IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT RANCHI

Miscellaneous Petition no 02 of 2026 along with Case (Tariff) No. 01 of 2023

Damodar Valley Corporation (DVC)…………………………………………….Petitioner

Versus

Association of DVC HT Consumers of Jharkhand……………………………Respondent

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)

For the Petitioner :Mr. Sanjay Sen, Sr. Advocate, Mr. Nihal Bhardwaj and Ms. Surbhi Kapoor, Advocates

For the Respondent :Mr. Saket Upadhyay, Advocate

ORDER

Date – 31st July, 2026

1. The instant miscellaneous petition has been filed by the petitioner DVC pursuant to the order dated 24.04.2026, passed by the Hon'ble APTEL in Appeal No.227 of 225 with respect to order dated 30.1.2026 passed by this Commission in Case (Tariff) No. 01 of 2023 for True Up of FY 2021-22.
2. The Commission had passed its Order on 30.01.2026 pursuant to the Hon'ble APTEL's Remand Order dated 05.08.2024 passed in Appeal No. 80 of 2024 filed against this Commission's Order dated 22.01.2024 passed in Case (Tariff) No. 01 of 2023 pertaining to the True-up for FY 2021-22. The said Order was issued as a provisional order in view of the fact that the determination of Non-Tariff Income ("NTI") for DVC's distribution business in the State of Jharkhand was the subject matter of Appeal No. 332 of 2024, filed against this Commission's Order dated 23.07.2024 passed in Case (Tariff) No. 09 of 2020 pertaining to the True-up for FY 2006-07 to FY 2011-12, and Appeal No. 227 of 2025, filed against this Commission's Order dated 27.05.2025 passed in Case (Tariff) No. 13 of 2024 pertaining to the True-up for FY 2023-24. In view of the Judgment of the Hon'ble APTEL dated 24.04.2026 in Appeal No. 227 of 2025 and IA No. 1092 of 2025, the present Order is being revised by considering only the Delay Payment Surcharge ("DPS") as Non-Tariff Income ("NTI").).
3. The said Hon'ble APTEL judgement dated 24.04.2026, that stated that the captioned Appeal No. 227 of 2025 is allowed only to the limited extent of the issue relating to determination of Non-Tariff Income (NTI), is reproduced here:

"

(i) The findings of the JSERC in the Impugned Order dated 27.05.2025 in Case (Tariff) No. 13 of 2024, insofar as they relate to the determination and computation of NTI for items j) to y) of table 63 of the Impugned Order are hereby set aside.

(ii) The JSERC is directed to re-compute the tariff by considering Delayed Payment Surcharge (DPS) alone as NTI.

(iii) The JSERC shall carry out the process of identifying DVC's assets forming distribution system within the state of Jharkhand and determination of its tariff with effect from 01.04.2027 in accordance with directions contained in this judgement.

(iv) DVC shall carry out segregation of its accounts into distribution, transmission and generation within the activity of "electrical energy" w.e.f. 01.04.2027 in consultation with CAG.

(v) In so far as the other issues raised in the present Appeal are concerned, liberty is granted to the Appellant to institute a fresh appeal, if so desired. "

Brief History

4. DVC (hereinafter "the Petitioner") had filed a tariff Petition vide Case (Tariff) No.: 01 of 2023, dated 30.12.2022, for approval of *True up of FY 2021-22, Annual Performance Review for FY 2022-23, and Annual Revenue Requirement for FY 2023-*24.

5. After considering the submissions of the Petitioner and facts available on record, the Commission passed the tariff order in Case (Tariff) No.: 01 of 2023 on 22.01.2024, which was challenged by the Petitioner before Hon'ble APTEL vide Appeal no 80 of 2024.

6. After this Hon'ble APTEL remanded back the matter to this Commission vide order dated 05.08.2024 directing it to determine the Appellant's non-tariff income only to the extent of its retail supply business in the State of Jharkhand.

7. After the fresh proceedings, this Commission had issued the order dated 30.01.2026, while computed the Non – Tariff Income as per the methodology adopted in truing up of FY 2023-24 vide "Order on True-up for FY 2023-24, Annual Performance Review for FY 2024-25, and Aggregate Revenue Requirement & Tariff for FY 2025-26 for Damodar Valley Corporation (DVC)" dated 27.05.2025 passed in the Petition Case (T) No. 13 of 2024. The said tariff order dated 27.05.2025 had been challenged before Hon'ble APTEL under Appeal No. 227 of 2025 (True up of FY 2023-24) by the Petitioner and the same is pending for consideration by Hon'ble APTEL.

