

**I.A. No. 78 of 2007 in
Appeal No. 96 of 2005 & I.A. No. 117 of 2006 in Appeal No. 94 of 2005**

By these two applications the applicant seeks modification of our order dated November 14, 2006 rendered in appeal nos. 94 and 96 of 2005. Appeal No. 96 of 2005 was filed by the applicant against the Tariff Order dated May 18, 2004 relating to the period 1.4.1998 to 31.3.2001 in respect of Kawas GPS. Besides Appeal No. 96 of 2005 was also directed against the orders of the CERC dated October 14, 2004 and March 28, 2005 passed by the CERC in Review Petition No. 86 of 2004. Appeal No.

94 of 2005 was filed by the applicant against the Tariff Order dated April 13, 2004 relating to the period 1.4.1998 to 31.3.2001 in respect of Gandhar GPS.

In our order dated November 14, 2006 we took note of the fact that the Tariff Regulation, 2001 did not specify any formula for calculating the interest on loan. The Central Commission however, adopted the following formula for calculating the interest on loan for the period 1.4.1998 to 31.3.2001:

“INTEREST ON LOAN”

22. The normative loan amount has been worked out based on the normative debt-equity ratio of 50:50. The annual repayment of loan upto 31.3.1998 as per the notification dated 30.04.1994 has been considered. The annual repayment amount has been worked as per the following formula:

Actual repayment during the year $\times \frac{\text{Normative net loan at the beginning of the year}}{\text{Actual loan at the beginning of the year}}$.

While adopting the formula, the CERC observed that “the amount of annual repayment for calculation of interest on loan is considered as worked out by the formula, or as given in the petition, whichever is higher”. In our order dated November 14, 2006, we did not approve of this rider. We were of the view that after normalizing the repayment of

debt on the basis of debt equity ratio of 50:50, it was unfair to compare it with the actual repayment and consider either 'normative debt repayment' or 'actual debt repayment', whichever was higher for computing the interest. It also appeared to us that the application of the rider rendered a part of debt un-serviced to the disadvantage of the appellant. While taking this view we referred to an example which we have given in para 17 of our judgment.

The learned counsel appearing for the applicant submitted that the view taken by us is not correct. We do not find any reason to accept the argument of the learned counsel for the applicant. No ground has been made out for varying our order on this count. We also do not find any error on the face of the record which could impel us to review the order dated 14.11.2006 in so far as it relates to Appeal No. 96 of 2005.

The learned counsel for the applicant submitted that certain typographical errors have crept into paras 40 and 41 and para 2 of the order dated 14.11.2006.

It is pointed out by the learned counsel for the applicant that the period involved in appeal no. 94 of 2005 was 1.4.2000 to 31.3.2001 and not 1.4.2001 to 31.3.2004. The learned counsel is right in his contention. The words "for the period 1.4.2001 to 31.3.2004 occurring in para 41 of our order dated November 14, 2006 need to be omitted. Similarly, in the last line of para 40, the period has been mentioned as April 1, 2000 to March 31, 2004. The period ought to have been April 1, 2000 to March 31, 2001.

In the first line of para 2, it is stated that appeal no. 96 of 2005 is directed against the tariff order dated 18.5.2005, in fact the appeal was against the tariff order dated 18.5.2004. Therefore, the corrections need to be made in our order dated 14.11.2006. Accordingly we make corrections as per below:

1. The first line in para 2 is corrected to read as follows:-

"The appeal no. 96 of 2005 is directed against the tariff order dated 18.5.2004".

2. The third line in para 40 is corrected to read as follows:-

"Therefore, our decision on computation of interest on loan in respect of Kawas Gas Power Station shall apply to computation of interest on loan in respect of Gandhar GPS for the tariff period April 1,2000 to March31, 2001".

3. The first line in para 41 of the order is corrected to read as follows:-

"The Central Commission is directed to adopt normative debt repayment methodology for working out the interest on loan liability of the appellant in appeal No. 94 of 2005 for the period of 1.4.2000 to 31.3.2001".

The corrections shall deem to have been incorporated in the order with effect from November 14, 2006 when the order was passed.

The corrections made by us in the order do not change the outcome of the appeal.

The application is accordingly disposed of.

I.A. No. 77 of 2007
in Appeal No. 95 of 2005

In the light of the observations made by us in regard to the modifications sought by the applicant in respect of the loan computation, we do not find any ground to entertain the application. Accordingly, the same is dismissed.

(A.A. Khan)
Technical Member

(Anil Dev Singh)
Chairperson