8. Since the Commission's revised methodology for computation of Non-Tariff Income ("NTI") of DVC's distribution business in the State of Jharkhand, as adopted in its Order dated 27.05.2025, as above, was pending before the Hon'ble Tribunal in Appeal No. 227 of 2025 for True up of FY 2023-24, therefore, the Commission had passed the said order dated 30.01.2026 on the basis of new methodology for computation of Non – Tariff income of DVC as adopted by this Commission in Case (T) No. 13 of 2024 vide order dated 27.05.2025. It is not out of place to mention that the Commission had been passing the said order in line with its affidavit dated 11.11.2025 filed before the Hon'ble Tribunal in OP No. 1 of 2025 for the purposes of calculation of Revenue Gap/(Surplus) for the period under consideration. The relevant excerpt of order in OP No. 1 of 2025 dated 11.12.2025 is reproduced as under:

   "In so far as the second period is concerned, it relates to the remand order passed by this Tribunal on 05.08.2024 in Appeal No. 80 of 2024, and the order passed in Appeal No. 135 of 2024 dated 29.11.2024, relating to the financial years 2020-21 and 2021-2022. The JSERC has already filed an affidavit stating that an order would be passed, consequent on remand, by 16.01.2026. Instead of determining the issue piecemeal, in so far as the remand order passed by this Tribunal is concerned, we deem it appropriate…."

9. The Commission in the Order dated 22.01.2024 had approved the unassessed Non-Tariff Income (NTI) from FY 2006 onwards in line with the directions issued to DVC in the true-up orders for the past period. The entire 'Other Income' as per the audited Annual Report of the Petitioner was approved as NTI for its distribution business for the period from FY 2006-07 to FY 2021-22 as extracted hereunder:

5.41 The Commission has observed that the value claimed by the Petitioner as Non-Tariff Income is restricted to the Delayed Payment Surcharge (DPS) by firm consumers of DVC distribution licensee.

5.42 The Commission in its order on True-up from FY 2006-07 to FY 2013-14 and APR for FY 2014-15 dated 19.04.2017, has observed as shown below-

> *"5.51 The Commission observed that the Petitioner has claimed non-tariff income only to the extent of the Delayed Payment Surcharge (DPS). Further, the NTI, as reflected in the audited annual accounts, was in excess of the non-tariff income as claimed by the Petitioner. The Commission also notes that DVC, being a vertically integrated organization, also carries out the business of generation and transmission of electricity besides distribution. Accordingly, the Commission directed the Petitioner to submit information on non-tariff income, as per audited accounts, segregated into generation, transmission and distribution business.*
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> *......*
>
> *5.53 The Commission has taken note of the fact that entire capital expenditure of the Petitioner is attributable to the generation and transmission business as the Petitioner does not claim any capital expenditure for the distribution business. Accordingly, the non-tariff income, other than the Delayed Payment Surcharge, may be attributable to the generation and transmission business.*
>
> *5.54 However, the Commission also notes that non-tariff income attributable to the generation and transmission business ultimately impacts the end-use consumer as the costs (net of any revenue) for generation and transmission business become the input costs for distribution business which drive the retail tariffs applicable for the end-consumer. Hence, the Commission directs the Petitioner to submit, within one month of notification of this Order, whether such non-tariff income has been accounted for in costs for the generation and transmission business of the Petitioner. Based on the justification provided by the Petitioner, the Commission may take an appropriate view on the same and pass suitable Orders to the effect.*
>
> *5.55 Accordingly, at the moment, the Commission approves the non-tariff income pertaining to delayed payment surcharge as Rs. 7.65 Cr., Rs. 12.22 Cr., Rs. 24 26 Cr., Rs. 1.89 Cr., &Rs. 7.63 Cr. Respectively for the aforementioned years based on actuals.*
>
> *.......*
>
> *6.46 As detailed in Paras 5.51 to 5.54 of this Order, the Commission, at present, approves the non-tariff income pertaining to delayed payment surcharge as Rs.28.54 Cr., Rs.231.60 Cr., Rs. 20.79 Cr. & Rs.71.57 Cr. respectively for the aforementioned years, as per audited annual accounts of the respective years." (FY 2011-12, FY 2012-13, FY 2013-14, FY 2014-15)."*

5.43 DVC in reply to the direction given by the Commission in Order dated 19.04.2017, vide Letter No. Comml/Tariff/JSERC/516 dated 17.05.2017 has reiterated the fact that it is a vertically integrated organization. The same is quoted below for immediate reference,

> *"...DVC is a vertically integrated organization and has got generation, transmission and distribution activity in the entire Damodar Valley Area spread over in the state of Jharkhand and West Bengal. Therefore, DVC*

maintains its accounts which is integrated and covers all the aforesaid activities and also some other activities as mandated in DVC Act 1948. The accounting procedure followed by DVC is also approved and audited by Comptroller & Auditor General of India.

It is, however, confirmed that other than Delay Payment Surcharge (DPS), there is no other Non-Tariff Income (NTI) under the distribution business of DVC and year-wise amount of DPS, as NTI has already been furnished to the Hon'ble Commission..."

So far as electricity business of DVC is concerned it is to submit that the capital expenditure is made in respect of its generation and deemed unified inter-state transmission network only. As such DVC does not incur any capital expenditure for its distribution activity. Accordingly, non- tariff income for the distribution activity of DVC is only the delay payment surcharge. In the previous tariff orders of DVC dtd.22.12.2012 & 04.09.2014 this Hon'ble Commission accepted the submission of DVC in this regard and considered only the delay payment surcharge (DPS) as non-tariff income after prudence check. In the instant tariff order dtd. 19.04.2017 also this Hon'ble Commission considered delay payment surcharge as non-tariff income as per the audited book of accounts of DVC.

DVC submits that since it is a vertically integrated organization, unified accounting for generation, transmission and distribution activity is maintained. DVC further submits that tariff regulation of the Hon'ble Central Commission for determination of generation and transmission tariff is based on some specific elements of fixed charges and energy charge. The said regulation does not have any provision to account for the non-tariff income. The only provision for late payment surcharge is available as per the tariff regulation of the Central Commission according to which late payment surcharge is levied as and when applicable. The entire DPS as non-tariff income considered by this Hon'ble Commission in the distribution tariff of DVC is inclusive of that late payment surcharge for its generation activity as well.

DVC therefore submits before this Hon'ble Commission to kindly consider the delay payment surcharge (DPS) as non-tariff income so far as the distribution activity of DVC is concerned."

5.44 It is evident that at this stage, no adjustment of Non-Tariff Income attributable to the DVC's Generation and Transmission has been undertaken in the input cost for the FY 2019-24 as well as the period prior to it. Such Non-Tariff Income ultimately impacts the end consumers (i.e., Retail consumers of Jharkhand) as the cost for the Generation and Transmission business becomes the input cost which drives up the retail ARR/ Tariff. Since, section 61 of EA, 2003, inter alia, only mandates reasonable recovery of cost, it is necessary that the entire Non-Tariff income as per the audited accounts shall be adjusted in the retail supply tariff of Jharkhand.

5.45 As such, the Commission is of the view that throughout the years, the Non-Tariff Income of the Petitioner has been left un-accounted in the retail supply tariff of Jharkhand. Thus, consumer interest in terms of Section 61, needs to be safeguarded by providing for the legitimate deductions in the ARR as per the regulatory framework in place. Accordingly, in this Order, the entire Non-Tariff Income as per the Audited Accounts is being approved.

……

5.46 Furthermore, the treatment of the unassessed Non-Tariff Income from FY 2012-13 to FY 2021-22 is provided for in assessing the Cumulative Gap/(surplus) up to FY 2023-24 in para 7.4 to para 7.8 of the instant Order.

…….

7.3 The Commission is of the view that in assessing the Cumulative Gap/(Surplus) upto FY 2023-24 also provides for the impact of the unassessed Non-Tariff Income from FY 2012-13 to FY 2019-20, in line with the observation recorded in Para 5.41 to Para 5.45 in respect of admittance of Non-Tariff Income as per the audited books of accounts.

7.4 The Commission has viewed that the Non-Tariff Income as approved previously by the Commission from FY 2012-13 to FY 2019-20 has not been allowed as per the audited books of accounts. In order to reflect the impact of the unassessed Non-Tariff Income from FY 2012-13 to FY 2019-20 on the Cumulative Gap/(Surplus) upto FY 2023-24, and in order to maintain parity with methodology adopted in the Order for True-up of FY 2020-21, and True-up of FY 2021-22 as approved earlier in this Order, the Commission has assessed the admissible Revenue Gap/(Surplus) from FY 2012-13 to FY 2020-21. The Commission has observed that the net Gap/(surplus) upto FY 2015-16 has been nullified in the Order dated 18.05.2018 by reducing the tariffs by approximately 13% besides making changes in the tariff structure. Hence, in the instant Order, for the period FY 2012-13 to FY 2015-16, the Commission has only considered the impact of the unassessed admissible Non-Tariff Income as the Gap/(surplus) for the respective financial years.

7.5 For the period FY 2016-17 to FY 2019-20, since, there was no nullification of gap/surplus, the Commission has taken the impact of the unassessed admissible Non-Tariff Income on the approved Gap/(surplus) for the financial years

7.6 Consequently, the impact of the unaccounted Non-Tariff Income based on the audited accounts has been considered up to FY 2023-24 with Carrying Cost on the Gap/(Surplus). For the calculation of Carrying Cost on the Gap/(Surplus), the Commission has considered the Rate of Interest equivalent to the rate of working capital approved by the Commission for the respective years, which is short-term Prime Lending Rate of State Bank of India as on 1st April for the respective year from FY 2012-13 to FY 2015-16. Further, the Base Rate of State Bank of India plus 350 basis points as on 1st April for the respective year has been considered from FY 2016-17 to FY 2020-21, and MCLR of State Bank of India plus 350 basis points as on 1st April for the respective year has been considered from FY 2021-22 to FY 2023-24.

7.7 The Commission is of the view that the Petitioner has a Net Surplus of Rs. 13,248.78 Cr. as of FY 2023-24, and as such no tariff hike is required in this instant Order."

10. Aggrieved by the Order dated 22.01.2024 passed by this Commission in Case (T) No. 1 of 2023, the Petitioner had filed Appeal No. 80 of 2024 before the Hon'ble APTEL challenging the determination of NTI from FY 2006-07 onwards on the ground that it was passed without complying with the rule of *audi-alteram partem.*

11. Thereafter, the Hon'ble APTEL vide its order dated 05.08.2024 disposed of Appeal No. 80 of 2024, setting aside the impugned order to the limited extent of unilateral determination of NTI from FY 2006-07 onwards, without complying with the rule of *audi-alteram partem* and the matter was remanded to the Commission with a direction to pass the order afresh, in accordance with law, after giving all parties a reasonable opportunity of being heard, relevant portion extracted hereunder:

> *"Viewed from any angle, the impugned order, to the extent the appellant's non-tariff income was unilaterally determined by the JSERC from FY 2006-07 onwards, necessitates interference,* for failure of the JSERC to put the

appellant on notice, and to give them an opportunity of being heard. *As the appellant has raised other grounds in challenge to the impugned order, and as those issues are not being examined in the present order, we may not be justified in granting stay of the impugned order in its entirety.* ***Instead of keeping the Appeal pending on the file of this Tribunal on this score, we consider it appropriate to the set aside the impugned order to the limited extent the appellant's non-tariff income was determined from 2006-07 onwards without complying with the audi-alteram partem rule.*** *The appellant is hereby granted liberty to subject the other grounds, raised in challenge to the validity of the impugned order in the present appeal, to challenge by way of a separate appeal.* ***Needless to state that we have not examined the impugned order on its merits, and the JSERC shall, after putting the appellant on notice and after giving both parties (i.e. the appellant and the 2nd Respondent) a reasonable opportunity of being heard, pass orders afresh, with respect to the appellant's non-tariff income, in accordance with law****.*

The Appeal stands disposed of accordingly. All pending IAs shall also stand disposed of."

12. Pursuant to the Hon'ble Tribunal's Order dated 05.08.2024, the Commission initiated remand proceedings in the matter, which were listed for hearing on 20.12.2024, 31.01.2025, and 08.04.2025.

13. On 23.05.2025, the matter was reserved for order, however, the Petitioner had filed an application dated 08.09.2025, seeking rehearing on the grounds of alleged double accounting of NTI and the Commission's jurisdiction to reconsider the issue.

14. Subsequently, the matter was heard on 14.10.2025 and 02.12.2025. By order dated 02.12.2025, the Commission granted the parties a final opportunity to file their written submissions, after which the matter was reserved for orders.

DVC's Miscellaneous Petition no 02 of 2026 before the Commission regarding implementation of the Hon'ble APTEL Order dated 24.04.2026 in Appeal No. 227 of 2025

15. Pursuant to the Order dated 24.04.2026 passed by the Hon'ble APTEL in Appeal No. 227 of 2025, whereby the Hon'ble Tribunal directed this Commission to re-compute the tariff by considering only the Delayed Payment Surcharge (DPS) as Non-Tariff Income (NTI), DVC filed Miscellaneous Petition No. 02 of 2026, before this Commission seeking implementation of the said Order dated 24.04.2026 passed in Damodar Valley Corporation v. Jharkhand State Electricity Regulatory Commission & Ors.

16. Through the said Petition, DVC sought revision and modification of the Order dated 30.01.2026 passed in Case (Tariff) No. 01 of 2023, to the extent of revising the determination of Non-Tariff Income (NTI) by considering only Delayed Payment Surcharge (DPS) as NTI, including the retrospective re-determination of NTI for FY 2012-13 to FY 2019-20.

17. The case was heard on 07.07.2026 by the Commission. Mr. Saket Upadhyay appeared on behalf of sole respondent DVC. Both the parties have been given full liberty to present their argument. However, no written objection /submissions /counter affidavit has been filled on behalf of the sole respondent The order was reserved on 07.07.2026 with the direction to the parties to submit notes, if any, within three days. However, no such objections/notes have been submitted by the respondent.

Current/Revised Approach of this Commission after the Hon'ble APTEL judgement dated 24.04.2026, in Appeal No. 227 of 2025

18. The Commission had passed an order dated 30.01.2026, wherein the Commission

had taken into consideration the other income as per accounts of the Petitioner and proportionate some of the components into NTI income of the Petitioner. In the earlier order the approach followed is due to the pendency of the case in appeal no 227 of 2025 in Hon'ble APTEL. As this case is disposed of now, the Commission is considering to revise the earlier order with the approach to determine the Non-Tariff Income as directed by the Hon'ble APTEL.

19. The said judgement of Hon'ble APTEL is again reproduced here as follows:

(i) *"The findings of the JSERC in the Impugned Order dated 27.05.2025 in Case (Tariff) No. 13 of 2024, insofar as they relate to the determination and computation of NTI for items j) to y) of table 63 of the Impugned Order are hereby set aside.*

(ii) *The JSERC is directed to re-compute the tariff by considering Delayed Payment Surcharge (DPS) alone as NTI.*

(iii) *The JSERC shall carry out the process of identifying DVC's assets forming distribution system within the state of Jharkhand and determination of its tariff with effect from 01.04.2027 in accordance with directions contained in this judgement.*

(iv) *DVC shall carry out segregation of its accounts into distribution, transmission and generation within the activity of "electrical energy" w.e.f. 01.04.2027 in consultation with CAG.*

(v) *Insofar as the other issues raised in the present Appeal are concerned, liberty is granted to the Appellant to institute a fresh appeal, if so desired."*

20. To allow the current order only to the limited extent of the issue relating to the determination of Non-Tariff Income (NTI), NTI is recomputed by the Commission by considering Delayed Payment Surcharge (DPS) for the Jharkhand area alone as NTI, i.e. 48.47 Crores only. Accordingly, the above-mentioned table will be revised.

21. The approved Standalone Revenue Gap calculated as per order dated 30.01.2026 is tabulated as follows:

Particulars	Formula	Amount (Rs Crore).
Old Aggregate Revenue Requirement	A	4,073.27
Add: Old Non-Tariff Income	B	979.25
Less: Old Interest on Temporary Financial Accommodation	C	328.02
Add: New Interest on Temporary Financial Accommodation	D	28.27
Less: New Non-Tariff Income	E	88.22
Less: Unassessed Non-Tariff Income (FY 2012-13 to FY 2019-20) from Annexure 3(b)	F	253.27
New Aggregate Revenue Requirement	G = A + B – C + D - E - F	4,411.29
Revenue Billed	H	3,614.24
Gap	**I = G - H**	**797.05**

22. The re-computation sheet for standalone Revenue Gap is shown in the following table:

Re-computation of Standalone Revenue Gap for FY 2021-22

Particulars	Formula	Amount as per Current Order (Rs. Cr.)
ARR as computed by the Commission in Order dated 30.01.2026	A	4411.29
NTI as computed by the Commission in Order Dated 30.01.2026	B	88.22
Unassessed Non-Tariff Income (FY 2012-13 to FY 2019-20) computed by the Commission in Order Dated 30.01.2026	C	253.27
New NTI (Consider only as DPS in Jharkhand after Hon'ble APTEL's judgement in Appeal 227 of 2025	D	48.47
ARR updated	E=A+B+C-D	4,704.31
Revenue Billed	F	3614.24
Gap	**G = E - F**	**1,090.07**

CONCLUSION

23. In view of the foregoing discussion and in due compliance with the Order dated 24.04.2026 passed by the Hon'ble APTEL in Appeal No. 227 of 2025, the Commission has revisited and re-determined the treatment of Non-Tariff Income (NTI) by restricting the same to the Delayed Payment Surcharge (DPS) alone, in accordance with the findings and directions contained therein. Consequently, the standalone Revenue Gap has been re-computed and re-determined for FY 2021-22 by revising its earlier tariff Order dated 30.03.2026 passed in Case (Tariff) No 01 of 2023 as shown in the table above i.e. Rs.1090.07 Crores.

Sd/	Sd/-
Member(L)	Chairperson